

Legal Protection of Women Victims of Sexual Harassment on Campus in The Indonesian Criminal Justice System Reviewed from Permendikbud No 30 of 2021

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Abstract

This study aims to understand the form of legal protection in accordance with the latest policies related to the Prevention and Handling of Sexual Violence (PPKS) on campus in terms of Permendikbud No. 30 of 2021. Sexual harassment is a crime committed by harassing, humiliating, insulting which results in psychological or physical suffering. This sexual crime does not only occur in the private sphere, family environment, gaming environment, office and company environment. But it can also happen in the college environment. The formulation of the problem in this article is mainly whether victims of sexual harassment in the university environment can obtain legal protection. And second, how legal protection for victims of sexual harassment in higher education is reviewed from Permendikbud No. 30 of 2021. The research method used is normative legal research. With the presence of Permendikbud Edition 30 of 2021, there is no reason for universities not to prevent and overcome sexual violence. There are several types of sexual violence, namely psychological violence, physical violence, economic violence, verbal violence and cyber-sexual violence

1. Introduction

The number of cases of sexual violence that occur in Indonesia is strongly influenced by the environment of the community who do not care about the incident and consider it excessive by the community. It is necessary to know that sexual violence has negative effects if it is not stopped immediately, even these effects can lead to post-traumatic stress disorder or PTSD as a condition that occurs after an overwhelming experience that is astonishing, terrible and potentially fatal, for example. natural disasters, serious accidents, sexual violence, abuse (sexual violence) or war and in addition can lead to the death of the victim (Grinage, 2003). A person with symptoms of post-traumatic stress disorder is manifested by a feeling of anxiety about situations or situations similar to events, a feeling of avoiding situations or circumstances reminiscent of the time of the event, this condition is felt more than 2 months after the event. In this case, the subject seeks to improve his condition by sharing widely with people he trusts about his condition in order to calm the subject's condition (Zuhri, 2009).

The 2019 Komnas Perempuan (CATAHU) year-end report shows that violence against women increased from 2016 to 2018. The number of reported incidents in 2018 was 406,1783, an increase of 14% compared to the previous year. . Data were collected from three sources, namely the District Court (PN) and the Religious Court (PA), Komnas Perempuan partner service organizations and the Referral Service Unit (UPR). Violence against women can occur in both the private and public sectors. Sexual harassment in the context of violence against women ranked third in the public sector, namely First-Class pornography (1,136 cases), rape (762) and intercourse (156 cases). Fornication and copulation are terms commonly used by the police and courts because the legal basis of these provisions lies in the Criminal Code to ensnare perpetrators.

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Furthermore, in the Komnas Perempuan CATAHU in 2020 and 2021, sexual harassment in the community again ranks third while sexual harassment occurred in 2020 (520 cases) and 2021 (181 cases), occurred during the Covid-19 pandemic and there were findings of a decrease in the number of cases. However, it is possible that there are still cases of sexual abuse of women.

Sexual harassment is a crime committed by harassing, humiliating, insulting that results in psychic or physical suffering. Sexual harassment is an abuse of sexual power committed by men, so that harassment can occur because of the superiority of men over women, so that in this case the harasser can master his position of power. It is important for human beings, especially men (as builders of civilization) to know that personal impulses, especially sexual desires, must be extinguished in order to be able to govern the affairs of the world; For example, sexual abuse is often carried out by criminals by men to satisfy their sexual desires for victims, both children and adult women. Therefore, actions or attitudes from various parties are needed to improve and reduce the occurrence of sexual harassment by perpetrators of these decency crimes. Second, the fact that harassment of women is increasingly prevalent in various parts of Indonesia means that Indonesia does not yet have laws that eliminate all forms of violence/harassment against women. The regulation that regulates cases of sexual violence against women today is the Criminal Code (KUHP). In the Criminal Code, the forms of sexual violence that most often threaten the offender are fornication and copulation. Both actions are types of actions commonly used by law enforcement to trap offenders. And, today's legal issues are increasingly vulnerable, especially women are victims of these crimes, sexual crimes not only occur in the private sphere, family environment, family environment, entertainment environment, office, business but can also occur in the academic world.

Women have been subjected to castration and abuse of their rights, so there is a need for a special law that provides legal protection for victims in the academic world. Talking about universities, we can see that universities are institutions whose mission is to provide education and teaching at secondary level universities, as well as providing education and teaching based on Indonesian national culture and scientifically. Sexual harassment is actually a term coined as a synonym for what is known as sexual harassment in English. With regard to the word sex, it is not surprising that harassment is associated with behaviors or patterns of behavior (normative or non-standard) between people of different sexes, so that copulation can potentially occur. In human life, sexual harassment or other sexual crimes are inherently rampant and increasing (Tampi, 2010).

Various forms of abuse including human rights violations, crimes against human dignity and is a form of discrimination that must be abolished. Victims of sexual abuse are mostly women, they have an obligation to receive protection from the state and society so that victims can continue to live freely, avoiding the shadow of violence and arbitrary treatment that degrades human dignity (Paradias. 2022). The hottest case highlighted by the press and has become a public conversation lately is in college, a case of sexual harassment carried out by the lecturers themselves, and the victims are female students. It is not realized that cases of harassment on campus often occur, it's just that the incident seems to be hidden behind a rug because the perpetrator's power relationship is so strong.

For example, sexual harassment of students in an educational setting can hinder or threaten the victim's academic performance or achievement, cause the victim to drop out of school, and discredit the institution (Rusyidi.2019). Colleges can be protected by law. And second, what is the legal protection for victims of sexual harassment in universities? For the purpose of research, to find out how to provide legal protection for victims of sexual harassment in the university environment and analyze the forms of legal protection studied in Permendikbud number 30 of 2021 concerning the Prevention and handling of sexual harassment. Violence in the higher education environment.

2. Method

The research method used is a normative research method using a regulatory approach. This research method is related to the legal standards contained in the legislation. According to Peter Mahmud Marzuki in his book "Legal Studies: Review Edition", a legislative approach is done by reviewing all legislation relevant to the legal issues being addressed. The legal documents used are primary legal documents, according to Peter Mahmud Marzuki primary legal documents are authoritative legal documents, that is, authoritative.

The main legal documents used in this article include laws and regulations such as Permendikbud No. 30 of 2021 on the Prevention and treatment of sexual violence in the college environment, Criminal Code (KUHP). While secondary legal documents are complementary legal documents, while legal documents used in this article are legal documents, including law journals, related legal cases, etc.regarding writing. Both of these documents use literary research techniques. Basically, this paper uses legal research methods that are normative or consistent with existing legislation in Indonesia (Irawan, 2019).

3. Result and Discussion

Indonesia as a state of law, guarantees protection for all citizens by providing institutions that are able to judge Justice in the form of a free and neutral justice system. One form of social protection provided by the state is to provide legal protection through the judicial process in the event of a criminal offense. One of the parties in dire need of protection in a criminal act is the victim of the crime. The importance of victim care and protection stems from the view that victims are the aggrieved party when a crime occurs, so they must be cared for and served so that their interests are protected (Suryani,2021). The current rise in cases of sexual harassment against women, especially among female students, needs to be protected by legal certification, namely the 30th edition of Permendikbud 2021.

The new regulation of Permendikbud number 30 of 2021 is a policy established by the government and regulates the Prevention and handling of sexual violence in universities. The purpose of the issuance of this regulation is as an effort to prevent sexual violence in the college environment and also strengthen the handling of sexual violence through assistance, victim recovery, administrative sanctions and protection. Indeed, there are several underlying factors that make it difficult for the victim to be able to identify and also accept the act of sexual harassment that she experienced, such as: confusion (not knowing how to describe to herself about what happened), the presence of shame, the attitude of blaming the victim by others, and positioning the victim to be "the guilty" such as attribution of how to dress, lifestyle and personal life to come to the fore, instead of investigating the act of harassment, guilt at what happened, blaming oneself, shame (not being able to accept the idea that she is a victim, or feeling that she should be able to stop the abuse), denial (not wanting to believe that it really happened), minimizing or defense mechanism (telling yourself that "it's not a big deal," "I'm too sensitive, "or" I'm shy") (Triwijati, 2007). Protection and attention to the interests of victims of sexual violence both through the judicial process and through certain means of social care is an absolute part that needs to be considered in criminal law policies and social policies, both existing social institutions and institutions of state power(Paradias,2022).

The form of protection in question is contained in Article 12 paragraphs (1) and (2), the protection in question is in the form of :

- a. Guarantee sustainability to complete education for students;
 - b. Guarantee the continuity of work as educators and / or education personnel at the relevant universities;
 - c. Guarantee of protection from physical and non-physical threats from perpetrators or other parties or recurrence of sexual violence in the form of facilitating reporting of physical and non-physical threats to law enforcement officers;
 - d. Protection of identity confidentiality;
 - e. Provision of information on rights and Protection facilities;
 - f. Provision of access to information on the implementation of protection;
- (Kemendikbudristek, 2021)

Therefore, educational institutions need to implement various strategies including implementing learning activities in the classroom as well as discussions, campaigns or seminars on sexual harassment in the campus area. With a good understanding and awareness of sexual harassment is an important step that can facilitate the Prevention of sexual harassment in the workplace, campus, public and so on (Rusyidi, 2019). In Permendikbud No. 30 of 2021 Chapter II on prevention in Article 6 it has been explained that: universities are obliged to prevent sexual violence through :

- a. Learning;
- b. Strengthening governance; and
- c. Strengthening the culture of the student community, educators, and Education Personnel.

Not only that in Article 7 also regulates that namely: prevention of sexual violence by educators and education personnel include:

- a) limit meetings with individual students:
 1. outside the campus area;
 2. outside campus operating hours; and/or
 3. for purposes other than the learning process, without the approval of the head/Chairman of the study program
 4. or vice-president; and

B) play an active role in the Prevention of sexual violence. So the article regulates how the Prevention of sexual violence by educators and students.

With the Permendikbud No. 30 of 2021, there is no reason for universities not to prevent and overcome sexual violence. Because it is explained in Chapter III that universities must manage sexual violence through Victim Assistance, protection, administrative sanctions and rehabilitation.

Speaking in the context of legal protection of victims of sexual violence, before the emergence of Permendikbud regulations, other legal provisions governing the legal protection of victims of sexual violence, especially law No. 13 of 2006 related LPSK in Article 5 Paragraph (1) reads:

- a. Obtain protection for the safety of his person, family, and property, and be free from threats relating to the testimony he is about to or has already given
- b. Participate in the process of selecting and determining forms of security protection and support;
- c. Provide information without pressure;
- d. Got a translator;
- e. Free from the pernayaan ensnare
- f. Get information about the progress of the case;
- g. Getting information about court decisions;
- h. Knowing in case the convict is released;
- i. Getting a new identity;
- j. Getting a new place of residence;
- k. Obtain reimbursement of transportation costs in accordance with the needs;
- l. Obtain legal advice; and/or
- m. Obtain temporary living expenses assistance until the protection deadline expires.

Legal protection as referred to in law No. 13 of 2006 about LPSK is an institution that according to the law is responsible for the protection of victims, not only for the protection of victims in order to speed up the process, but also to protect victims to restore their physical condition so that victims can continue their lives in the community.

Like other governing law provisions that are based on science, victims can demand compensation or restitution for the convicted person. Here are some provisions governing the protection of victims in active criminal law (Suzanalisa, 2011):

- a. Books of Criminal Law (KUHP)

The provisions of Article 14C paragraph (1) of the Criminal Code provide protection against victims of crime. The article reads :

"In the order referred to in Article 14A except in the case of a fine, then together with the general condition, that the convicted person will not commit a criminal offense, the judge may make a special condition that the convicted person will compensate the damage caused by the criminal offense, all or part of it, which will be determined in that order also, which is less than the trial period".

- b. In the Code of Criminal Procedure (KUHAP) Chapter III on the incorporation of compensation cases, Article 98 s / d 101 which regulates compensation provided by victims by combining criminal and civil cases.
- c. Law No. 7 of 1984 on ratification of the Convention on the Elimination of all Forms of Discrimination against women (CEDAW)
- d. Declaration of Basic principles of Justice for Victims of Crime and Abuse of Power
- e. Law No. 39 of 1999 on Human Rights
- f. Law No. 13 of 2006 on the protection of witnesses and victims.

In Human Rights Law No. 39 of 1999, article 5(3) states that "all persons belonging to vulnerable groups are entitled to their treatment and protection and expertise". Human rights protection is an effort to protect society from acts contrary to the rule of law in order to create a peaceful society so that everyone can enjoy their rights as human beings, including protection from discrimination and neglect. In the human rights system, the state has a responsibility to respect the rights of individuals or groups whose rights are guaranteed by the system (Admiral, 2021).

In order for victims of sexual violence to get the rights they are entitled to, the feelings that arise such as pain, suffering, fear, and the negative impact experienced by victims after the act must be addressed seriously. The victim should not be left alone to fight for his fate, but should also be reunited with law enforcement in the fight for his fate. Victims sometimes act and serve as witnesses in court, witnesses are often incriminating witnesses who corroborate requests and court decisions. In the view of the Criminal Procedure Code, victims who are witnesses are protected by Article 162 of the Criminal Procedure Code, as a form of protection and respect for victims, and may not even testify at trial. from the existing BAP.

Possible impacts for victims of sexual harassment include decreased performance at school or work and increased absenteeism. It is also possible to lose a job or career, followed by loss of income. In the case of victims in the higher education environment, especially students, victims can cancel classes, change study plans, or drop out of college. And because the victim's reputation is perceived as bad as well as his good reputation, the victim loses confidence in an environment similar to the one in which the harassment took place. Victims can also lose confidence in people who are in the same category as the person who abused them, or are in the same position as the person who abused them. In addition, in Permendikbud, each university is expected to form a task force (Task Force) prevention and control of sexual violence, one of the tasks of the task force is to support high school leaders by preparing guidelines to prevent and overcome sexual violence in higher education (Artaria, 2012).

The forms of sexual violence themselves are very numerous not only rape or domestic violence, but sexual violence also includes degrading, insulting, attacking and other actions against the body related to one's sexual appetite, sexual desire, and reproductive function that are carried out forcibly, against one's will which causes one to be unable to give consent in a free state, due to gender, sexual, economic, social, cultural, and political losses (Rahmi, 2018). In addition, Komnas Perempuan also divides the forms of sexual violence into 15 (Thoeng Sabrina, 2019), namely:

- a. Rape;
- b. Coercion of pregnancy;
- c. Sexual intimidation including threats or attempted rape;
- d. Coercion of abortion;
- e. Sexual harassment;
- f. Coercion of contraception and sterilization;
- g. Sexual exploitation;
- h. Sexual torture;

- i. Trafficking of women for sexual purposes;
- j. Inhumane and sexually nuanced condemnation;
- k. Forced prostitution;
- l. Practices of sexually nuanced traditions that harm or discriminate against women;
- m. Sexual slavery;
- n. Sexual control, including through discriminatory rules grounded in morality and religion;
- o. Coercion of marriage, including hanging divorce.

Of the fifteen forms of sexual violence above can not be said to be a form of sexual violence final because there is still the possibility of other forms of sexual violence that we have not recognized due to limited information. Not only physical violence is common but as the development of nonphysical violence technology has also become a frightening scourge in life, especially for women. According to the Komnas Perempuan's Annual Report (CATAHU) released every March 8, the number of sexual violence against women since 2011-2019 was recorded at 46,698 cases. Rape cases became the highest recorded cases with the number of cases as many as 9,039 (B. Santo, 2020). However, when viewed from the facts that exist, it shows that there are many victims of sexual violence who do not want to report because of threats from perpetrators directed at victims and also the existence of a victim blaming culture (Tinambunan, 2018). The victim blaming attitude that has existed is the assumption that sexual violence does not occur entirely through the fault of the perpetrator, but it is also the fault of the victim who is often judged to invite the perpetrators to do things the victim does not want, namely sexual acts. Based on Komnas Perempuan'S CATAHU in a period of 12 years, Violence Against Women has increased almost 8 times or by 792% (A.M. 2020).

Thus, the latest regulation of the Minister of Education and culture No. 30 of 2021 regarding the prevention and treatment of sexual violence in the college environment, was issued so that this regulation can be a solid support to protect victims and survivors who only now dare to speak up. If referring to the regulation of the Ministry of Education and culture, the victim is entitled to the care of sexual violence in Chapter III of Article 10, namely by:

- a. Mentoring
- b. Protection
- c. Imposition of administrative sanctions
- d. Recovery of victims

The assistance referred to in Article 10 is given to victims or witnesses who are students, educators, Educational Personnel, and campus residents. The assistance is regulated in Article 11 in the form of :

- a. Counseling
- b. Health services
- c. Legal aid;
- d. Advocate; and/or
- e. Social and spiritual guidance.

For universities that do not implement the rules according to Permendikbud No. 30 of 2021 which do not prevent and handle sexual violence, administrative sanctions are imposed, one of which is the termination of financial assistance or facilities and infrastructure assistance for universities and/or a decrease in the level of accreditation for universities. The imposition of administrative sanctions is regulated in Article 13 to Article 19. In Article 14 paragraph 1 mentioned that the imposition of administrative sanctions consists of :

- a. Light administrative sanctions
 - a) written reprimand
 - B) Statement of apology in writing published in the internal campus or mass media (Article 14 paragraph 2)
- b. Medium administrative sanctions
 - a) temporary dismissal from office without obtaining the right of office; or
 - B) reduction of rights as a student include :
 - (a) postponement of lectures (suspension);
 - (B) revocation of the scholarship; or

(c) reduction of other rights (Article 14 paragraph 3)

c. Severe administrative sanctions

a) permanent dismissal as a student; or

B) permanent dismissal from the position as educators of Educational Personnel, or campus residents in accordance with the provisions of the laws and regulations of the relevant universities. (Article 14 Verse 4)

With the release of Permendikbud No. 30 of the new 2021, this can be a sufficient legal basis for dealing with cases of sexual harassment that occur in colleges, although there are still many side advantages and disadvantages of complying with this regulation. Cases of sexual abuse do not depend on where the victim is and with whom the victim treats her, but this incident also occurs in many areas of education where the perpetrators are teachers, for those who set a moral example. Virtue and dignity should not be. on the contrary, harassing or even committing acts of sexual violence is, in any case, unjustified.

4. Conclusion

Sexual harassment is an indecent act with a type of behavior that results in sexual relations being carried out unilaterally and not in accordance with the expectations of the recipient, causing a negative reaction. This can be done by deliberate or repeated physical or non-physical touching, which threatens, humiliates or disrespects the victim by making someone a sex object. Crimes against women are often subjected to unfair treatment and violations of their rights. Rape, sexual abuse and other violence driven by lust represent a real danger to women.

There are several types of sexual violence, namely psychological violence, physical violence, economic violence, verbal violence and cyber-Sexual Violence. While some categories are related to sexual harassment, that is, staring intently/staring is offensive; erotic communication on social networks; constant tracking or harassment; invitations, phone calls or emails and verbal suggestions

Legal protection of victims of sexual harassment in universities is regulated in Permendikbud No. 30 of 2021 in Chapter III, which explains that universities must deal with sexual violence through support, protection, application of administrative sanctions and rehabilitation of victims. The reason to start solving it is because the cases of harassment are increasing in colleges a growing concern as they continue to increase. If sexual abuse is not prevented, what is the fate of human civilization, because the origin of civilization itself is not protected or treated, how can justice be fully established only if the victims of this crime are to blame.

Author Contributions

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Declaration of Conflicting Interests

The Authors Declare No Conflict Of Interest In The Study

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