

# Legal Protection Against Victims of Crime of Sexual Violence in Higher Education Environment

Khrisna Hadiwinata<sup>1</sup>, Nandaru Ramadhan<sup>2</sup>, Shohib Muslim<sup>3</sup>, Hudriyah Mundzir<sup>4</sup>

{khrisna.hadiwinata@polinema.ac.id<sup>1</sup>, nandaru.ramadhan@polinema.ac.id<sup>2</sup>,  
shohibmuslim@polinema.ac.id<sup>3</sup>, hudriyah.mundzir@polinema.ac.id<sup>4</sup>}

State Polytechnic of Malang, Indonesia<sup>1,2,3,4</sup>

**Abstract.** The problem of sexual violence in higher education is increasingly worrying—education is a place to gain knowledge, especially against sexual violence. The law must give special attention to the interests of children and women. In this case, it can overcome acts of sexual violence experienced by many Indonesian children and women. In order to run well, it is necessary to enforce the law for perpetrators of sexual violence so that it can provide a deterrent effect and minimize acts of sexual violence against children. Law enforcement is a policy in terms of crime prevention. In this case, it is meant for acts of sexual violence. Law enforcement is meant to give criminal sanctions against perpetrators of sexual violence. Crime prevention can be done through the law (penal) or outside the law (non-penal).

**Keywords:** Legal Protection, Sexual Violence Crime, Higher Education Environment

## 1. Introduction

Sexual violence in the world of education, especially in universities, is in the spotlight. The National Commission on Violence Against Women, which is tasked with monitoring and finding facts and documenting all forms of violence against women, noted that from 2015 to August 2020 at least 51 complaints were received. The details are that in 2015 3 cases were reported, in 2016 10 cases were reported, in 2017 3 cases were reported, in 2018 10 cases were reported, increased in 2019 to 15 cases and until August 2020 10 cases have been reported. From these 51 cases, it is known that higher education is in first place with a total of 27%, followed by Islamic boarding schools or education based on Islam as much as 19%, 15% occurs at the high school / vocational level, 7% occurs at the junior high school level, and 3% each in kindergarten, SD, SLB, and Christian-Based Education.

Cases of sexual violence against children are not a new phenomenon in Indonesia. Parents feel it is taboo to discuss sexuality with their children because there is a sense of awkwardness in delivering it directly [1]. The KPAI commissioner for education in East Java stated that at the end of February 2018 the number of children as victims of sexual violence reached 117 children, while the number of cases of children as perpetrators of sexual crimes reached 22 children [2].

Sexual violence can affect the development of children who are victims of sexual violence. Not only has an impact on physical problems such as unwanted pregnancy, infection with sexually transmitted diseases, reproductive organ disorders, but can also affect children psychologically such as self-concept, emotional disorders, interpersonal relationships of children with their social environment, changes in behavior, to deep trauma in children [3].

Even in Malang City, it turns out that there is an increase from 2020 to 2021. Because, based on data from the Integrated Service Center for the Protection of Women and Children (P2TPA) Malang City, from 5 victims in 2020, now in 2021 there are 8 victims of sexual violence. In 2020 alone, in general there are 42 victims of violence against children. Then in 2021 alone there are 36 victims of child abuse. However, the focus on child protection, namely physical, psychological and sexual violence, in 2020 to 2021 has actually increased, namely 16 victims of child violence in 2020 and 18 victims of child violence in 2021.

Data from the Indonesian Child Protection Commission (KPAI) in 2020 (KPAI, 2020), from a total of 6,519 complaints of child rights violations, 1,567 cases of which came from the education cluster. In July 2021 Batu City was shocked by the news that the Owner of the Indonesian Good Morning School (SPI) committed sexual violence in the school environment, both indoors and outdoors [4]. Even according to Aris Sirait Merdeka, Chairman of the National Commission for Child Protection, the incident occurred at least in 2008-2010. Perpetrators can rape the victim of one victim repeatedly. 11 years later, 15 (fifteen) victims told what happened when they were in high school aged 15-16 years.

What is in the spotlight of many parties is that sexual violence is currently endemic in the education environment. Where children who should feel safe and comfortable in their school or campus environment even become easy targets for sexual predators. For example, in Palembang, a student from Sriwijaya University (Unsri) protested and spoke loudly in front of the people present at the judicial procession. The student did not accept that her name was removed from the judiciary list. The student was a child of the Unsri Faculty of Economics who was suspected of being a victim of sexual harassment by a lecturer. In addition to Unsri, several reports of cases of sexual violence experienced by female students on a number of campuses in Indonesia have also emerged. A Dean of FISIP, Riau University (Unri), Syafri Harto, is suspected of molesting his student during thesis guidance. A lecturer at the State University of Jakarta (UNJ) with the initials DA is also being investigated on suspicion of sexually harassing female students.

In fact, it is suspected that there were UNJ alumni who had experienced a similar incident from a DA lecturer. Most recently, at Jenderal Sudirman University (Unsoed) Purwokerto, Central Java, an alleged sexual harassment was carried out by one of the administrators of the Student Executive Board (BEM). The Unsoed party followed up on this case and provided assistance to the victim, while the BEM had dismissed the alleged perpetrator of the abuse. The educational environment that should have been a safe place for women has now become a dangerous location. Reports of sexual violence in the educational environment are also high.

## **2. Method**

The research method used in this study is a normative juridical research method, with a statute approach and conceptual approach. The primary legal material used is regulation about protection of sexual violence, child protection and violence against women.

### 3. Result

Women are often the object of crime, including crimes of sexual violence and sexual harassment. There are so many violent crimes that occur and befall women, both in terms of murder, rape, torture other than what has been mentioned above. Women are often very vulnerable to being victims of crime (victim of crime) in the field of decency [5]. The quality of protection for women should have the same degree/level as protection for adults and men, because everyone has the same position before the law (equality before the law) [6].

Legal protection is a protection given to legal subjects, both oral and written because the function of law is to provide justice, certainty, peace and benefits [7]. Victims of violence must receive protection from all people and institutions, both government and private, have the right to receive confidential services and treatment, must receive psychological assistance and legal assistance, victims are also entitled to guarantees for their rights [8].

With guaranteed legal protection, women will feel more secure. There is also a need for preventive legal protection in order to reduce and prevent violence against women because there are rules to protect their interests [9].

In a patriarchal society, women are often considered as "owned" by society. Therefore, every behavior that is done causes women to lose control over their bodies, including their souls. In this position, women are vulnerable to sexual violence by individuals or groups of men. The Criminal Code itself in explaining the concept of violence in Article 289 is defined as making people faint or helpless. In fact, not all violence can cause pain or injury, sexual violence is one of them. Psychological sexual violence then becomes unsolved when it is associated with the article of the Criminal Code.

Regulations regarding the prevention of sexual violence against women have not been comprehensively regulated in several rules, among others, First in the 1945 Constitution several articles regulate the protection of citizens as a basic right regulated in Article 28 B paragraph (2) of the 1945 Constitution which states that every child has the right to survival, grow and develop and have the right to protection from violence and discrimination. In addition, Article 28 G stipulates that everyone has the right to self-protection, honor and dignity, as well as a sense of security and protection from the threat of fear to do or not do something. Meanwhile, Article 28I states that everyone has the right not to be tortured and receive discriminatory treatment [10].

Second, in the Criminal Code, there are no regulations that explicitly regulate prevention. The Criminal Code only stipulates prohibitions and sanctions for perpetrators of sexual crimes against women. Third, in Law 35 of 2014 concerning Child Protection, the regulation does not comprehensively regulate explicitly the prevention of criminal acts of sexual violence, especially in certain places such as Islamic boarding schools, schools and so on. However, in this Child Protection Law, it is the responsibility of the state, government, local government and the community to participate together in protecting children in Indonesia [11].

Likewise, sexual crimes in the Draft Criminal Code are contained in articles which include 56 articles (Articles 467-504). In this Draft Criminal Code, the word "intercourse" is still retained for the use of the term for the crime of rape and obscenity. This will make the crime of rape slightly different from obscenity so that it can cause a rape case to become a case of obscenity when no strong evidence is found against violence or resistance from the injured victim. The irrelevance of these articles often makes the perpetrators of sexual violence unable to be arrested because the elements of the articles are not fulfilled in cases of rape or obscenity. Thus, this can lead to injustice and reduce the value of violence experienced

by women, such as cases of sexual harassment which are then considered as cases of obscenity [12].

The form of protection for victims of crime can be provided in various ways, depending on the suffering/loss suffered by the victim. Referring to the description above, there are several protections for victims of crime that are commonly given, including the following:

#### 1. Provision of Restitution and Compensation

Compensation and restitution in Indonesia have been regulated in several special criminal laws outside the Criminal Code, such as Law No. 26 of 2000 concerning the Human Rights Court. Compensation and restitution are also regulated in the umbrella law related to the protection of witnesses and victims, namely Law Number 13 of 2006 as amended by Law Number 31 of 2014 concerning Protection of Witnesses and Victims.

In the Law on the Protection of Witnesses and Victims, restitution is defined as compensation given to the victim or her family by the perpetrator or a third party, while compensation is defined as compensation provided by the state because the perpetrator is unable to provide full compensation which is his responsibility to the victim. or his family.

Article 7A paragraph (1) of Law Number 31 of 2014 concerning the Protection of Witnesses and Victims [13], victims are entitled to restitution in the form of:

- a. Compensation for loss of property or income;
- b. Compensation for losses caused by suffering directly related as a result of a crime; and/or
- c. Reimbursement of medical and/or psychological treatment costs.

#### 2. Counseling

In general, this protection is given to victims as a result of the emergence of negative psychological impacts from a criminal act. The provision of assistance in the form of counseling is very suitable to be given to victims of crimes that leave prolonged trauma, such as in cases involving morality.

#### 3. Legal Aid Assistance

The law is a form of assistance to victims of crime. In Indonesia, in particular, this assistance is mostly provided by Non-Governmental Organizations (NGOs). The provision of legal assistance to victims of crime must be provided whether requested or not requested by the victim. This is important, considering the low level of legal awareness of the majority of victims who suffer from this crime. The attitude of letting crime victims do not get proper legal assistance can result in the worsening condition of crime victims.

In addition, a new hope for the prevention of sexual crimes is also in the Law on the Elimination of Sexual Violence. Currently the PKS Bill is being discussed in the DPR with the hope of solving the problem of sexual violence in Indonesia, including in Islamic boarding schools. Prevention Policy should be an important part of the discussion in order to prevent these crimes which are considered to be very disturbing to the public. The PKS Bill is very important to be ratified immediately so that the community gets maximum protection both in the context of preventing and overcoming sexual violence, as an effort to complement the rules that are considered to have a legal vacuum in preventing and overcoming sexual violence in Indonesia [14].

The Law on the Elimination of Sexual Violence [15] is based on increasing the number of victims and the development of other forms of sexual violence in Indonesia, while the applicable legal system has not been systematically and comprehensively able to prevent,

protect, restore and empower victims and foster understanding and public awareness to eliminate sexual violence. One example, the Book of Criminal Law Act [16] that has not accommodated the types of sexual violence and has not the existence of a legal mechanism that takes into account the perspective of experience and protection for the victim.

The existence of laws and regulations not only guarantees women's constitutional rights, but also the enforcement process must really be carried out. Law enforcement on regulations must also prioritize the principle of protection for women who are often the objects of sexual crimes, and the most important thing is that there is a need for gender sensitivity in these regulations and is not discriminatory [17].

Adequate legal protection for crime victims is not only a national issue, but also an international issue, therefore this issue needs serious attention. Protection of victims also aims to fulfill a sense of justice in society. The issue of justice and human rights in relation to the enforcement of criminal law is indeed not a simple task to be realized. Many events in people's lives show that these two things lack serious attention from the government, even though it is very clear in Pancasila, as the philosophy of life of the Indonesian people, the issue of humanity and justice has a very important place as an embodiment of the principles of just and civilized humanity and the principles of justice for all Indonesian people.

#### **4. Conclusion**

In an effort to answer the problem of protection and prevention of sexual harassment in higher education environment, the research team provides policy recommendations that can be implemented by the campus, namely:

1. Establish Special Regulations related to Sexual Violence in the Higher Education Environment
2. Establishment of an Independent Institution that Specially Oversees Cases of Sexual Violence in the Higher Education Environment
3. Establishing Cooperation with Internal University and External Parties in Handling Sexual Violence

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