



THE HOLISTIC APPROACH IN UNDERSTANDING THE COMPLEXITY OF SEXUAL HARASSMENT CASES IN INDONESIA

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Article

Abstract

Keywords:

Legal framework; Indonesia; Sexual Harassment; Social-Culture Society.

Article History

Received: Jan 19, 2022;
Reviewed: Jan 21, 2022;
Accepted: Jan 22, 2022;
Published: Feb.10, 2022

Sexual harassment cases are common cases that occur not only in Indonesia, but also in the world. Cases of sexual harassment also often receive the attention of the public, state officials and the law. Even though there is a legal framework in Indonesia, low incident reporting is still a challenge. This highlights the need for a comprehensive understanding of the cultural nuances that shape perceptions and responses to such behavior. Cases of sexual harassment do not only happen to women, but also to men. Those who became victims also came from various ages, from toddlers to even the elderly. This abstract will be focus on aims why we need to minimize cases of sexual harassment in Indonesia

1. INTRODUCTION

Sexual harassment is a form of violation of decency that often occurs in every country and is a national and international legal problem that must be resolved and provides a deterrent effect on perpetrators so that there are no other victims. Sexual exploitation or abuse of a person is defined as sexual harassment, these acts can include various types of behavior that harm and violate individual rights. One example of sexual harassment is unwanted physical or non-physical touching, such as taking pictures, peeking, giving sexually charged gestures, asking someone to do the same thing to themselves, showing sexual organs directly or via technology, making sexually charged transmissions, and make physical touch.¹ The consequences of the perpetrator's actions cause victims of sexual harassment to feel uncomfortable, offended, feel their dignity has been violated,

¹ Gresnia Arela Febriani, "Pengertian Pelecehan Seksual Menurut Para Ahli," <https://wolipop.detik.com/love/d-4919825/pengertian-pelecehan-seksual-menurut-para-ahli>, accessed on December 18, 2023.

resulting in various physical and mental health and safety problems.

Crimes of morality do not appear suddenly; rather, they arise as a result of a process of abuse considered normal that ultimately leads to crime. Abuse of relationships between women and men that harms one of the parties (because they are abused, their dignity is degraded).² Therefore, currently sexual harassment does not only occur among women, but men can also become victims of sexual harassment, but women are the ones who most often experience sexual harassment. Because women are considered weak when threatened and do not dare to fight back against the perpetrator, who is actually a man, usually men's strength is stronger than women's. Most sexual harassment itself is carried out by men against women; there are also cases of harassment of women towards men and members of the same sex.

There are 5 categories of sexual harassment, namely.³ First, gender harassment means sexual statements and behavior that insult or degrade women or men based on gender. Examples include obscene jokes, derogatory images or writing, insulting comments, and sexual humor. Second, flirting behavior. This behavior is an act that provokes other people to do undesirable and inappropriate things, which are caused by the victim's own actions. Examples include repeating unwanted sexual advances, forcing members of the opposite sex to eat, drink, or date, sending continuous letters and calls despite being rejected. Third, sexual bribery. It defined as request to engage in sexual activity or other sex-related behavior for the purpose of obtaining reward. This behavior can be done subtly or openly but is included in the category of sexual harassment. Fourth, sexual coercion or other sex-related behavior under threat of punishment. For example, getting bad grades, delays in work promotions, and death threats if the victim refuses to have sexual relations with the perpetrator. Fifth, sexual offenses. This case is serious sexual harassment by forcing someone without their consent. such as touching, feeling, and grabbing, forcing the victim to do everything the perpetrator wants.

In Indonesia, sexual harassment is included in the category of sexual violence which is regulated in Law Number 12 of 2022 in article 1 point 1 explaining that all acts that fulfill the elements of a criminal act as regulated in the Law with elements of sexual violence or other things, will be subject

² Marchelya Sumera, "Perbuatan Kekerasan/Pelecehan Seksual Terhadap Perempuan," *Lex Et Societatis* 1 (2013), p. 40.

³Sevilla Nouval, "Pelecehan Seksual; Definisi, Jenis, Ciri, Serta Hal yang Perlu Dilakukan!" <https://www.gramedia.com/literasi/pelecehan-seksual/> accessed on December 18, 2023.

to prison sanctions and fines as regulated therein.⁴ Public awareness is very necessary to eradicate and stop acts of sexual harassment which are currently increasingly common in Indonesia in everyday life, both in families, communities, schools and offices. Public awareness will produce the reciprocal benefits, such as; Protecting Individual Rights, Legal Deterrence, Promoting Gender Equality, Ensuring Mental and Physical Well-Being, Inclusive Approach, and Compliance with the Legal Framework

2. DISCUSSION

2.1. Sexual Harassment Against Women

In an Islamic boarding school in Bandung there were 13 female students who experienced sexual violence, which was carried out by their own Islamic boarding school teacher named HW.⁵ This sexual violence was carried out in various locations such as foundation rooms, hotels and apartments. Initially the victims were lured away from boarding school fees, free school, to become female police officers, and to pay for college. This case has attracted public attention since it was published in various media in Indonesia in 2021. Cases of sexual violence in religious-based educational institutions and boarding houses consisted of 13 cases of sexual violence against female students. This case itself has been going on since 2016, but was only revealed in 2021 and resulted in the birth of nine babies as a result of the sexual violence that occurred.

This case has been going on since 2016 and was only revealed in 2021 because the victims and their families felt the threat posed by the perpetrator who was the owner of the Islamic boarding school and the Islamic boarding school teacher who had influence and could exploit his influence on the victims. However, after 5 years of the perpetrator having power and being very influential in the Islamic boarding school and the threats given to the victim, in 2021 the thirteen victims and the victim's family reported the perpetrator's actions. And at that time, Komnas Perempuan expressed its thanks to the 13 female students and their families for their courage to speak out, as well as providing loyal assistance to help reveal the truth of the case that actually occurred.

Based on Law Number 39 of 1999 concerning Human Rights, it also regulates the rights of citizens to be free from sexual violence. Everyone has the right to live in peace without threats to

⁴ Indonesia, *Law Concerning Crimes of Sexual Violence*, Law No.12 Year 2022, LN No. 120 Year 2022, TLN No. 6792.

⁵ Komnas Perempuan, "Tentang Kasus Kekerasan Seksual terhadap 13 Santriwati dan Pidana Mati bagi Pelaku," <https://komnasperempuan.go.id/siaran-pers-detail/tentang-kasus-kekerasan-seksual-terhadap-13-santriwati-dan-pidana-mati-bagi-pelaku> accessed, on December 19, 2023.

their life, someone who experiences sexual violence has the right to receive protection from the state and those around them. All sexual crimes are regulated in article 4 paragraphs 1 and 2 of Law Number 12 of 2022 concerning Sexual Violence Crimes which involve rape or obscene acts as happened in the case of the 13 female students above. Based on article 6 paragraph b of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence which contains *“Setiap Orang yang melakukan perbuatan seksual secara fisik yang ditujukan terhadap tubuh, keinginan seksual, dan/ atau organ reproduksi dengan maksud menempatkan seseorang di bawah kekuasaannya secara melawan hukum, baik di dalam maupun di luar perkawinan dengan pidana penjara paling lama 12 (dua belas) tahun dan/ atau pidana denda paling banyak Rp300.000.000,00 (tiga ratus juta rupiah).”*

However, in the trial of this case, the Public Prosecutor demanded that the perpetrator be sentenced to death and chemical castration because the crimes were committed continuously and were considered systematic and very immoral and also harmed the victims. There are also a lot of victims in this case, namely 13 female students, so the perpetrators have the right to be punished according to their actions. The actions carried out by HW were the most disgusting actions ever carried out. How could it not be, he even managed to tarnish the good name of the teacher, ustad and the behavior of a father. In fact, even with all his heinous actions, brother HW can still try to ask for leniency. Of course, that is most illogical. How is it possible that a sexual predator can easily ask for leniency when he himself has produced so many victims? This case also received a lot of attention from the public. And thankfully, the decision given by the court and the demands made by the prosecutor are considered quite fair by the public. However, there are some activists who feel that the punishment of chemical castration is excessive. However, of course, all the punishments are not commensurate with all the victim's actions against his victims. In fact, the victims' children used to beg, beg on the street and many other heinous things were done by the suspect HW.

2.2 Sexual Harassment Against Men

Cases of harassment do not only happen to women, but cases of harassment against men are also not uncommon. However, society and state officials do not take this matter seriously. This does not happen without reason, because usually men are the ones who always harass women. Therefore, it is not uncommon that when the public and the authorities receive reports about cases of harassment and the victims are men, no further action is taken immediately. In 2020, Indonesia was shocked by the behavior of one of its Indonesian citizens, namely, Reynard Sinaga. where he himself

is a citizen who lives in the UK, England. He himself sexually harassed 48 men and made this the largest case of sexual harassment in the UK, England in history whose victims were men. In fact, Reynard Sinaga is suspected of committing rape 159 times with various different men. In fact, in April 2021 a priest in East Java was sentenced to 11 years in prison and also a fine of 100 million for sexually abusing 11 underage boys.

Data presented by SIMFONI-PPA (Kemenpppa, 2023), the number of sexual violence cases that occurred in 2023 was 14,759 cases of sexual violence, consisting of 2,888 cases of sexual violence against men, and 13,162 cases of sexual violence against women.⁶ It highlighted that: victims of sexual violence are 20% men and 80% women; perpetrators of sexual violence are 10.4% women and 89.6% men; victims are 0-5 years old. 7.4%, children 6-12 years 18%, teenagers 13-17 years 32%; early adults 18-24 years 11.5%, late adults 25-44 years 25.8%, middle age 45-59 years; 4.8%, Elderly 60 years 0.6%; perpetrators according to Age Group toddlers aged 0-5 years 1.6%, children 6-12 years 2.2%, teenagers 13-17 years 13, %, early adults 18-24 years 17.2%, late adults 25-44 years 47%, middle age 45-59 years 15.3%, elderly 60 years 3.1%; victims according to adult age status 42, 6% and children 57.4%; and perpetrators according to adult age status 82.7% and children 17.4%.⁷

From the data above, we can see that there is still the potential for sexual violence to occur in men, although not as much as it occurs in women. The perpetrators of harassment who harass men are often the men themselves. This does not mean that there are no women involved in harassment cases who are perpetrators of harassment against men. The case of sexual harassment can be said to be one of the cases that cannot be predicted when it will occur. Therefore, the government, officials and residents who received reports from victims immediately handled them as soon as possible. Sexual violence that occurred in: the physical form was 4,955 cases; psychological 4,586 cases; sexual 6553 cases; exploitation 184 cases; trafficking 201 cases; neglect 1438 cases; and other (such as verbal teasing, whistling etc.) 1842 cases.⁸

Acts of sexual violence that occur are not only carried out by individuals outside the victim's life, but the perpetrators of sexual violence can have a relationship with the victim (SIMFONI-PPA, Kemenpppa, 2023): perpetrators Parents 1,753 cases; family/relatives 862 cases; husband/wife

⁶ Kemenpppa, "Ringkasan Kasus Kekerasan Selama 2023," <https://kekerasan.kemenpppa.go.id/ringkasan>, accessed on December 19, 2023.

⁷ *Ibid.*

⁸ *Ibid.*

2,585 cases; unknown people 896 cases; neighbors 1074 cases; boyfriends/friends/girlfriends 2796 cases; teachers 437 cases; employers 43 cases; colleagues 109 cases; and others 1878 cases.⁹ Of the many victims who experience sexual harassment, only a few report it. This does not happen without reason, however, law enforcement regarding cases of sexual harassment in Indonesia is still very lax and seems to be able to protect perpetrators of sexual violence. In fact, not infrequently, the authorities, society and the law tend to side with the perpetrator rather than the victim themselves. Psychologically, victims tend to always blame themselves, they will always think that their clothes are wrong, their expressions are the point, they will always blame themselves for the cases of harassment that befell them.

Similar problems also occur in Indonesia. The Indonesian Criminal Code, which does not yet recognize the term "sexual violence", provides a narrow interpretation of male rape victims. Based on Article 285 of the Criminal Code (KUHP), the rape victim must be a woman who has experienced violence or the threat of violence. The same is true of the formulation of Articles 286 to 288 of the Criminal Code. In his book entitled *The Criminal Code (KUHP) and its complete comments*, article by article, R. Soesilo explains that the rule makers consider that forcing sexual intercourse on men will not result in anything bad or detrimental for men. just like a woman who is harmed (pregnant) or gives birth to a child because of that action. Like it or not, Law Enforcement Officials often use Articles 289 of the Criminal Code to Article 296 of the Criminal Code ('obscene acts'), when handling rape cases against adult men. These articles are considered "more" gender responsive because they do not look at whether the act was committed by a man against a woman, or vice versa. The element 'someone' included in this article applies to anyone.¹⁰

3. CONCLUSION

Sexual harassment is one of the most common human rights violations that occurs in Indonesia. Public awareness in breaking the chain of overcoming, understanding, preventing and eradicating

⁹ *Ibid.*

¹⁰ Bestha Inatsan Ashila and Naomi Rehulina Barus, "Kekerasan Seksual pada Laki-Laki: Diabaikan dan Belum Ditangani Serius," <https://ijrs.or.id/kekerasan-seksual-pada-laki-laki-diabaikan-dan-belum-ditangani-serius/>, accessed on December 20, 2023.

sexual harassment is very necessary to reduce the occurrence of sexual crimes in Indonesia, and the punishment imposed on the perpetrator must be a deterrent to the perpetrator and the absence of other perpetrators. Victims should also never be afraid to report what happened to them because if the victim does not report the perpetrator's actions, the perpetrator will continue to roam around and commit crimes continuously.

In this paper we not only discuss sexual harassment from one side, namely women, but we also discuss victims of sexual harassment, namely men. Although it cannot be denied that those who abuse men themselves are also men. We also discussed from the perspective of law, society, law enforcement officials and the government how to at least reduce cases of sexual harassment in Indonesia.

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