

# LEGAL PROTECTION AGAINST VICTIMS OF SEXUAL HARASSMENT UNDER LAW NO. 12 OF 2022 CONCERNING CRIMINAL ACTIONS OF SEXUAL VIOLENCE

**Diding Rahmat**

Faculty of Law, Dirgantara Marsekal Suryadarma University

Email : [didingrahmat@unsurya.ac.id](mailto:didingrahmat@unsurya.ac.id)

**Citation:** Diding Rahmat., Legal Protection for Victims of Sexual Harassment Based on Law no. 1 of 2022 concerning Crimes of Sexual Violence. LEX LAGUENS: Journal of Law and Justice Studies 2.2.2024. 41-53  
**Submitted:**10-08-2024 **Revised:**17-08-2024 **Accepted:**27-08-2024

## Abstract

This research discusses legal protection for victims of sexual harassment based on Law no. 12 of 2022 concerning Crime of Sexual Violence. Legal protection is an effort to provide security and recovery for victims. This law stipulates the rights of victims, including the right to treatment, protection and recovery. In addition, this research examines the prevention efforts that need to be taken to reduce the number of sexual harassment. The method used is normative juridical research. The research results show that collaboration between government, society and related institutions is very important in creating a safe environment for women and children. It is hoped that the implementation of comprehensive laws will provide better protection for victims and reduce the number of sexual harassment cases.

**Keywords:** Legal Protection, Sexual Violence, Sexual Violence Crime Law

## Abstrak

Penelitian ini membahas perlindungan hukum terhadap korban pelecehan seksual berdasarkan Undang-Undang No. 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual. Perlindungan hukum merupakan upaya untuk memberikan keamanan dan pemulihan bagi korban. Undang-Undang tersebut menetapkan hak-hak korban, termasuk hak atas penanganan, perlindungan, dan pemulihan. Selain itu, penelitian ini mengkaji upaya pencegahan yang perlu dilakukan untuk mengurangi angka pelecehan seksual. Metode yang dilakukan adalah penelitian yuridis normatif. Hasil penelitian menunjukkan bahwa kolaborasi antara pemerintah, masyarakat, dan lembaga terkait sangat penting dalam menciptakan lingkungan yang aman bagi perempuan dan anak. Penerapan undang-undang yang komprehensif diharapkan dapat memberikan perlindungan yang lebih baik bagi korban dan mengurangi angka kasus pelecehan seksual.

**Kata Kunci :** Perlindungan Hukum, Kekerasan Seksual, Undang-Undang Tindak Pidana Kekerasan Seksual

## A. INTRODUCTION

Sexual violence has long been a widely discussed topic in Indonesian society. In Indonesia, the term sexual harassment is very well known because cases of sexual harassment occur almost every year. Sexual violence comes from a term in English, namely "sexual hardness" Where "hardness" itself means violence and something unpleasant. This shows that sexual violence is an act of violence committed by someone by forcing them to have sexual contact that the victim does not want.<sup>1</sup>

---

<sup>1</sup> Mannika, Ghinanta. "Descriptive Study of the Potential for Sexual Violence in Adolescent Girls," *Calyptra* 7, no. 1 (2018): 2540-2553.

Violence is unlawful behavior, either in the form of threats or actual actions that can cause physical damage, objects, or even death to someone. In cases of sexual violence, not only physical violence occurs, but also attacks on the victim's mental condition. The psychological impacts experienced by victims of sexual violence tend to be more difficult to heal than physical injuries, and it often takes a long time for victims to truly recover from experience.<sup>2</sup>

Sexual violence can be defined as unwanted sexual advances by someone towards another person. This approach does not always have to be physical, but can also be verbal. Therefore, sexual harassment can appear in various forms, such as rape, intentionally touching another person's body, teasing or joking with sexual nuances, personal questions about sexual life, hand movements or facial expressions with sexual connotations, sexually suggestive sounds, and many more. much more.<sup>3</sup>

According to data obtained from the National Commission on Violence Against Women, in 2020, there were 299,911, cases of violence against women. The detailed data includes 291,677 cases reported to the District Court/Religious Court, 8,234 cases reported to National Women's Commission partner service institutions, and 2,389 cases reported directly by victims to the Service and Referral Unit established by Komnas Perempuan. Of this total, there were 2,134 cases that were gender-based and 255 other cases that were not gender-based or provided information. (So, 2021). This data shows the high number of cases of violence against women.<sup>4</sup>

Based on data from the National Commission on Violence Against Women's service agency/data collection form, of the total of 8,234 cases, violence against women most often occurred in the personal or private sphere, such as domestic violence and personal relationships, reaching 79% (6,480 cases). Among this data, the most dominant case is violence against wives, with a figure of 49% (3,221 cases). Dating violence is in second place, at 20% (1,309 cases), followed by violence against girls, which reaches 14% (954 cases). The remaining cases involved violence perpetrated by ex-husbands, ex-boyfriends, and also against domestic workers. In the public (community) sphere, violence against women was recorded at 21% (1,731 cases), where

---

<sup>2</sup> Suryandi, Dody, Nike Hutabarat, and Hartono Pamungkas, "Implementation of Criminal Sanctions Against Perpetrators of Criminal Sexual Violence Against Children," *Darma Agung Journal* 28, no. 1 (2020): 84-91.

<sup>3</sup> Sari, Desi Puspita, Siti Ayu Resa Purwati, Muhammad Fadly Darmawan, Muhammad Syahrul Maulana, Irfan Maulana, and Herli Antoni. "Legal Protection for Victims of Sexual Harassment According to the Perspective of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence." *Al-Qisth Law Review* 7, no. 1 (2023): 65-87.

<sup>4</sup> M. Jadi, "Violence Against Women in Indonesia: Triggers and Alternative Treatments," *Afasi: Journal of Public Health* 6, no. 2 (2021): 110-126.

the highest case was sexual violence, with a total of 55% (962 cases), followed by sexual abuse (166 cases), rape (229 cases), sexual harassment (181 cases), sexual intercourse (5 cases), as well as cases of attempted rape and other sexual violence. In this context, the police and courts still refer to the term obscenity, because this term is the legal basis for articles in the Criminal Code to ensnare the perpetrators.

Based on the need to protect victims as a whole, both physically and non-physically, in Indonesia, the Sexual Violence Crime Law was adopted which was officially promulgated after being ratified at the Plenary Session on April 12 2022. Minister of Women's Empowerment and Child Protection emphasized that this law is a strategic step for the government in breaking the chain of sexual violence. The ratification of the Sexual Violence Crime Law has a very important role in strengthening social life and improving national regulations regarding treatment and accountability in comprehensively preventing, treating and recovering victims of sexual violence. To achieve this goal, the government and other institutions must synergize and focus their efforts on assistance to victims of crimes of sexual violence. This collaboration is crucial to ensure that victims receive adequate protection and recovery, and so that preventive measures can be implemented effectively at all levels of society.<sup>5</sup>

Based on the background stated above, what is the legal protection for victims of sexual harassment based on Law no. 12 of 2022 concerning Crimes of Sexual Violence? and what are the prevention efforts against sexual harassment?

## **B. RESEARCH METHODS**

This research is a type of legal research that uses a normative juridical approach. A normative juridical approach is an approach that is based on legal material by examining theories, concepts, legal principles and statutory regulations that are relevant to the research being conducted. This method is also known as library research (library research), where researchers study statutory regulations, books, and other documents related to the research topic. In this research, the data used is secondary data consisting of three types of legal materials. First, primary legal materials, namely materials sourced from applicable laws and regulations, such as Law

---

<sup>5</sup> Jaman, Ujang Badru, Agung Zulfikri, "Community Participation in Preventing Sexual Violence is linked to Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence," *Wara Sains Law and Human Rights Journal* 1, no. 01 (2022): 01-07.

Number 12 of 2022 concerning Crimes of Sexual Violence, as well as other regulations relevant to the research. Second, secondary legal materials, namely materials that explain primary legal materials, are obtained through literature related to the research issue. Third, tertiary legal materials, which provide further instructions or explanations for primary and secondary legal materials, such as newspapers, the internet, legal dictionaries and the Big Indonesian Dictionary. Data analysis techniques are carried out through analytical methods, namely by interpreting the phenomena that occur. The process of analyzing legal materials is carried out by collecting all the necessary legal materials, which are not in the form of numbers, and connecting them to the problem being studied.

### **C. RESEARCH RESULTS AND DISCUSSION**

#### **1. Legal Protection for Victims of Sexual Harassment Based on Law no. 12 of 2022 concerning Crimes of Sexual Violence**

Sexual harassment is a sexual act committed against a victim under coercion. This act is generally carried out by adults and the victims are often women. Legal protection is an effort made by the government or authorities through applicable laws to protect victims. The aim of this legal protection is to ensure that legal subjects obtain their rights and provide full protection to legal subjects who are victims.

Philipus M Hadjon defines legal protection as an action to protect the human dignity of individuals and recognize human rights in accordance with the provisions of the law, as a response to arbitrary activities. Legal protection also functions as rules that can protect against various things (Hadjon, 1987). Several legal instruments aimed at preventing and overcoming sexual harassment can be found in the Criminal Code (KUHP), which does not recognize the term sexual harassment, but uses the term obscene acts. Obscene acts in the Criminal Code include all activities related to crimes of morality, namely acts that violate the norms applicable in society. Perpetrators of sexual harassment can be subject to articles regarding obscenity which are regulated in Articles 289 to Article 296 of the Criminal Code. Apart from that, Law no. 12 of 2022 concerning Criminal Sexual Violence also regulates everyone's right to receive protection from degrading treatment, and includes preventive and recovery efforts

for victims of sexual harassment. This law acts as a legal umbrella for handling criminal acts of sexual violence.<sup>6</sup>

In Article 4 paragraph (1) of the Sexual Violence Crime Law, there are nine types of sexual violence crime that are regulated, namely:

- a. Non-physical sexual harassment;
- b. Physical sexual harassment;
- c. Coercion of contraception;
- d. Forced sterilization;
- e. Forced marriage;
- f. Sexual torture;
- g. Sexual exploitation;
- h. Sexual slavery;
- i. Electronic-based sexual violence.

In paragraph (2), it is explained that apart from criminal acts of sexual violence mentioned in paragraph (1), criminal acts of sexual violence also include:

- a. Rape;
- b. Obscene acts;
- c. Sexual intercourse with children, obscene acts against children, and/or sexual exploitation of children;
- d. Acts that violate morality that are against the will of the victim;
- e. Pornography involving children or pornography that explicitly contains violence and sexual exploitation;
- f. Forced prostitution;
- g. The crime of trafficking in persons aimed at sexual exploitation;
- h. Sexual violence in the domestic sphere;
- i. The crime of money laundering which originates from the crime of sexual violence; And
- j. Other criminal acts that are expressly declared as criminal acts of sexual violence in accordance with the provisions of statutory regulations.

---

<sup>6</sup> Sari, Desi Puspita, Siti Ayu Resa Purwati, Muhammad Fadly Darmawan, Muhammad Syahrul Maulana, Irfan Maulana, and Herli Antoni. "Legal Protection for Victims of Sexual Harassment According to the Perspective of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence." *Al-Qisth Law Review* 7, no. 1 (2023): 65-87.

In Article 1 number 16 of the Sexual Violence Crime Law, it is explained that Victims' Rights include the right to treatment, protection and recovery which must be obtained, used and enjoyed by the victim. Furthermore, Article 66 paragraph (1) emphasizes that victims have the right to receive treatment, protection and recovery from the time a crime of sexual violence occurs. Handling itself includes actions aimed at providing complaint services, health services, social rehabilitation, law enforcement, legal services, repatriation and social reintegration (Article 1 number 17).

Protection is defined as all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims, which must be carried out by the Witness and Victim Protection Agency or other institutions in accordance with statutory provisions (Article 1 number 18). Meanwhile, recovery is defined as an effort to restore the victim's physical, mental, spiritual and social condition (Article 1 number 19).

The rights of victims of sexual violence in the sexual violence crime law are outlined in Article 68, which includes:

1. Handling Rights, which include:

- a. The right to information regarding the entire process and results of treatment, protection and recovery;
- b. The right to obtain documents resulting from handling;
- c. The right to legal services;
- d. The right to psychological empowerment;
- e. The right to health services, including medical examinations, procedures and treatment;
- f. The right to services and facilities in accordance with the special needs of victims;
- g. The right to the removal of sexually charged content in cases of sexual violence that occurs through electronic media.

2. Protection Rights

The right to protection is regulated in Article 69, which includes:

- a. Providing information regarding protection rights and facilities;
- b. Access to information on protection implementation;
- c. Protection from threats or violence from perpetrators and other parties as well as the risk of recurrence of violence;

- d. Protection of identity confidentiality;
- e. Protection from attitudes and behavior of law enforcement officers that demean victims;
- f. Protection from loss of employment, job transfer, education, or political access;
- g. Protection for victims and/or reporters from criminal charges or civil lawsuits related to criminal acts of sexual violence that have been reported.

The sexual violence crime law guarantees the right to protection for victims of sexual violence in three aspects. First, the victim will be legally protected from physical threats, confidentiality of identity, as well as criminal and civil law threats from the perpetrator, which protects the victim from the perpetrator's efforts to weaken him through criminal reporting. Second, victims also receive legal guarantees against degrading treatment from law enforcement officers. Third, victims' rights in educational and work environments are protected from unilateral actions, such as dismissal or transfer.<sup>7</sup>

### 3. Right to Recovery

The right to recovery is stated in Article 70, which consists of four paragraphs, including:

Paragraph (1): The victim's right to recovery, as explained in Article 67 paragraph (1) letter c, includes:

- a. Medical rehabilitation;
- b. Mental and social rehabilitation;
- c. Social empowerment;
- d. Restitution and/or compensation;
- e. Social reintegration.

Paragraph (2): Remedies before and during the judicial process include:

- a. Provision of health services for physical recovery;
- b. Psychological strengthening;
- c. Providing information about victims' rights and the judicial process;
- d. Providing information about recovery services for victims;
- e. Legal assistance;

---

<sup>7</sup> Ibid

- f. Providing accessibility and appropriate accommodation for victims with disabilities;
- g. Providing assistance with transportation, food, temporary living costs, and adequate and safe temporary housing;
- h. Provision of spiritual and spiritual guidance;
- i. Providing educational facilities for victims;
- j. Providing population documents and other supporting documents required by the victim;
- k. The right to information when a prisoner has completed his sentence;
- l. The right to removal of sexually charged content for cases of sexual violence that occur via electronic means.

Paragraph (3): Recovery after the judicial process includes:

- a. Regular and ongoing monitoring, examination and services for physical and psychological health of victims;
- b. Strengthening community support for victim recovery;
- c. Assistance in the use of restitution and/or compensation;
- d. Providing population documents and other supporting documents required by the victim;
- e. Provision of social security services, including health insurance and other social assistance according to needs based on an integrated team assessment;
- f. Economic empowerment;
- g. Provision of other needs based on identification results by UPTD PPA and/or Community Based Service Provider Institutions.

Paragraph (4): Further provisions regarding integrated teams mentioned in paragraph (3) letter e are regulated through a Presidential Regulation.

The right to recovery provides a guarantee for victims to return to living a normal life. Fulfilling this right to recovery includes three aspects. First, medical and mental rehabilitation. This is an attempt to heal the victim's physical and psychological wounds. Medical rehabilitation is carried out through the administration of medication or special treatment for physical injuries, while mental rehabilitation is carried out through psychological assistance to overcome trauma. Second, social rehabilitation aims to restore the victim's ability and confidence in interacting with society. This process re-engages



victims in social activities, giving them the opportunity and confidence to move on with their lives. Third, material rehabilitation which provides compensation and restitution in the form of money to meet the victim's living needs.<sup>8</sup>

Apart from victims' rights, the sexual violence crime law also regulates the rights of victims' families, as stated in Article 71, including:

Paragraph (1): The rights of the victim's family include:

- a. The right to information regarding the rights of victims, the rights of victims' families, and the criminal justice process from the beginning of the report to the end of the convict's sentence;
- b. The right to confidentiality of identity;
- c. The right to personal security and protection from threats related to testimony that will be, is being, or has been given;
- d. The right not to be prosecuted criminally and not prosecuted civilly for reports of criminal acts of sexual violence;
- e. Custody of children who are victims, unless their rights are revoked through a court decision;
- f. The right to receive psychological reinforcement;
- g. The right to economic empowerment;
- h. The right to obtain population documents and other supporting documents required by the victim's family.

Paragraph (2): Apart from the rights mentioned in paragraph (1), children or other family members who depend on the livelihood of the victim or parents who are not perpetrators have the right to:

- a. Educational facilities;
- b. Health services and guarantees;
- c. Social Security.

Paragraph (3): Fulfilling the rights of the victim's family is the state's obligation and must be carried out in accordance with the condition and needs of the victim.

---

<sup>8</sup> Muhammad, H. "Judicial Implications of Regulating the Rights of Victims of Crimes of Sexual Violence in Law Number 12 of 2022 concerning Crimes of Sexual Violence," *Surya Kencana Dua Journal: Dynamics of Legal and Justice Issues* 9, no. 1 (2022): 1–15.

One of the important things in the sexual violence crime law is the special protection for people with disabilities, which is a legal breakthrough in the sexual violence crime law. This form of protection includes:

- a. One-third increase in punishment for the perpetrator if the crime is committed against a person with a disability.
- b. The crime of electronic-based sexual violence is a complaint offense, unless the victim is a child or person with a disability.
- c. In cases of electronic-based sexual violence, the victim's wishes or consent does not eliminate criminal charges if the victim is a child or person with a disability.
- d. The statements of witnesses and/or victims with disabilities have the same legal force as the statements of witnesses and/or victims who do not have disabilities.
- e. Witnesses and/or victims with disabilities may be accompanied by parents, guardians appointed by the court, and/or companions.
- f. Victims with disabilities have the right to obtain appropriate accessibility and accommodation in accordance with statutory provisions.
- g. The community participates in various efforts to prevent criminal acts of sexual violence.

In Article 66 paragraph (2) it is stated that victims with disabilities have the right to adequate accessibility and accommodation to fulfill their rights, in accordance with the provisions of statutory regulations, unless otherwise provided in this law.

## **2. Efforts to Prevent Sexual Harassment**

Sexual violence crimes are a serious issue that requires attention and active participation from the community to prevent them. Several steps that can be taken to increase community participation in preventing sexual violence include:

- a. Educating people of all ages about sexual assault crimes is critical. With good understanding, individuals can avoid becoming victims or perpetrators. This education should also include information about the psychological and social impacts of sexual violence.
- b. Spread awareness about the laws and regulations governing sexual violence to ensure people understand their rights and the legal consequences for perpetrators of sexual

violence. This information can be conveyed through seminars, workshops, or information campaigns on social media.

- c. Create a safe and supportive environment, where the community actively reports and prevents acts of sexual violence. This includes keeping the surrounding environment safe and involving authorities to increase surveillance.

The family is the smallest unit in society which has an important role in preventing sexual violence. Some steps families can take include:

- a. Families can provide outreach about the impacts and threats of sexual violence to all family members, especially children.
- b. Provide age-appropriate information to children about body boundaries that should not be violated without their consent.
- c. Teach them to recognize dangerous situations and how to protect themselves.
- d. Instilling Values and Culture. Teach regional values, customs and culture that support respect for self and others.
- e. Encouraging children to interact with their environment positively, including getting to know their friends and the surrounding environment to build self-confidence.

By taking these steps, it is hoped that the community can work together to prevent sexual violence and create a safer environment for all. The involvement of families, communities and individuals is critical in creating awareness and appropriate responses to this issue.<sup>9</sup>

The government's efforts to overcome sexual violence against women are carried out by collaborating with various related institutions, such as the National Commission Against Violence against Women. To mitigate or reduce cases of violence against women and teenagers, a mature strategy is needed. All parties and groups must collaborate in fighting and preventing violence. Policies implemented by local governments also have a very important role in this effort. One approach taken is to build a "Child Friendly City") as a way to reduce the number of cases of violence against children. Every region in Indonesia has the ambition to get the title "Child Friendly City". Child Friendly City is a city that develops a development

---

<sup>9</sup> Novianti, Williya, Erika Vivian Nurchahyati, and Martinus Legowo. "The Role of the Family in Minimizing the Level of Sexual Violence in Children," *Eve Journal: Gender Mainstreaming and Children Study* 4, no. 1 (2022): 22-30.

system that focuses on children's rights, by integrating commitment and resources from government, society and the private sector. This system is designed comprehensively and continuously in policies, programs and activities to ensure the protection and fulfillment of children's rights. To guarantee children's rights, effective cooperation between society, the private sector and government is absolutely necessary.

In Law no. 12 of 2022 concerning the Crime of Sexual Violence, regulates the government's steps in dealing with sexual harassment against women, especially in articles 79 to article 84. Article 79 paragraph (1) confirms that "The Central Government and Regional Governments are obliged to carry out prevention Crime of sexual violence in a fast, unified and integrated manner." With this law, it is hoped that safe and friendly public spaces can be created, especially for women and children.

#### **D. CONCLUSION**

Legal protection for victims of sexual harassment in Law no. 12 of 2022 provides a clear framework regarding victims' rights, which includes treatment, protection and recovery. To create a significant effect, there needs to be integrated prevention efforts, involving all parties, from family, community, to government. Community involvement in education and disseminating information about sexual violence is very important to prevent future cases. Therefore, solid cooperation between the government and society is needed to ensure that victims' rights are fulfilled and a safe environment for all individuals can be realized.

#### **BIBLIOGRAPHY**

- Jaman, Ujang Badru, and Agung Zulfikri. "Community Participation in Preventing Sexual Violence is Linked to Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence." *Wara Sains Law and Human Rights Journal* 1, no. 01 (2022).
- Mannika, Ghinanta. "Descriptive Study of the Potential for Sexual Violence in Adolescent Girls." *Calyptra* 7, no. 1 (2018).
- Muhammad, H. "Judicial Implications of Regulating the Rights of Victims of Crimes of Sexual Violence in Law Number 12 of 2022 concerning Crimes of Sexual Violence." *Surya Kencana Dua Journal: Dynamics of Legal and Justice Issues* 9, no. 1 (2022).
- Novianti, Williya, Erika Vivian Nurchahyati, and Martinus Legowo. "The Role of the Family in Minimizing the Level of Sexual Violence in Children." *Eve Journal: Gender Mainstreaming and Children Study* 4, no. 1 (2022).
- Sari, Desi Puspita, Siti Ayu Resa Purwati, Muhammad Fadly Darmawan, Muhammad Syahrul Maulana, Irfan Maulana, and Herli Antoni. "Legal Protection for Victims of Sexual

- Harassment According to the Perspective of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence." *Al-Qisth Law Review* 7, no. 1 (2023).
- So, M. "Violence Against Women in Indonesia: Triggers and Alternative Treatments." *Afasi: Journal of Public Health* 6, no. 2 (2021).
- Suryandi, Dody, Nike Hutabarat, and Hartono Pamungkas. "Implementation of Criminal Sanctions Against Perpetrators of Crimes of Sexual Violence Against Children." *Darma Agung Journal* 28, no. 1 (2020).
- The 1945 Constitution of the Republic of Indonesia.
- Law no. 1 of 1946 concerning the Criminal Code
- Law no. 12 of 2022 concerning Crimes of Sexual Violence.