

Legal Protection Model for Victims of Sexual Violence at Universities Case Study: UIN North Sumatra

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<p>Article History Received : 2019-09-04 Revised: 2019-09-10 Published: 2019-09-30</p> <p>Keywords: <i>Legal Protection, Sexual Violence, Higher Education</i></p>	<p>In Indonesia, sexual violence is nothing new. It occurs not only in the workplace, family, and community. Sexual violence also occurs in universities. This is the reason for the issuance of Regulation of the Minister of Education, Culture, Research, and Technology Number 30 of 2021 concerning the Prevention and Handling of Sexual Violence in Higher Education, which requires every university to develop policies regarding the protection of victims of sexual violence in universities. Therefore, the purpose of this study, by examining this incident, is to clarify the Legal Protection Model for Victims of Sexual Violence at the State Islamic University of North Sumatra. The research method used in this study is the Empirical Juridical method with the Statue Approximation approach. After conducting the study, it was discovered that the protection received by victims of sexual violence at the State Islamic University of North Sumatra is in the form of assistance and guarantees of identity confidentiality. Victims of sexual violence also receive legal certainty from the perpetrator and also receive physical and psychological recovery as a result of the sexual violence they experienced.</p>

I. INTROCUATION

One of the most common immoral acts in Indonesia is the crime of sexual violence, which is an act with the aim of forcing another person to have sexual intercourse and can disturb or injure the victim. The 15 forms of sexual violence in Indonesia include rape, forced prostitution, sexual exploitation, sexual slavery, forced abortion, sterilization, forced contraception, forced marriage, sexual harassment, and so on. The actions carried out can usually be verbal, physical, or online, with insults, demeaning, harassing, or other acts that make someone feel uncomfortable, even if only in the form of touching or joking teasing. Sexual violence generally occurs against vulnerable groups (women and children). Sexual violence also occurs to victims regardless of age, including adolescent women, adults, the elderly, and even toddlers. The main factor causing victims of sexual harassment is mostly women because of their inability to resist the sexual harassment they experience. In addition, a lack of

education about sex, low education, and the assumption that women are inferior to men are factors in the many cases of sexual harassment that befall women. And it is not uncommon for sexual harassment to also occur to men.

In Indonesia, sexual violence occurs not only in the community, but also in the workplace, family, and other public settings. Respected places for learning, such as universities, are also not immune from sexual harassment. This naturally creates a sense of insecurity among female university students and their parents. A place of hope for the future has become a place of fear. This anxiety is not without reason, as sexual harassment has serious consequences. The psychological damage to victims can lead to profound trauma, and the feelings of fear and stress they experience can disrupt brain function.

Sexual violence that occurs in higher education institutions not only impacts the victims but also the institutions themselves. Therefore, it's not uncommon for universities to

avoid sexual harassment cases in order to protect their reputation. This situation prevents many victims of sexual harassment in higher education from speaking out. Furthermore, victims are often blamed for the incidents they experience simply because the perpetrator is a high-ranking official at the university. Therefore, it's crucial to provide support, guidance, and protection so victims can overcome the trauma they experience.

The issuance of Minister of Education, Research, and Technology Regulation Number 30 of 2021 concerning the Prevention and Handling of Sexual Violence in Higher Education is a government effort to prevent and address sexual violence. This regulation requires every university to provide protection to both victims and perpetrators. This requires each university to adopt a policy regarding sexual harassment that occurs on campus.

For example, the State Islamic University of North Sumatra, Medan, issued Rector's Decree No. 439 of 2022 concerning the Prevention and Management of Sexual Violence. This paper will examine the protection model provided to victims of sexual violence at UINSU. Therefore, the research questions are the legal basis for protecting victims of sexual violence in Indonesia and the implementation of legal regulations for protecting victims of sexual violence at UINSU.

II. RESEARCH METHODS

This research uses a normative juridical approach, meaning that legal research will be conducted in accordance with applicable Indonesian laws and regulations. The Statute Approach approach will also be used to examine relevant laws and regulations related to the protection of victims of sexual violence as a whole.

In this study, the author collected data from two sources: interviews and legal materials (primary and secondary legal materials). Primary legal materials are data that have legal force, such as statutory regulations, while secondary legal

materials are supporting data, such as previously published research and related books. The data obtained was then analyzed qualitatively and presented descriptively.

Legal Basis for Protection of Victims of Sexual Violence in Indonesia Sexual violence in Indonesia often affects vulnerable groups, especially women and children. Indonesia is currently among the countries with the highest number of sexual harassment cases. According to the National Commission on Violence Against Women, in 2023, there were 8,172 cases of sexual violence in Indonesia, dominated by dating violence.

Indonesia is a country based on the rule of law, aiming to maintain legal order in society. However, injustice, discrimination, and inequality frequently occur in law enforcement in Indonesia. In cases of sexual violence, the protection of victims of sexual violence requires increased government attention. A sense of justice in society can be achieved by providing appropriate protection to victims of sexual violence. Sexual violence cases present the greatest challenges during case resolution, from the investigation stage to the decision-making process. Furthermore, difficulties also arise during the process of establishing evidence in cases such as sexual harassment, as there is usually no one other than the victim present at the scene.

Most victims of sexual violence in Indonesia choose not to report their experiences to law enforcement due to weak legal frameworks, perpetrators not receiving adequate punishment, and a lack of protection for victims. Furthermore, fear and difficulty obtaining evidence are reasons why victims refrain from going to court. This is despite the complex legal procedures and the limited protections victims receive.

The above factors can impact the mental and psychological development of the victim, who feels constantly pressured and denied justice. This

can hinder law enforcement's efforts to achieve a sense of justice for the victim and the community. Because this crime is a complaint-based offense, the victim's role in addressing and investigating cases of sexual violence against them is crucial. This requires extraordinary courage from the victim to report the incident to law enforcement, as a complaint can lead to the case being opened, an investigation can be conducted, and the victim will receive justice.

III. RESULTS AND DISCUSSION

Legal protection for victims of sexual violence will instill a sense of security, encouraging them to take action, speak up, and confidently report the incident to the authorities. Therefore, legal certainty regarding the protection provided to victims of sexual violence is necessary to ensure their rights are met. Legal protection itself is defined as an effort to fulfill victims' rights by providing a sense of security based on the rules that serve as the basis for protection.

Protecting victims of sexual violence is not solely the responsibility of law enforcement; it is also the responsibility of the community to assist in their recovery. Two types of efforts are being undertaken to protect victims of sexual violence, including:

1. Protection from Legal Instruments

- A. Criminal Code. Article 14a, 14b, 14c paragraph (1) of the Criminal Code implicitly explains the protection of victims of criminal acts. The threat of criminal penalties for perpetrators of sexual violence crimes contained in the Criminal Code (molestation, sexual intercourse, etc.) is a form of protection for victims of sexual violence provided by the Criminal Code.
- B. Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims. The Witness and Victim Protection

Law can be a legal breakthrough for victims, witnesses, and those who report, because this law provides legal guarantees and recognizes the government's duty to provide protection services. This law also provides new tools for women who are victims to access justice. The protection and rights of witnesses and victims are contained in Article 5 paragraph (1).

- C. Law Number 23 of 2004 concerning the Elimination of Domestic Violence. Protection and rights of victims of sexual violence are contained in Article 10 and Articles 16-25 of the Domestic Violence Law if sexual violence occurs in the household. The victims include husbands, wives and children, and people as described in Article 2 paragraph (1) of the Domestic Violence Law.
- D. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. This law applies if the victim of sexual violence is a child under 18 years of age. Perpetrators of child sexual violence are subject to high criminal penalties as stipulated in this law. Protection for child victims of sexual violence is outlined in Article 59 paragraph (1) and paragraph (2) letter j.
- E. Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence. The crime of sexual harassment is not clearly defined in the Criminal Code. There is no article that includes the words "Sexual Harassment" or "Sexual Violence," only the words "Indecent Acts," which are regulated in Articles 289-296 of the Criminal Code. Indecent acts themselves are defined as heinous acts that violate morality and are carried out solely to satisfy uncontrolled lust. Meanwhile, sexual violence is an act such as adultery, sexual intercourse, indecency, and pornography that are not explicitly defined in the Criminal Code and only contains provisions regarding crimes against morality contained in Chapter XVI of Book II of the Criminal Code.

The Criminal Code only regulates criminal penalties for perpetrators of sexual violence, making it unable to serve as a legal umbrella for victims of sexual violence in need of protection. Therefore, the most appropriate basis for general legal protection for victims of sexual violence is Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence, as this law covers the forms of sexual violence, their punishment, protection, and guarantees that the rights of victims of sexual violence are fulfilled. The existence of the TPKS Law means that specific regulations override general regulations.

The rights of victims of sexual violence are outlined in Articles 66-70 of Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence. Victims have the right to receive treatment, protection, and recovery from the moment an act of sexual violence occurs. Fulfilling victims' rights is a state obligation, based on the victim's situation and needs.

Protection of victims' rights is implemented through the participation of families, communities, and state institutions to create a conducive environment for women and other vulnerable groups, which is implemented through prevention, handling, and protection of victims of sexual violence. Prevention is carried out based on all actions that cause the occurrence of criminal acts of sexual violence and the recurrence of criminal acts of sexual violence. The purpose of handling is to provide complaint services, medical services, rehabilitation, law enforcement, legal aid and social reintegration. This protection is an effort that must be carried out by witness and victim protection agencies to fulfill the rights and assistance of witnesses and victims and create a sense of security.

The realization of victims' rights is achieved through rehabilitation and restitution for the victims and their families. Victims' rights to treatment, protection, and rehabilitation, which they can exercise and enjoy, aim to improve the

victims' condition. Recovery is achieved by making every effort to restore the physical, mental, spiritual, and social well-being of the victim. Restitution, on the other hand, is a form of compensation imposed on the perpetrator in accordance with the losses suffered by the victim of sexual violence based on a court decision.

It is hoped that the TPKS Law will become the main legal instrument in eradicating criminal acts of sexual violence and complement previous legal instruments that have not been implemented comprehensively and optimally.

2. Protection Outside Legal Instruments

a. Parents and Family

Family members are the closest people to the victim and play a crucial role in providing protection. They are the first to provide support, encouragement, and motivation to the victim without blaming or intimidating them. Because victims of sexual violence often blame themselves for what they experience, they desperately need someone to reassure them that it was not their fault. Furthermore, families also provide protection for victims who face ridicule and ridicule from others.

b. Public

Equally important, the role of the community is crucial in supporting the psychological recovery of victims of sexual violence. Victims of sexual violence who have experienced psychological impacts, including trauma and depression, are naturally more sensitive to the words and behavior of others. Therefore, the community should avoid mocking, judging, or mistreating victims. It would be beneficial for the community to participate in the protection and recovery of victims of sexual violence.

c. Legal Aid Institute

Legal aid institutions play a crucial role in helping victims of sexual violence obtain legal assistance, protection, and protect their

rights. LBH also assists victims of sexual violence by providing psychological support to reduce and heal the trauma and stress they experience.

The purpose of protective measures in Indonesia is essentially to consider and protect the interests of victims of sexual violence, both through criminal proceedings and certain social support measures that are strictly considered in criminal law and social policy.

Implementation of the Legal Regulations for the Protection of Victims of Sexual Violence at UINSU

According to the PKS Bill, sexual violence is defined as behavior that degrades, attacks, or coerces a person's body or reproductive functions. These actions are contrary to the individual's will and can result in an inability to give voluntary consent. This situation typically arises from an imbalance in power or gender relations, potentially causing the victim physical, mental, or sexual suffering, as well as economic, social, cultural, or political harm.

Based on an interview with Ms. Fitri Hariyati, Head of the PSGA Center of the UINSU Institute of Public Relations and Student Affairs (LPPM), violence on campus is divided into two forms: verbal and physical. She emphasized that it's not uncommon for incidents of violence to begin verbally and escalate into physical violence.

Mrs. Fitri Hariyati also highlighted that external factors that cause sexual violence include opportunity, stimulation from the victim, and eccentric clothing styles.

Based on the latest information from the National Commission on Violence Against Women's Annual Report (CATAHU) for 2023, several important findings emerged. The number of complaints decreased in 2022, reaching 457,895 compared to 459,094 in the previous year, although direct complaints to the National Commission on Violence Against Women increased from 4,322 to 4,371 cases. Of the total

number of complaints, there were 339,782 cases of gender-based violence (GBV), of which 3,442 cases were reported directly to the National Commission on Violence Against Women. The primary focus of GBV case reporting remained on violence in the personal sphere, reaching 99%, or 336,804 cases. In the public sector, there were 2,978 incidents of violence, of which 1,276 were reported directly to the National Commission on Violence Against Women. Cases of violence in the country are only recorded in the National Commission on Violence Against Women (Komnas Perempuan), and the number has doubled, rising from 38 cases in 2021 to 68 cases in 2022. Complaint data throughout 2022 illustrates this pattern, showing that sexual violence is prevalent as a form of violence against women, reaching 2,228 cases (38.21%), followed by psychological violence with 2,082 cases (35.72%). Furthermore, Hendarman noted through a 2020 survey data from the Directorate General of Higher Education, Research, and Technology that incidents of sexual violence are spread across all levels of education, with 27% of reports coming from higher education institutions. According to the Ministry of Education and Culture, in 2015, approximately 77% of lecturers were aware of sexual violence in higher education institutions, but only 63% reported these cases to the appropriate authorities on campus.

Violations of the law regarding sexual violence are listed in the Criminal Code which discusses Crimes against Moral Crimes, specifically starting from Article 281 to Article 299. Article 289 of the Criminal Code states "Whoever by violence or threat of violence forces someone to commit or allow him to commit an indecent act, shall be punished for damaging decency with a maximum prison sentence of nine years."

In the education sector, the rate of sexual violence is around 87.91%, psychological and

discriminatory acts are around 8.8%, and physical violence cases are around 1.1%.² The parties involved in acts of gender-based violence against women in educational institutions include various variations, involving parties such as teachers, lecturers, students, principals, coaches, and other individuals.

The causes of sexual violence in the university environment can be grouped into 4, namely:

1. Natural or Biological Factors: This factor shows that although women and men have the same attraction to each other, men tend to have a higher sex drive. However, sometimes one party can misinterpret the other's feelings or behavior, which can turn a healthy initial relationship into an unhealthy one, especially if the tendency is towards sexual intercourse. Actions that indicate a desire for sexual intercourse, if rejected, can be threatening and lead to acts of sexual violence.
2. Socio-cultural factors: In Indonesia, men are often believed to have higher status than women. Most people still believe that men and women have different roles, duties, rights, and responsibilities. Women are often perceived as weak and of lower status, especially when men hold higher positions. This leads to unthinking actions, driven by the belief that power grants freedom to act without considering the consequences.
3. Power Relations: In the context of higher education, there is often an imbalance in power relations. For example, the power ratio between the lecturer serving as thesis supervisor and the student tends to be unequal, with the lecturer having a more dominant position. This situation can be exploited by individuals intent on committing acts of sexual violence.
4. Lack of complaint mechanisms: Many universities do not have a sexual violence reporting system.

Students are individuals who pursue knowledge in accordance with their major interests, characterized by a strong sense of curiosity, critical thinking about changes in the world, and a high level of intellectualism. The failure of universities to address issues of sexual harassment can exacerbate the trauma experienced by victims. Lecturers, as primary educators, are regulated by law as teaching staff with a noble duty: to teach, develop, and transform science, technology, and the arts, as well as to contribute to society as professionals appointed in accordance with applicable law.

Victims of sexual assault in higher education settings, especially students, may take steps such as dropping classes, changing academic plans, or even discontinuing their studies. The impact is not limited to academics but also includes damage to the victim's reputation, which is perceived to be diminished. Furthermore, victims may lose trust in the same environment where the assault occurred. The victim's trust in individuals who resemble or hold similar positions may also be shaken or lost entirely.

However, amidst all these negative impacts, many individuals who become victims, especially students, are reluctant to report incidents of sexual violence. According to Ms. Fitri, "reasons behind students' reluctance to report such violence include shame and a desire to maintain privacy, so that what happened to them is not known to others. In addition, some victims may experience threats from the perpetrator, which makes them reluctant to report the sexual violence they experienced. Other factors that contribute are fear of harming the reputation of the higher education institution and concerns about re-examination by the police, as well as difficulties in gathering evidence, all of which make victims reluctant to face the existing legal process."

Under the regulatory umbrella of the Ministry of Education, Culture, Research, and

Technology Regulation Number 30 of 2021 concerning the Prevention and Handling of Sexual Violence in Higher Education, it is hoped that there will no longer be any justification for universities to ignore the issue of sexual violence. It is hoped that this regulation will function proactively in preventing and addressing cases of sexual violence in higher education. By implementing these measures, it is hoped that their impact, both directly and indirectly, will be able to reduce suboptimal implementation of the Tri Dharma of Higher Education and prevent a decline in the quality of higher education.

Article 10 of the Minister of Education, Culture, Research, and Technology Regulation stipulates that universities have an obligation to address the issue of sexual violence through various efforts, such as mentoring, protection, administrative sanctions, and rehabilitation for victims. This demonstrates how universities are actively involved in socializing their active role in handling cases of sexual violence within the university environment. Furthermore, Article 12 explains the protection provided to victims and witnesses of sexual violence in universities, with a focus on students, educators, education personnel, and university residents. This protection covers a number of aspects, including but not limited to, guarantees of continuing education for students, job guarantees for educators and/or education personnel, protection from physical and non-physical threats, maintaining identity confidentiality, providing information about protection rights and facilities, providing access to information about the implementation of protection, protection from law enforcement officers who act or behave demeaningly, and guaranteeing protection from criminal prosecution. This article also emphasizes the importance of providing shelter, security, and guarantees of freedom from threats related to testimony given.

In addition, the Minister of Education and

Culture Regulation mandates that every higher education institution is expected to establish a Special Task Force (Satgas) specifically tasked with preventing and handling cases of sexual violence. One of the main responsibilities of this Special Team is to provide support to university leaders in developing guidelines for the Prevention and Handling of Sexual Violence in the Higher Education environment. As a concrete example, a number of higher education institutions have created Special Teams for the Prevention and Handling of Sexual Violence (PPKS) with the primary goal of addressing incidents of sexual violence in the academic environment. The duties and roles of the Special Team PPKS involve the process of receiving and handling reports of alleged violence, addressing findings related to alleged violence in the higher education environment, and providing recommendations for sanctions to university leaders based on the results of the investigation. Many universities already have PPKS, such as Padjadjaran University (UNPAD) and the University of Indonesia (UI). However, the State Islamic University of North Sumatra (UINSU) does not yet have a PPKS. UINSU currently only has a Center for Gender and Child Studies (PSGA).

The PSGA and the Task Force are two separate entities within the university context. The PSGA is an institution focused on gender and child studies, while the Task Force is typically formed to address specific issues requiring specialized attention.

According to the interview results of Mrs. Fitri, "PPKS does not yet exist at UINSU because the Standard Operating Procedures (SOP) and regulations have not been completed. The Ministry of Education and Culture already has PPKS because it already has regulations and SOPs for its formation." Mrs. Fitri continued that PPKS will soon be formed at UINSU. "PPKS will be formed at UINSU with the hope of becoming a place for reporting and seeking protection for

victims of sexual violence on campus."

Furthermore, Mrs. Fitri explained that the process of reporting cases of sexual violence at UINSU involves a hierarchy that starts with the Academic Supervisor (PA Lecturer), then it is reported to the Head of the Study Program (Kaprodi), then to the Vice Dean, the Dean, and finally to the Rectorate, whose duties in this case are currently delegated to PSGA.

Ms. Fitri also explained that one of the preventive measures taken to prevent sexual violence in higher education is mandatory final project guidance on campus. The goal is to prevent factors that could create opportunities for sexual violence. Furthermore, materials that promote sexual violence prevention are also included in course materials.

To prevent the occurrence of sexual violence in higher education environments, several steps can be taken, such as disseminating education about anti-sexual violence through various media channels, increasing understanding through organizing lectures, seminars, discussions, and training; conducting scientific research related to sexual violence and integrating the principles of Human Rights (HAM) and gender equality into the curriculum; providing safe, comfortable, and friendly spaces and facilities for all individuals, regardless of gender; and allocating a special budget for handling victims of violence.

Handling of victims needs to follow the following principles: a) responding to victims according to the type and form of violence experienced, b) providing active involvement to victims by respecting their choices and decisions, c) maintaining the confidentiality of victims' identities, d) avoiding judgment or judgment, e) based on theological principles, f) not showing discriminatory attitudes, g) emphasizing gender justice, h) being sustainable, i) carried out with empathy. Therefore, case resolution must focus on efforts to protect, uphold justice and fulfill the

rights of victims, including giving appropriate punishment to perpetrators to prevent the recurrence of such acts. The main goal is to create a friendly campus atmosphere, support gender equality, and be free from sexual violence.

IV. CONCLUSION AND SUGGETIONS

A. Conclusion

Sexual violence in university environments is a significant issue and requires appropriate and effective handling. The TPKS Law and Ministerial Regulation No. 30 of 2022 on Sexual Violence are swift government steps to prevent and address the issue of sexual violence in universities.

The issuance of UINSU Rector's Decree No. 689 of 2023 concerning the Prevention and Handling of Sexual Violence at the State Islamic University of North Sumatra demonstrates UINSU's firm stance in addressing the issue of sexual violence at the university. The lack of formation of the PPKS has not stopped UINSU from swiftly responding to the occurrence of sexual violence at the university. Currently, through the PSGA, UINSU provides assistance, advocacy, and guarantees the confidentiality of identities and legal certainty for victims and perpetrators of sexual violence at the university.

B. Suggestions

Based on the discussion regarding legal protection for victims of sexual violence in Indonesia and the implementation of protection mechanisms in higher education institutions, it can be concluded that sexual violence remains a serious issue requiring comprehensive prevention and handling efforts. Therefore, the government, educational institutions, law enforcement agencies, families, and society must strengthen cooperation to create a safer environment and ensure the fulfillment of victims' rights.

Higher education institutions are expected to optimize the implementation of policies related to the prevention and handling of sexual

violence, particularly through the establishment and strengthening of the Sexual Violence Prevention and Handling Task Force (PPKS) in accordance with regulations. Universities should also develop clear reporting mechanisms, victim protection systems, confidentiality guarantees, psychological support services, and accessible legal assistance to encourage victims to report incidents without fear of intimidation, discrimination, or social stigma.

Furthermore, preventive efforts through continuous education regarding sexual violence, gender equality, human rights, and ethical interactions should be integrated into academic activities and campus policies. Increasing awareness among students, lecturers, educational staff, and the wider community is essential to reducing tolerance toward acts of sexual violence and victim blaming attitudes.

Law enforcement agencies are expected to provide protection and legal certainty for victims by implementing applicable regulations, particularly Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, fairly and effectively. The legal process should prioritize victim protection, recovery, and justice while ensuring appropriate sanctions for perpetrators.

Ultimately, creating an environment free from sexual violence requires collective responsibility. Through stronger legal protection, effective prevention strategies, institutional commitment, and community support, it is expected that victims' rights can be fulfilled, recovery processes optimized, and educational environments transformed into safe, inclusive, and dignified spaces for all individuals.

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