



State Institution and Socio Analysis on Sexual Violence in Higher Education

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Abstract

The legal framework on sexual violence is getting stronger, but sexual violence still occurs in universities. The objectives of this research are, to analyze the legal framework for protection against sexual violence, to identify the challenges in solving the issue of sexual violence, to formulate a collaborative institutional model in addressing sexual violence. This research is a socio-legal research, examining the problem of sexual violence through an interdisciplinary framework, integrating juridical, sociological, and institutional perspectives. This study reveals three points: First, the legal framework for addressing sexual violence has been more progressive but there are several weaknesses, ie, (1) internal task force members from within the university, (2) lack cooperation from university and law enforcer in takin care of the issue, (3) no external supervisor from state institutions in the process of investigation. Second, based on Donald Black's theory, there are four variables influencing the issue of sexual violence, ie: power inequality that protects high-status perpetrators (stratification); preference for informal settlement rather than criminal justice proceedings (morphology); patriarchal culture; and institutional self-protection

that prioritizes reputation over accountability (organization). Third, collaboration with state institutions Komnas Perempuan, LPSK, the Press Council, and the Ombudsman is needed as a balancing force for certain variables in the Black model. This integrated approach offers a path to rebalancing power relations, ensuring institutional accountability, and realigning law enforcement with principles of justice.

KEYWORDS *Sexual Violence; Higher Education; Donald Black, State Institution.*

Introduction

The state aims to protect human rights, yet violations such as sexual violence (hereinafter referred to as “SV”) in universities still frequently occur. However, in practice there are many human rights violations and weak law enforcement. One of the serious cases is about SV that occurs in higher education institutions. Universities, which should be creating civilized people, are in reality dealing with cases of SV. This is not just a problem faced at the local level of a country but also as a global issue.” Dziech and Weiner made claim that harassers are those who misuse their authority to harass people of the opposite sex, their behaviour is often discussed by institution as an abstract way¹.

According to a World Health Organisation (WHO) research, women worldwide are subjected to extremely concerning rates of physical and SV. Approximately 736 million women worldwide, or one-third of all women, have

¹ Louise F. Fitzgerald et al., “Academic Harassment: Sex and Denial in Scholarly Garb,” *Psychology of Women Quarterly* 12, no. 3 (November 1988): 329–40, <https://doi.org/10.1111/j.1471-6402.1988.tb00947.x>.

been victims of physical or sexual abuse². In addition to negatively affecting women's physical and mental health, physical and sexual abuse is a serious human rights violation. In a similar vein, the scale of institutional abuse is illustrated by the case of the Boy Scouts of America (BSA), which, following claims from nearly 100,000 individuals³, committed in April 2023 to paying \$2.4 billion in compensation to over 82,000 survivors⁴. Within the Asia-Pacific region, Indonesia faces a severe crisis. A study by the research firm Value Champion identified Indonesia as the dangerous country for women.⁵

The situation within Indonesian higher education is particularly acute. In 2020, the Ministry of Education, Culture, Research and Technology conducted a survey of 79 universities in 29 cities in Indonesia regarding SV in the university environment. The survey found that 77% of lecturers admitted that SV had occurred on their campus. Alarming, 63% of SV cases were never reported for the sake of maintaining the school's good reputation. The number of female victims of SV on campus reached 90%, the rest were male⁶. Similarly, the findings revealed by the National Commission on Violence Against Women

² "Perempuan di dunia banyak mengalami kekerasan fisik dan seksual: Satu dari tiga perempuan jadi korban, ungkap studi WHO," *BBC News Indonesia*, accessed February 16, 2025, <https://www.bbc.com/indonesia/dunia-56342562>.

³ Erna, "100.000 Korban Pelecehan Seksual Pramuka Amerika Tuntut Kompensasi," *Duta TV | Berita Terkini Kalimantan Selatan*, November 18, 2020, <https://dutatv.com/100-000-korban-pelecehan-seksual-pramuka-amerika-tuntut-kompensasi/>.

⁴ Lauren del Valle Tebor Laura Dolan, Celina, "Boy Scouts of America Will Begin to Compensate Sexual Abuse Victims from a \$2.4 Billion Trust after Emerging from Bankruptcy," *CNN*, April 20, 2023, <https://www.cnn.com/2023/04/20/us/boy-scouts-sexual-abuse-compensation-trust/index.html>.

⁵ na vlz, "Indonesia Negara yang Tidak Aman bagi Perempuan? – DW – 08.03.2019," *dw.com*, accessed February 16, 2025, <https://www.dw.com/id/studi-indonesia-negara-yang-tidak-aman-bagi-perempuan/a-47823351>.

⁶ Nurhadi Sucahyo, "Kekerasan Seksual Tersembunyi di Ruang-Ruang Kampus," *VOA Indonesia*, January 12, 2022, <https://www.voaindonesia.com/a/kekerasan-seksual-tersembunyi-di-ruang-ruang-kampus-/6392176.html>.

in its 2021 year-end remarks⁷ serious incidents of SV in educational institutions persisted throughout 2020, in both general and religiously affiliated educational institutions. These findings indicate that the national education system must take serious steps to prevent, address, and handle cases of SV.

SV in university remains a severe and persistent issue in Indonesia. Consequently, a collaborative effort is required to address it effectively. Beyond immediate action, it is also imperative to conduct sociological research into its root causes. This includes examining how social stratification and inequalities of power and wealth influence its prevalence. Further investigation is needed into whether intimate relationships between individuals can impede the legal process for SV cases, and if the pervasive patriarchal culture in Indonesia normalises such abuse. Another critical area of inquiry is whether the institutions of higher education themselves are a factor in the weak enforcement of laws against sexual violence.

The foregoing questions are particularly apt, given Donald Black's thesis that issues within a legal context cannot be understood without reference to external social factors. Black posits that the application of law is contingent upon several variables, notably stratification, morphology, culture, and organisation. In light of this, the present article will assess the impact of these four facets on the enforcement of SV legislation within the higher education sector. Subsequently, it will propose remedies for this socio-legal problem through an institutionalised approach, offering structured solutions to the challenge of sexual harassment.

⁷ “Catatan Tahunan,” Komnas Perempuan | Komisi Nasional Anti Kekerasan Terhadap Perempuan, accessed February 16, 2025, <https://komnasperempuan.go.id/catatan-tahunan-detail/catahu-2021-perempuan-dalam-himpitan-pandemi-lonjakan-kekerasan-seksual-kekerasan-siber-perkawinan-anak-dan-keterbatasan-penanganan-di-tengah-covid-19>.

This article has a different approach in analyzing the handling of SV in universities through Donald Black's theory, The Behaviour of law and through a more comprehensive institutional approach. This article is arranged in four parts, first, analyzing the legal protection framework of SV in universities, second, analyzing the challenges faced in handling SV, third analyzing the effectiveness of sexual violence law enforcement through the theory, and fourth formulating a model of institutional collaboration in handling SV.

Method

This socio-legal study explores the issue of sexual assault, drawing on both legal and sociological perspectives. The socio-legal method is to examine the problem of SV through an interdisciplinary framework, integrating juridical perspectives (laws and regulations, judges' decisions), sociological (conditions experienced by society), and institutions. The legal analysis focuses on Indonesia's legal framework regarding SV to establish a legal basis for addressing such assaults in higher education. Analysis of court decisions is used how the case is handled in court through the study of the verdict. The sociological analysis examines sexual harassment as a real-world phenomenon, providing a non-legal lens for understanding the issue. Sociology will identify solution to the problem that occur in society⁸. Through this research, comparison will be made between the reality and the regulation. Thus, in this study, a comparison will be made between the regulation of SV on campus as an ideal grounded with the reality that occurs. This comparison is done to test the effectiveness of the

⁸ Donald J. Black, "The Boundaries of Legal Sociology," *Yale Law Journal* 81 (1972 1971): 1091.

law on SV. Research on the effectiveness of the law in handling sexual violence will certainly contribute to efforts to reform the legal order.

Result & Discussion

A. Legal Protection Framework of SV in Universities

SV is a crime that damages human dignity and dignity. This problem is very important because it can target anyone. Indonesia has a serious commitment to this issue. This can be traced in our constitution which has formulated the issue of human rights into a separate chapter in the amendment of the 1945 Constitution (1999-2002), especially article 28. This constitutional guarantee provides a solid basis for the state to be present to ensure guarantees for the fulfillment of human rights for every citizen. Indonesia has also made a high commitment by having ratified the international convention on the Elimination of All Forms of Discrimination against Women through Law 7/1984 on the ratification of the convention on the elimination of all forms of discrimination against women.

Law 12/2012 concerning Higher Education has provided protection to academic freedom. It is intended for the entire academic community for the development of science through high deserts, the freedom of the academic pulpit is aimed at professors and/or lecturers, while scientific autonomy is a guarantee of autonomy for each academic community in carrying out their academic work. (Article 9 of Law 12/2012). This guarantee should be used for scientific development and glorification of the dignity and dignity of human values, not used to destroy human values such as the crime of SV.

The provisions of protection against SV in university has undergone significant developments with the promulgation of Permendikbudristek Number 30/2021 which was later updated with Permendikbudristek Number 55/2024, as well as Law Number 12/2022 concerning SV Crimes (TPKS Law). Normatively, this regulatory framework is progressive because it provides a broader definition of SV, requires the foundation of a task force on each campus, and regulates victims' rights more comprehensively. However, there are several critical notes that need to be considered, including: First, there are structural weaknesses in the institutional design of the Task Force.

The Task Force is formed by and responsible to university leaders, with members coming from internal campus elements such as lecturers, students, and education staff (Article 25). Membership only involves internal elements of the campus without involving elements outside the campus such as community leaders, non-governmental organizations make this institution less independent. Conflicts of interest become inevitable when the perpetrator is a structural official or senior lecturer who has a hierarchical relationship with the rectorate. Second, there is a misalignment of authority between the administrative process on campus and the criminal process in the realm of positive law. The task force's authority is only limited to internal investigations, providing recommendations for administrative sanctions, and facilitating victims and/or whistleblowers to law enforcement officials if necessary. Regarding criminal law, the authority is only to facilitate if necessary, not an obligation that must be carried out. On the other hand, the TPKS Law, which has been passed since 2022 until now, is still not optimal to be used as a basis to ensnare perpetrators of sexual violence on campus with criminal sanctions. There is no obligation for the campus to

continue handling cases until criminal liability. This makes the victim have to expend more energy if he wants to solve his case, on the one hand report to the internal campus on the other hand he must make a police report to handle his criminal liability. Third, regulations are built on a bureaucratic structure that is actually part of the problem, without creating an independent external oversight mechanism in collaboration with state institutions or non-governmental organizations. As long as the campus is still given full authority to adjudicate its own cases, it will be difficult to give justice for victims.

B. Challenges in Addressing Sexual Violence on Campus

Various forms of SV prove that there is a problem in our education system. Empirical evidence continues to show the prevalence of SV on college campuses. Preventing SV in university face challenges, such as:

a. The Damaging Effects of Stigma and Underreporting

A significant barrier to addressing SV in higher education is the reluctance of victims to report incidents. This is frequently due to feelings of shame, anxiety, and a fundamental distrust that their report will be handled seriously and justly. Foucault's assertion that "one had to speak of sex"⁹. According to Foucault, the purpose of being open about sex is to enable governmental control. Applying this logic, fostering openness about SV is essential to prevent these crimes from being concealed and to allow legal processes to function without obstruction.

⁹ Michel Foucault, *The History of Sexuality* (New York: Pantheon Book, 1978), 24.

Further obstacles include a widespread ignorance of victims' rights and reporting procedures. Many are unaware of where to seek help, and a prevailing cynicism exists that reporting will not lead to justice or meaningful change. Research by Ainal Fitri et al confirms that female students are more likely to become victims. students do not have critical knowledge and awareness of the threat of SV which has an impact on what response will be done when they become victims¹⁰.

In addition, the condition of social stigma experienced by the victim adds to the suffering of victims in dealing with social life in the community. The fear of being blamed, judged, and intimidated adds trauma to the victim. This stigmatising environment, present in broader society and within campus communities, creates a significant deterrent to seeking support. For example, the case of SV that befell a female student of the Faculty of Social and Political Sciences, Gadjah Mada University or Fisip UGM, known as Agni, left trauma and depression for the victim. Agni now has to undergo traumatic counselling¹¹.

Research by Rusyidi et al.¹² indicates that students often fail to recognize several behaviors as sexual harassment, including: sexist jokes that cause discomfort, forcing someone to view pornography, using sexually offensive language about an individual, masturbating in public, and unwanted

¹⁰ Ainal Fitri et al., "Sexual Violence in Indonesian University: On Students' Critical Consciousness and Agency," *Gender Equality: International Journal of Child and Gender Studies* 7, no. 2 (September 2021): 153, <https://doi.org/10.22373/equality.v7i2.9869>.

¹¹ Shinta Maharani, *Kasus Agni UGM, Korban Disalahkan Hingga Depresi*, February 10, 2019, <https://www.tempo.co/hukum/kasus-agni-ugm-korban-disalahkan-hingga-depresi-772121>.

¹² Binahayati Rusyidi, Antik Bintari, and Hery Wibowo, "Pengalaman Dan Pengetahuan Tentang Pelecehan Seksual: Studi Awal Di Kalangan Mahasiswa Perguruan Tinggi (Experience And Knowledge On Sexual Harassment: A Preliminary Study Among Indonesian University Students)," *Share : Social Work Journal* 9, no. 1 (August 2019): 75–85, <https://doi.org/10.24198/share.v9i1.21685>.

attention to someone's genitals. A concerted effort is needed to educate all students, staff, and campus authorities on defining SV, understanding victims' rights, and navigating reporting protocols.

Concurrently, eliminating stigma necessitates a cultural shift within the university community towards one of compassion and belief in survivors. Robust support services, particularly confidential counselling, are critical to help victims cope with trauma. Finally, institutions must implement clear, accessible, and safe reporting systems where victims can come forward without fear of judgement or reprisal.

b. The Unequal Distribution of Power

SV in college is basically rooted in unequal conditions of power. Perpetrators (whether lecturers, staff, or senior students) exploit their physical, psychological, or institutional authority to commit abuse. This imbalance is particularly acute in academic settings, where authority figures can control a student's academic progression.

How can we understand power dynamics as a key factor in the increasingly intricate nature of SV? Power, at its core, is a system of actions that can influence, encourage, complicate, or enable such violence¹³. Therefore, this requires examining how power operates through various channels and infiltrates discourse, ultimately shaping even the most private aspects of desire and pleasure.¹⁴

On campuses, the power imbalance is evident in cases of SV perpetrated by lecturers against students. First example is the abuse of authority: a lecturer at

¹³ Michel Foucault, "The Subject and Power," *Critical Inquiry* 8, no. 4 (July 1982): 789, <https://doi.org/10.1086/448181>.

¹⁴ Michel Foucault, *Seks dan kekuasaan: sejarah seksualitas* (Gramedia, 1997), 12.

a Bali Health College was reported on 23 May 2023 for sexually abusing a student he was supervising.¹⁵ The same thing also happened at Andalas University, the mode of lecturers who teach at Andalas University because of the power relationship between lecturers and students. The perpetrator never threatened to demonize the student's course scores to get his will. But the lecturer promised to improve grades to be better for his target students¹⁶.

These cases demonstrate that perpetrators are not ignorant; they strategically leverage their power, which is often intrinsically linked to knowledge. This reflects Foucault's idea that "power is always actualized through knowledge, and knowledge always has a power effect". Discussions of knowledge are frequently used to reinforce authority. Power permeates social institutions, leaving no area entirely untouched. Power dynamics are inextricably linked to, and mutually influence, other types of relationships, such as those related to production, kinship, family, and sexuality¹⁷.

Consequently, this power imbalance exacerbates victim trauma, fostering feelings of helplessness. Survivors are further silenced by lack of trust in the institution's legal system and a fear of retaliation, which keeps them from reporting the assault.

c. Patriarchy Culture

¹⁵ Pmg Kdf, "Kronologi Dosen Lecehkan Mahasiswi di Bali: Dari Status WA ke Indekos," nasional, accessed February 20, 2025, <https://cnnindonesia.com/nasional/20230509122726-12-947139/kronologi-dosen-lecehkan-mahasiswi-di-bali-dari-status-wa-ke-indekos>.

¹⁶ Febrian Fachri, "Ini Modus Pelecehan Seksual oleh Oknum Dosen Unand ke Mahasiswi," Republika Online, December 23, 2022, <https://republika.co.id/share/rncpjax430>.

¹⁷ Ariani Hasanah Soejoeti and Vinita Susanti, "Memahami Kekerasan Seksual Dalam Menara Gading Di Indonesia," *Community: Pengawas Dinamika Sosial* 6, no. 2 (November 2020): 207, <https://doi.org/10.35308/jcpds.v6i2.2221>.

A patriarchal culture perpetuates misconceptions about women, which can lead to SV. Based on radical feminists, women's oppression comes from patriarchy, viewing women as property to be controlled by men in terms of their behavior and appearance¹⁸. Patriarchy also creates unequal social positions for women. As Fushshilat and Apsari argue, this patriarchal system harms women by normalizing and even legitimizing sexual harassment, effectively turning women into objects of male sexual fantasy¹⁹.

Addressing the problem of sexual abuse on campus requires changing patriarchal structures and fostering a more inclusive culture. This includes strengthening victim support systems and implementing gender-neutral law enforcement. Campuses must actively cultivate a safe and supportive environment for everyone, with zero tolerance for sexual violence and harmful behaviors.

Patriarchal culture creates several obstacles to eradicate SV in university. For example : victim-blaming, where the responsibility for the assault is shifted onto the victim. Accusations that the victim's behavior or clothing provoked the attack can leave victims feeling ashamed and afraid to come forward. Higher education institutions must make considerable efforts to change these detrimental behaviour by raising awareness, improving training, and enacting policies that cope with sexual violence.

d. Inadequate Support for the Victim

¹⁸ Ariani Hasanah Soejoeti and Vinita Susanti, "Memahami Kekerasan Seksual Dalam Menara Gading Di Indonesia," *Community: Pengawas Dinamika Sosial* 6, no. 2 (November 2020): 207, <https://doi.org/10.35308/jcpds.v6i2.2221>.

¹⁹ Sonza Rahmanirwana Fushshilat and Nurliana Cipta Apsari, "SISTEM SOSIAL PATRIARKI SEBAGAI AKAR DARI KEKERASAN SEKSUAL TERHADAP PEREMPUAN PATRIARCHAL SOCIAL SYSTEM AS THE ROOT OF SEXUAL VIOLENCE AGAINST WOMEN," *Prosiding Penelitian Dan Pengabdian Kepada Masyarakat* 7, no. 1 (July 2020): 121, <https://doi.org/10.24198/jppm.v7i1.27455>.

The poor quality of support services for victims of SV is often due to several contributing issues: First, poor access of information: survivors of SV simply might not know that they're able to access support services. Higher education institutions (HEIs) must ensure that details about these crucial services are readily available and widely publicised.

Second, insufficient staff and resources. Higher education institutions need to ensure that the available support is properly funded and manned by suitably trained professionals who can offer effective assistance. Ideally, resources with expertise in psychology/psychiatry and general healthcare should be available not only to the institution as a whole but also to each individual faculty. Safe houses should also be provided to guarantee survivors' safety and protection from potential intimidation.

e. The Influence of the Institution's Reputation

To effectively address campus crime and violence against women, a comprehensive approach must be taken into account. Because violence against women is a substantial campus issue, fighting it requires awareness, effective preventative approaches and programs, and strong support and advocacy for victim. These efforts, however, will be ineffective unless all institutions cooperate and comply²⁰.

Universities often prioritize protecting their reputations, which can lead to discreet handling of sensitive issues like SV. This desire to avoid scandal can result in downplaying or concealing allegations. While institutional reputation is a factor, universities must prioritize addressing SV effectively.

²⁰ Vanessa Woodward Griffin et al., "Campus Sexual Violence Elimination Act: SaVing Lives or SaVing Face?," *American Journal of Criminal Justice* 42, no. 2 (June 2017): 401–25, <https://doi.org/10.1007/s12103-016-9356-4>.

In higher education, how SV is handled is greatly influenced by the reputation of the institution. An atmosphere that encourages victims of SV to come forward and seek assistance might be established by an institution with a positive reputation. Organisations with a solid record for managing SV cases typically offer victims more comprehensive assistance. On the other hand, victims may feel mistrusted and reluctant to report if the institution has a poor reputation or is not as attentive to SV incidents. In tackling SV in higher education, institutions must consider their reputation and ensure that they have proper rules, processes, and victim support. Institutions must also commit to provide a safe and responsive environment for victims of SV²¹. In practice, in order to protect the institution's reputation, many cases of SV are handled quietly and non-transparently, putting the institution's good name ahead of the victim's. This is a significant obstacle for victims fighting for their rights, so it is critical to encourage university administration to treat each report clearly and accountable. Publicly available annual reports detailing the prevention and handling of SV are essential. These reports allow for evaluation, reflection, and analysis of trends and case patterns, raising awareness among the academic community, government, and broader society. This shared understanding is crucial for creating campuses free from the tragedy of SV.

C. Legal Effectiveness Theory on the Issue of SV

²¹ Ananda Rony A. Romanti, *Mencegah Kekerasan Seksual Di Lingkungan Pendidikan*, 2022, <https://itjen.kemdikbud.go.id/web/mencegah-kekerasan-seksual-di-lingkungan-pendidikan/>.

The unsuccessful of Indonesian regulation to face the SV is due to the different objective of the provision and the situation in concreto. This discrepancy raises critical questions concerning legal effectiveness, a central concern within the sociology of law, as articulated by Donald Black²². Black views law not as an isolated entity, but as a social phenomenon whose implementation varies across time and place. How the law is used differs between the past and the present, and also between different communities. Crucially, the people involved also affect how the law is carried out. Black called all these factors the "behaviour of law"²³

a. Variables Influencing the Enforcement of Sexual Violence Legislation

To ascertain how the law has addressed the problem of SV, it is necessary to examine the underlying factors that contribute to its occurrence. Utilising Donald Black's theoretical framework, several key variables that affect the implementation of SV legislation on campus can be identified as follows.

i. Stratification

Stratification, the vertical dimension of social life, manifests as disparities in the distribution of material resources, commonly understood as wealth inequality²⁴. As Black elucidates, this distribution of wealth is shaped by a confluence of factors, including race, age, gender, ancestry, and place of origin. He further contends that stratification is a dynamic, rather than static, phenomenon; it "varies across space and

²² Black, "The Boundaries of Legal Sociology," 1087.

²³ Donald J. Black, *The Behavior of Law*, Special edition (Bingley, UK: Emerald, 2010), 4.

²⁴ Black, *The Behavior of Law*, 11.

time²⁵. The degree of inequality within a society profoundly influences a range of behavioural patterns, from the formation of friendship networks to intellectual pursuits and voting behaviour. Crucially, stratification also exerts a significant influence on the character and substance of law itself.

In modern societies with a lot of social stratification, there is generally more law: "the more stratification, the more law."²⁶ This is a stark contrast to traditional societies that still follow a tribal structure. These societies often have far fewer formal laws, with authority frequently resting with a single figure like the tribal chief. Modern societies, by comparison, are defined by a much more extensive and detailed legal framework. Essentially, there is a connection between how stratified a society is and how many laws it has.²⁷ The connection between law and social stratification is influenced by the people involved in a case. Individuals with greater wealth, naturally have a legal advantage²⁸. Outcomes often differ based on whether the parties are white or black, male or female, or, certainly, rich or poor²⁹. The law tends to be applied more strictly "downward" than "upward" (downward law is stronger than upward law).³⁰ Enforcement of the law is stricter when applied to those below compared to those above, which is why it is said that *upward deviance is more serious*³¹. We can see this pattern in sexual

²⁵ Black, *The Behavior of Law*, 12.

²⁶ Black, *The Behavior of Law*, 13.

²⁷ Black, *The Behavior of Law*, 13.

²⁸ Black, *The Behavior of Law*, 12.

²⁹ Black, *The Behavior of Law*, 17.

³⁰ Black, *The Behavior of Law*, 21.

³¹ Black, *The Behavior of Law*, 21.

violence cases, where law enforcement is often harsher towards those from lower social levels.

An example of this "deviance" can be seen in a 2022 SV case at a university in Riau. The Pekanbaru District Court acquitted the Dean of the Faculty of Social and Political Sciences who had committed SV against a student³². This verdict highlights the stratification between the perpetrator and the victim. The Dean's position of structural authority within the institution, compared to the student's status, illustrates a social hierarchy that clearly influenced the way the law was enforced. This case also showed that there was minimal social control flowing upward.

ii. Morphology

Morphology is the horizontal side of social life, encompassing the division of labor, interaction networks, intimacy, and integration. Additionally, morphology implies that the style of law depends on the level of social closeness (relational distance) among its members. In societies where relational distance is greater, the type of law applied is accusatory, aiming to impose punishment. Conversely, in simpler societies where there is closeness among group members, the legal style tends to be remedial or compensatory. "It is also possible to measure the distance between a citizen and law itself. And the same principle applies here as well: The closer the relationship between an official and an offender, the less law"³³. Evidence shows that several sexual violence cases

³² Nomor 46/Pid.B/2022/PN Pbr (Pengadilan Negeri Pekanbaru March 29, 2022).

³³ Black, *The Behavior of Law*, 44.

in Indonesia have been resolved using an "amicable" or peaceful settlement involving agreements, such as the perpetrator promising not to re-offend, or even marrying the victim.

For instance, the 2017 SV case at Universitas Gajah Mada (UGM), involving a student during a community service programme, was settled peacefully with a signed agreement.³⁴ Similarly, a SV case at Gunadarma University in West Java was resolved amicably without police involvement.³⁵ This remedial legal style is likely influenced by Indonesian culture, which still prioritises peace and reconciliation in resolving conflicts, even those involving serious crimes. This suggests that some communities in Indonesia still prefer a simpler, more traditional approach to dispute resolution.

Despite the trend of amicable settlements, some SV cases do still go to court, with victims insisting on criminal or formal disciplinary action against the perpetrators. For instance, in a 2021 case, a lecturer at Sriwijaya University in Palembang exploited his position as a thesis supervisor. The Palembang District Court sentenced him to six years in prison³⁶. This overall picture (where some cases are settled privately while others result in severe legal penalties) shows that Indonesian society still

³⁴ Yaya Ulya, "Agni Bicara: Dugaan Pelecehan Seksual, UGM Dan Perjuangan 18 Bulan Mencari Keadilan," *BBC*, n.d., <https://www.bbc.com/indonesia/indonesia-47140598>.

³⁵ M Chaerul Halim Ihsanuddin, "Kasus Dugaan Pelecehan Seksual Di Gunadarma Berakhir Damai, Polisi: Korban Enggan Melapor Karena Malu," *Kompas.Com*, accessed February 2, 2025, <https://megapolitan.kompas.com/read/2022/12/13/18372891/kasus-dugaan-pelecehan-seksual-di-gunadarma-berakhir-damai-polisi-korban>.

³⁶ Aurelia Michelle, "Dosen Unsri Palembang Divonis 6 Tahun Penjara Dalam Kasus Pelecehan Seksual," *Tempo*, April 14, 2022, <https://www.tempo.co/hukum/dosen-unsri-palembang-divonis-6-tahun-penjara-dalam-kasus-pelecehan-seksual-369835>.

holds traces of its traditional, simpler nature (valuing peace and reconciliation), even as it gradually modernises and adopts more formal legal processes.

iii. Culture

Culture consists of explicit, implicit, and patterns for behaviour acquired and transmitted by symbols, constituting the distinctive achievements of human groups³⁷. It encompassing various facets of life, including aspects of reality, moral values, ideology, law, and even aesthetic and artistic values³⁸. Black draws a proportional relationship between law and culture, stating that societies rich in culture will have more complex legal systems³⁹. Thus, societies with monotonous cultures will naturally have simpler legal systems as well. Furthermore, the culture of each individual also varies, which can be observed through what they see, what they wear, how many ideas they have, and what they create. The quantity of an individual's culture influences the quantity of law they engage with. People with richer cultures tend to be more litigious⁴⁰. "If a cultured person in this quantitative sense) offends another cultured person, law is more severe than when an uncultured person offends another like himself. In other words, matters between more cultured people are more serious"⁴¹.

³⁷ Supaprawat Siripipatthanakul, Ratneswary Rasiah, and Somboon Chaiprakarn, "Social Structure and Cultural Change in Humanities: A Review," *World Journal of English and Linguistic Studies* 1, no. 1 (2023): 4, https://www.researchgate.net/publication/369854905_Social_Structure_and_Cultural_Change_in_Humanities_A_Review.

³⁸ Black, *The Behavior of Law*, 61.

³⁹ Black, *The Behavior of Law*, 63.

⁴⁰ Black, *The Behavior of Law*, 64.

⁴¹ Black, *The Behavior of Law*, 64.

To elaborate, Black asserts that the nature of law varies and is shaped by factors such as literacy and education. Individuals with higher education levels tend to favor resolving disputes through the judicial system. This trend is also reflected in cases of SV on campuses, where both victims and perpetrators are often members of the university community, whether they are faculty or students. Given that both parties are typically educated, it is unsurprising that some SV cases are adjudicated in court. However, some court rulings fail to deliver adequate justice for victims of SV. For instance, in the case involving the Dean at Riau University, the perpetrator was ultimately acquitted after a prolonged legal process that extended to the Supreme Court. Similarly, the Padang District Court imposed only a 9-month prison sentence and a 15 million rupiah fine, with an additional one-month detention, for the offender's act of recording videos containing sexual content of Padang students without their consent⁴².

In cases that harm the victim, this is undoubtedly linked to the cultural backgrounds of the involved parties, the judges who decided the case, and the legal culture that remains deeply rooted in Indonesia. This is because individuals are bound by the prevailing cultural norms in their region as common patterns⁴³. The majority of regions in Indonesia adhere to a patriarchal system characterized by gender stratification⁴⁴.

This, of course, disadvantages women due to the pressure of male

⁴² 449/Pid.Sus/2023/PN Pdg (Pengadilan Negeri Padang October 4, 2023).

⁴³ Black, *The Behavior of Law*, 68.

⁴⁴ Emmanuel Adeniyi, "Penis Primacy, Female Marginality, and Masculine Subjectivity in 'Nigeria's Rape Culture,'" *Quarterly Review of Film and Video* 39, no. 6 (August 2022): 1308–36, <https://doi.org/10.1080/10509208.2021.1926890>.

sexuality directed toward women⁴⁵, which may also aim to maintain power over women⁴⁶. Some even view women's bodies as objects for men's pleasure⁴⁷. In addition to patriarchal culture, the cultural emphasis on maintaining honor and reputation also becomes an obstacle to the enforcement of sexual violence laws. Because it is seen as a disgrace, survivors of SV frequently hesitate to disclose their experiences. To protect universities reputation, they usually try to solve the problem informally. This is inline with Black's statements on informal social control within academic environment in which seldom includes the court process⁴⁸.

iv. Organization

Organization represents the corporate aspect of social life, possessing the capacity to engage in collective action. The term "organization" here refers to entities in both public and private spheres, whether formal or informal, and is not limited to government institutions alone. Organization is a quantitative variable that can be measured through several factors. Indicators for measurement include the presence of administrative officers, ongoing decision-making processes, centralization, and the frequency of collective actions undertaken. The quantity of organizations helps to elucidate various aspects of social life⁴⁹. Furthermore, organization also influences the law.

⁴⁵ Ellen Willis, "Sexual Politics," in *Cultural Politics in Contemporary America* (Routledge, 1989).

⁴⁶ David M. Buss, *Bad Men: The Hidden Roots of Sexual Deception, Harassment and Assault* (Hachette UK, 2021).

⁴⁷ "Deconstructing Patriarchy: The Empowering Teleology of the Use of Force and Coercion in Women's Fantasies - ProQuest," accessed February 5, 2025, <https://www.proquest.com/openview/ef062dd82b6aee203ec92654922cfabd/1?cbl=18750&diss=y&pq-origsite=gscholar>.

⁴⁸ Black, *The Behavior of Law*, 80.

⁴⁹ Black, *The Behavior of Law*, 85.

Law follows the pace and rhythm of organizations⁵⁰. For example, election laws are more frequently applied during general election periods. The enforcement of law also varies depending on the organizational distance involved. This can be illustrated through legal cases involving organized corporations against individuals (who fall into the category of being less organized). If such cases are brought to court, the corporation is likely to prevail. As Black states, *"In a direction toward less organization, law varies directly with organizational distance."*⁵¹ Conversely, if an individual goes up against an organized institution, they are likely to face significant challenges in achieving victory. This is evident in the case of a student versus one of the Dean at Riau University. The student, as an unorganized individual, lost in court against the dean, who is part of a powerful organization. This case also highlights the immunity provided by the organization to the dean who committed SV. Therefore, the enforcement of laws regarding SV is influenced by the relationship of the perpetrator, victim, and associated organization.

Organizations also influence the type of dispute resolution, whether through criminal penalties, compensation, or conciliation. Offenses by individuals against organizations typically fall under criminal categories. Conversely, complaints by individuals against organizations are often resolved through restitution or compensatory settlements. The majority of SV cases on campuses involving lecturers are resolved through restitution, apologies, and promises not to repeat the offense. This can be exemplified by the agreement signed between a Universitas Gajah Mada lecturer (the perpetrator) and a Universitas Gajah Mada student who experienced SV in 2017 during a community service program in Maluku⁵². Additionally, the SV case at Gunadarma University in 2022,

⁵⁰ Black, *The Behavior of Law*, 90.

⁵¹ Black, *The Behavior of Law*, 93.

⁵² "Kasus dugaan kekerasan seksual di UGM berakhir damai," *BBC News Indonesia*, n.d., accessed February 6, 2025, <https://www.bbc.com/indonesia/trensosial-47116889>.

involving three female students and two male students, was also resolved amicably⁵³.

b. Law Enforcement of Sexual Violence as Deviant Behavior

The phenomenon of legal enforcement regarding SV on campuses can be regarded as a manifestation of deviant behavior, influenced by several factors, including stratification, culture, morphology, and organization. Stratification influence the enforcement of SV laws, potentially leading to deviations in the legal process. As Black asserts, "*upward deviance is more serious than downward deviance*"⁵⁴. Individuals possessing wealth and power are more likely to prevail in legal disputes compared to those situated at the lower end of the social hierarchy. The case of sexual violence at Riau University serves as an example of this, as the dean, a position of power, was ultimately found not guilty. On the other hand, deviations influenced by cultural factors arise from the way certain cultural norms perceive sexual violence as permissible, often as a consequence of entrenched patriarchal structures. Within the framework of morphology, intimacy functions as a critical indicator of individual behavior. Individuals who are marginalized and lack emotional integration within their social groups are more susceptible to being excluded, which may incentivize them to engage in deviant behaviors, such as acts of sexual violence. The marginalized person may also become the victim of SV because of discrimination and exploitation.

Minimal attention on the SV cases can be the sign of deviant behaviour. As it often involve the lecturer as part of the university organization. To maintain the university reputation, they may try to resolve the issue without judicial procedure and tend to make an agreement as seen in case of sexual violence. Even worst judicial process may also fail to protect the victim as seen in the case of University of

⁵³ Wildan Noviansah, "KemenPPPA Sesalkan Pelecehan Seks di Gunadarma Berakhir Damai," detiknews, accessed February 6, 2025, <https://news.detik.com/berita/d-6467086/kemenpppa-sesalkan-pelecehan-seks-di-gunadarma-berakhir-damai>.

⁵⁴ Black, *The Behavior of Law*, 21.

Riau. Thus, eminent academics often enjoy immunity⁵⁵. in contrast, students are the vulnerable side as they may be the victim of SV of their lecturer.

c. Social Control of Sexual Violence

Social control is pivotal to establish social order. Social control includes the whole practices and structural mechanisms that people put in place specifically to maintain order within society⁵⁶. The purpose of social control is to regulate conflicting goals and actions between people⁵⁷. Crucially, the way this control is exercised is shaped by several key social factors, including stratification (social hierarchy), culture, organisation, and morphology.

The influence of stratification is contingent upon its extent, direction, and spatial context, whilst cultural diversity similarly exerts a profound effect. Indeed, the mechanisms of social control within the scientific community are distinct from those in other social groups. Furthermore, its application varies with organisational distance⁵⁸. As Black observes, "it is greater in a direction from more to less organization than from less to more." ⁵⁹

Morphology (the structure of social relations, including intimacy, integration, and differentiation) also fundamentally defines the nature of social control⁶⁰. Emile Durkheim posits that in traditional societies

⁵⁵ Black, *The Behavior of Law*, 82.

⁵⁶ Donald Black, "SOCIAL CONTROL AS A DEPENDENT VARIABLE**Reprinted with Permission (and Minor Revision) from Pages 1–36 in *Toward a General Theory of Social Control*, Volume 1: Fundamentals, Edited by Donald Black. Orlando: Academic Press, 1984.I Thank M. R Baumgartner, Marc Clinton, Mark Cooney, John Griffiths, Calvin Morrill, and Trevor Nagel for Commenting on an Earlier Draft of This Chapter.," in *The Social Structure of Right and Wrong* (Elsevier, 1993), 4, <https://doi.org/10.1016/B978-0-12-102800-8.50006-5>.

⁵⁷ Edward Alsworth Ross, "Social Control," *American Journal of Sociology* 1, no. 5 (March 1896): 513–35, doi:10.1086/210551.

⁵⁸ Black, *The Behavior of Law*, 101.

⁵⁹ Black, *The Behavior of Law*, 101.

⁶⁰ Black, *The Behavior of Law*, 55.

characterized by mechanical solidarity⁶¹, social control is enforced primarily through religious rules or customary sanctions. In contrast, in modern societies, which rely on organic solidarity (where people are diverse but interdependent), social control is mainly achieved through socialisation and the internalisation of societal values⁶². The American sociologist, Albert K. Cohen, further stresses the importance of socialisation and internalising values. He highlights the key role that educational institutions, families, and social organisations play in teaching the societal norms that function as methods of social control.⁶³ This theoretical framework raises a critical contemporary question: how is social control applied to address SV within the specific context of academic institutions, as a distinct part of the scientific community?

Within the scientific community, social control often emerges intrinsically. A scientist's primary accountability is to their peers, and their professional reputation is fundamentally shaped by their colleagues' assessment of their work⁶⁴. Academics typically operate under the meticulous scrutiny of their fellows, who observe both professional conduct and, at times, aspects of personal life. Furthermore, lecturers are perceived not merely as transmitters of knowledge but also as exemplars of moral integrity.

⁶¹ Emile Durkheim explains that social order is closely linked to the division of labor. The relationship between the division of labor and social order can be understood through two types of solidarity: mechanical solidarity and organic solidarity. In traditional societies, mechanical solidarity prevails. These societies generally share common values and have a simpler division of labor, where individuals may perform similar tasks. In mechanical solidarity, social control is typically enforced through religious or customary sanctions. On the other hand, modern societies are characterized by organic solidarity. Reflecting the nature of modern societies, each individual has distinct roles, resulting in a more complex division of labor.

⁶² Émile Durkheim, Wilfred D. Halls, and Émile Durkheim, *The Division of Labor in Society*, 13. [Repr.] (New York: Free Press, 2008), 41.

⁶³ Albert K. Cohen, "Social Control and Subcultural Change," *Youth & Society* 3, no. 3 (March 1972): 259, doi:10.1177/0044118X7200300301.

⁶⁴ Black, *The Behavior of Law*, 80.

Beside that, there are also supervision form government and from their internal university. There is also specific body to address the SV in university which usually in the form of task force⁶⁵

However, the law itself is a formal means by which the state controls the actions of its citizens; it is governmental social control⁶⁶. As previously mentioned, the government has implemented a framework of rules, including special statutes and subordinate legislation, including ministerial decrees, to address SV.

Law is part of social control but people from socially or economically poor backgrounds rarely use the legal system to settle disputes. Higher social prestige, on the other hand, frequently confers some insulation from legal repercussions. As a result, social standing has a significant impact on how legal recourse is distributed. Another factor influencing how the law is applied is intimacy, in addition to status.

Other social control mechanisms need to be reinforced when the legislation is inadequate or weak. Alternative mechanisms must be strengthened due to the legal system's shortcomings as a means of upholding social order. This entails advancing religious principles, opposing patriarchal cultural practices that disadvantage women, and strengthening peer and family-based supervision.

D. Model for Handling Sexual Violence between Universities and State Institutions

Based on the lens of analysis through Donald Black's theory, SV in universities is beyond juridical problem, but is influenced by instruments outside the law. The cumulative impact of social, morphological, cultural and organizational stratification in the institutional environment and

⁶⁵ "Mendikbudristek: Satgas PPKS Sebagai Garda Depan Perwujudan Kampus Merdeka Dari Kekerasan," *Kementerian Pendidikan Dasar Dan Menengah*, August 22, 2023, <https://www.kemdikbud.go.id/main/blog/2023/08/mendikbudristek-satgas-ppks-sebagai-garda-depan-perwujudan-kampus-merdeka-dari-kekerasan>.

⁶⁶ Black, *The Behavior of Law*, 2.

campus social systems is often on vulnerability to victims and protection against perpetrators. Therefore, effective handling solutions cannot be entrusted only to the university alone, because of the existing social structure. There is a need for a transformative and collaborative approach to the formation of an external accountability ecosystem as an alternative model for balancing forces to answer all forms of existing obstacles. The University's collaboration model with existing state institutions is not just administrative or technical improvements, but as a form of socio-legal intervention that aims to reduce the four obstacles in the enforcement of sexual violence handlers. This collaboration is carried out by universities and state institutions that intersect with public interest services for SV handlers, especially the Komnas Perempuan Institute, the Witness and Victim Protection Institute, the ombudsman commission and the Press Council. It will then be explained in detail as follows:

a. University and Komnas Perempuan

The obstacles that campuses often face in handling sexual violence are cultural and stratification factors. The campus is supposed to be a center for scientific development, but it is an unsafe place for campus residents to carry out their activities. The patriarchal culture in Indonesia is also strong in the campus environment. Strong partisan culture often normalizes sexual violence and undermines the interests of victims. Komnas Perempuan can play a role in providing more egalitarian, impartial, non-discriminatory knowledge and culture to erode patriarchal culture and strong social stratification in the university environment.

Based on Article 4 of Presidential Decree No. 8/ 2024 Komnas perempuan has the task of disseminating understanding and efforts to prevent and solve SV, conduct analysis of women's rights and vulnerabilities issues, and monitor, including fact-finding on women violence.

Komnas Perempuan and Universities have the same interests related to this issue, therefore collaboration between institutions is a strategic step to strengthen and support each other so that campuses are free from perpetrators of sexual violence. Campuses become safe homes for everyone so that they can erode the patriarchal culture and social stratification that hinders law enforcement of perpetrators of sexual violence.

b. Collaboration with the Witness and Victim Protection Agency (LPSK): Addressing Stratification and Organization

The Witness and Victim Protection Agency (LPSK) serves as the principal institutional remedy for the issues of stratification and organisation delineated by Black's theory. As Black posited, an individual contesting a powerful organisation faces a profoundly asymmetrical struggle. This is starkly evident when a student (occupying a position of lower stratification and being less organised) brings a complaint against a lecturer or dean, who is embedded within a powerful, highly stratified institutional structure.

The LPSK, wielding authority derived from the state, functions as a critical equaliser. By affording victims state-sanctioned protection and enhanced legal standing, it effectively disrupts the university's monopolistic control over cases. This strategic collaboration directly counters institutional betrayal and facilitates a paradigm shift: moving from a patron-client dynamic, wherein the victim is dependent on the university's discretion, to a rights-based framework

where the victim is recognised as a rights-bearing citizen supported by a sovereign state institution.

c. Collaboration with the Ombudsman: Addressing Organization and Morphology

The Ombudsman of the Republic of Indonesia functions as a crucial external check on the internal organisation and social morphology of the university. Black's theory posits that organisations can cultivate internal practices that diverge from formal legal standards. The Ombudsman counters this by investigating allegations of maladministration, compelling bureaucratic transparency, and issuing legally binding recommendations. This intervention directly confronts the university's institutional propensity to prioritise its reputation over formal accountability.

Furthermore, the Ombudsman disrupts the morphological dynamics that foster informal, closed-door settlements—a form of remedial social control driven by the close relational distances within the academic community. By imposing a framework of formal, external accountability, the Ombudsman introduces a necessary element of accusatory law. This ensures that cases are adjudicated based on established procedure and substantive justice, rather than being influenced by personal affiliations or institutional self-preservation

d. Collaboration with the Press Council: Addressing Culture and Stratification

The Press Council fulfils a vital function in reshaping cultural narratives and countering the effects of social stratification within the public sphere. Irresponsible media reporting frequently perpetuates the cultural stigma that silences victims of sexual violence. The Council addresses this by enforcing

ethical guidelines for gender-sensitive reporting and providing training for campus journalists, thereby fostering a media environment that mitigates secondary trauma and avoids victim-blaming. This represents a crucial cultural intervention for transforming societal attitudes.

Furthermore, ethical journalism serves as a critical check on individuals of high social stratification who may seek to exploit their influence to shape public opinion. By ensuring that the victim's voice is heard and the facts are reported responsibly, the Press Council helps prevent the powerful from controlling the narrative and reinforces the seriousness of *upward deviance*.

Conclusion

Although the legal framework for sexual violence has been more progressive, there are still a number of flaws, including: (1) task force members are exclusively from within the university; (2) unintegrated case solving between universities and the police; and (3) there is no collaboration and supervision from the state in the case solving.

An examination sexual violence through Donald Black's theory also revealed the following issues: patriarchal characteristic; institutional self-defence that puts reputation above accountability (organization); power inequality that shields high-status offenders (stratification); and a preference for informal settlement over criminal justice proceedings (morphology).

In order to balance some of the Black model's variables, cooperation with state institutions Komnas Perempuan, LPSK, the Press Council, and the Ombudsman is required.

This integrated strategy provides a way to ensure institutional accountability, realign law enforcement with fundamental justice values, and rebalance power dynamics. In conclusion, a paradigm shift from a strictly legalistic framework to an all-encompassing socio-legal strategy is required to effectively combat sexual abuse within universities. The underlying social geometry of the academic environment can be changed by utilising the unique mandates and external authority of governmental institutions.

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