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# **Protection of Victims of Sexual Harassment in Indonesia: A Legal and Victimological Aspect**

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**ABSTRACT.** Sexual harassment is often a problem in social life in Indonesia. The reason is that according to legal records, violence against girls has increased by 2,341 cases, compared to 1,417 the previous year. The increase from the previous year was 65% and the most cases were cases of incest and added to cases of sexual violence (571 cases) while sexual violence against women with disabilities increased by 47% compared to last year and the most victims were intellectual disabilities. Sexual harassment can be in the form of inappropriate behavior or rape. According to WHO in 2006 every day in the world there are women who are harassed, raped or beaten. The Indonesian Criminal Law (KUHP) which regulates this does not have a proper function, because the rules contained in it are incomplete on this issue. Sexual harassment may not cause physical pain and the like, but it can be emotionally harmful. It is very often that sexual harassment cannot be caught because Indonesian laws are imperfect in dealing with this issue. The concept of harassment in Indonesian law has reduced the significance of the harassment experienced by the victim, and therefore cannot bring justice to the victim.

**KEYWORDS.** *Sexual Harrasment, Victim Protection, Legal Protection, Victimology*

## **I. INTRODUCTION**

Sexual Violence is any act that humiliates, humiliates, harasses, and/or attacks a person's body, and/or reproductive function, due to unequal power relations and/or gender, which results in or can result in psychological and/or physical suffering, including those that interfere with

a person's reproductive health. and lost the opportunity to carry out education safely and optimally (Noviana, 2015; Fu'ady, 2011 Probosiwi & Bahransyaf, 2015).

Sexual harassment is often a problem in social life in Indonesia. accordingthat according to legal records, violence against girls has increased by 2,341 cases, compared to 1,417 the previous year. The increase from the previous year was 65% and the most cases were cases of incest and added to cases of sexual violence (571 cases) while sexual violence against women with disabilities increased by 47% compared to last year and the most victims were intellectual disabilities (Komnas Perempuan, 2020). Komnas Perempuan even noted that for 12 years (2001-2012), at least 35 women were victims of sexual violence every day. In 2012, at least 4,336 cases of sexual violence were recorded, of which 2,920 cases occurred in the public/community sphere, with the majority being rape and obscenity (1620). Meanwhile in 2013, cases of sexual violence increased to 5,629 cases. This means that within 3 hours there are at least 2 women experiencing sexual violence. The ages of the victims found were between 13-18 years and 25-40 years. Sexual violence is more difficult to uncover and deal with than other violence against women because it is often associated with the concept of societal morality (Yuwono, 2018; Handayani, 2018; Yusyanti, 2020; Apriyani, 2021).

Women are considered a symbol of purity and honor, therefore they are then seen as a disgrace when they experience sexual violence, for example rape. Victims are also often blamed for causing sexual violence. This often makes women victims silent. The victim often feels helpless, giving him a warm hug is expected to make the victim aware that he is not alone. With a hug more or less it can be interpreted that we respect the victim, which has a big impact on recovering the victim's sense of self-

control. 95% of rape victims experience PTSD (Post Traumatic Disorder). Support for victims is needed to get through their traumatic period (Rusyda, Lasmi, Khairunnisa & Wiguna, 2021; Sumartiningsih & Prasetyo, 2019; Theresia & Wijaya, 2020).

Sexual harassment can be in the form of inappropriate behavior or rape. According to WHO in 2006 every day in the world there are women who are harassed, raped or beaten. The Indonesian Criminal Law (KUHP) which regulates this does not have a proper function, because the rules contained in it are incomplete on this issue. Sexual harassment may not cause physical pain and the like, but it can be emotionally harmful. It is very often that sexual harassment cannot be caught because Indonesian laws are imperfect in dealing with this issue. The concept of harassment in Indonesian law has reduced the significance of the harassment experienced by the victim, and therefore cannot bring justice to the victim.

In everyday life, of course, we have to be aware of the occurrence of harmful actions like this, considering that the Criminal Code does not yet have strict sanctions in handling cases of sexual harassment. Criminal Code (KUHP) does not recognize the term sexual harassment. The Criminal Code only recognizes the term obscene act, which is regulated in Articles 289 to 296 of the Criminal Code. Quoting the book "*The Criminal Code and its Commentaries*" by R. Soesilo, he explains that the term obscene act is described as an act that violates decency, or other vile acts, and all of which are in the context of sexual lust. For example, kissing, groping the genitals, groping the breasts and so on. So that it can be concluded in that sense that all actions if they have been deemed to have violated the values of decency or decency can be included in the category of obscene acts. Meanwhile, the term sexual harassment refers to sexual harassment which is defined as unwelcome attention or legally defined as "*imposition of*

*unwelcome sexual demands or creation of sexually offensive environments"* (Eskenazi & Gallen, 1992). Thus, an important element of sexual harassment is an unwillingness or resistance to any form of attention of a sexual nature. So, it could be actions such as whistling, words, comments which according to local culture or manners are normal. However, if it is not desired by the recipient of the act, then the act can be categorized as sexual harassment (Bondestam & Lundqvist, 2020; Folke & Rickne, 2022).

In Indonesian legal context, sexual harassment can be charged with the article of fornication (*See* Article 289 to Article 296 of the Criminal Code). Provided that there is sufficient evidence, the Public Prosecutor will present his charges against the perpetrators of sexual harassment before the court. This sexual harassment is also related to victimology and also legal protection regarding victims of the harassment. Therefore, this study aims to analyze concerning what are the forms of legal protection for victims of sexual harassment in Indonesia, and how is the victimology review of victims of sexual harassment.

## **II. LEGAL PROTECTION FOR VICTIMS OF SEXUAL HARASSMENT IN INDONESIA**

The rise of acts of sexual harassment both verbal and non-verbal against women by men makes women have no gain in criminal law as victims, this has implications for the psychology of women feeling humiliated, lacking self-confidence, trauma and fear, as a result of the above women who become a victim of sexual harassment who cannot carry out their work or there is also mental illness, stress or some commit suicide (Soejoeti & Susanti, 2020; Wulandari & Krisnani, 2020). The purpose of this study is to

find out the legal arrangements for the protection of women due to acts of sexual harassment by men at this time and how the legal efforts of victims of sexual harassment against women are. This study used normative juridical law research with primary, secondary and tertiary materials such as laws and regulations, journals and books.

There is a need for regulations that regulate the protection of women, especially regarding acts of sexual harassment. There needs to be preventive and repressive efforts in preventing acts of sexual harassment against women in order to protect women so that women are able to rise up, progress, prosper, be happy, independent and contribute to the family, nation and state. Preventive efforts can be carried out through socialization, workshops and trainings on legal awareness of women's protection, while repressive efforts can take the form of taking action by the police.

According to Satijipto Raharjo, legal protection is to provide protection for human rights that have been harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law (Rahardjo, 2000). Then according to the Legal Protection of CST Kansil, there are various legal remedies that must be provided by law enforcement officers to provide a sense of security, both mental and physical from disturbances and various threats from any party (Kansil, 2021). Meanwhile, according to Philipus M. Hadjon, legal protection is a collection of rules or regulations that will be able to protect one thing from another (Hadjon, 1994; Sinaulan, 2018; Harefa, 2019). With regard to consumers, the law provides protection of the rights of customers from something that results in the fulfillment of these rights. Legal protection is divided into two, namely preventive legal protection which is carried out

before the occurrence of a crime and repressive legal protection carried out after a crime has occurred, in this case the victim of a crime.

Law enforcement as a process whose essence is the application of the board of directors regarding and making decisions that are strictly regulated by law but has an element of personal judgment. Conceptually, the core and meaning of law enforcement lies in the harmonization of values and relationships of values set out in the rules. solid attitude and action as a series of translations of the final stage value, to create, give birth, and maintain a peaceful life (Soekanto, 2009). Sexual harassment is a behavioral approach related to sexual desire, including requests for sex, and other behaviors that verbally or physically refer to sex. Sexual harassment can happen anywhere and in any way. Meyer states that in general there are three important aspects in defining sexual harassment, namely behavioral aspects (whether it is a sexual proposition), situational aspects (is there a difference where or when the behavior occurs) and legal aspects (under what circumstances the behavior is illegal) (Kurnianingsih, 2003; Narindrani, 2021; Choirunnisa, 2021). Based on the behavioral aspect, Farley defines sexual harassment as unwanted seduction by the recipient, where seduction appears in various forms, both subtle, harsh, open, physical and verbal and in the same direction. Common forms of sexual harassment are verbal and physical flirting, where verbal abuse is more than physical.

Experts mention verbal harassment in the form of unwanted sexual persuasion, persistent sexual jokes or messages, persistent requesting for a date even though they have been rejected, insulting or degrading messages, suggestive or obscene comments, sexist expressions about clothes, bodies, women's clothing or activities. sexual intercourse, requests for sexual services expressed by indirect or overt threats (Kurnianingsih,

2003). Sexual harassment is the most appropriate terminology to understand the idea of sexual violence. Sexual harassment has a very wide range, ranging from dirty or obscene verbal expressions (comments, jokes, etc.) profanity such as, forcing to kiss or hug, threatening to make it difficult for women if they refuse to provide sexual services, to rape. Sexual harassment due to its wide scope can occur anywhere as long as there is a mixture of men and women or in a homogeneous community. Sexual harassment also occurs in the workplace.

Perpetrators of sexual harassment are usually men with higher positions or colleagues. That's because in the workplace, there is a fairly strong relationship between men and women, and the work environment allows sexual harassment practices to thrive. However, sexual harassment is also common outside the workplace or in public places, and it is even very common to find that the perpetrators are people the victim does not know, such as sexual harassment on public buses, on the streets, in the market, etc (Sumera, 2013). A victim is any person who, individually or collectively, suffers a loss as a result of an action.

Limitations on victims of crime can be described as follows. First, in terms of nature, some are individual and collective. Victims are said to be individual because they can be identified so that the protection of victims is done clearly, but collective victims are more difficult to identify. According to Sellin and Wolfgang, victims can be: (a) Primary Victims, which are individual victims. So the victims are individuals, not groups; (b) Secondary Victims, where the victims are groups such as legal entities; (c) Tertiary victims, are victims in the wider community; (d) Mutual Victims, where victims are the perpetrators themselves, for example prostitution, adultery, narcotics; and (e) No Victims, does not mean there



are no victims, but victims cannot be immediately identified, for example consumers who are deceived into using a product (Separovic, 1986).

Forms of sexual harassment against women, according to the Big Indonesian Dictionary definition of sexual harassment is harassment which is a form of differentiation from the verb harassment which means insulting, looking down on, ignoring. While sex has a meaning related to sex or sex, matters relating to the case of intimate relationships between men and women. Thus, based on this understanding, sexual harassment means a form of humiliation or humiliation for someone because of things related to sex, sex or sexual activity between a man and a woman. The development of science and technology in the digital era, in addition to having a positive impact on life but also having a negative impact, one of which is the increase in cases of sexual abuse suffered by early childhood. The impact caused by cases of sexual abuse in early childhood is not only physical, but can also cause psychological trauma throughout his life. Proper supervision from parents can prevent our children from being victims of crime, especially sexual abuse (Murni, 2017).

Sexual harassment includes sedentary behavior, talking about sexuality, touching women's bodies, trying to coerce women into unwanted sexual acts, inviting dates repeatedly to the point of rape. In addition, more clearly, the forms that are considered as sexual harassment are as follows:

1. Seducing or attracting the opposite sex.
2. Tell a dirty or dirty joke to someone who finds it condescending.
3. Show pornographic images in the form of calendars, magazines, or pornographic books to people who don't like them.
4. Make comments that are inappropriate for someone's appearance, clothing, or style.

5. Unwanted touching, pinching, slapping, kissing and hugging someone who doesn't like the hug.
6. The act of exposing the body or genitals to people who are insulted by it.

Meanwhile, Guntoro Utamadi & Paramitha Utamadi divided the categories of sexual harassment used based on measurements in the Sexual Experience Questionnaire (SEQ), namely in a more systematic form:

1. Gender Harassment is degrading statements or behavior based on gender.
2. Seductive behavior, namely sexual demands without threats, obscene or degrading seduction.
3. Sexual Bribery is bribery to do things that smell sexual by giving promises of gifts.
4. Sexual coercion is pressure accompanied by threats to do things of a sexual nature.
5. Sexual harassment, namely sexual violence or coercion, overt or violent sexual harassment.

According to APINDO, there are 5 forms of sexual harassment, namely:

1. Physical harassment is unwanted touching that leads to sexual acts such as kissing, patting, hugging, stroking, massaging the nape, clinging to the body or other physical touching.
2. Verbal harassment is verbal/unwanted comments about someone's private life or body parts or appearance, including jokes and sexual comments.
3. Non-verbal harassment, i.e. body language and/or body language that conveys the sexual impression of gestures, repeated glances, lustful body stares, finger gestures, lip licking, or others.

4. Visual harassment that shows pornographic material in the form of photos, posters, cartoons, screensavers or other, or harassment through email, SMS and other electronic modes of communication.
5. Psychological/emotional harassment, that is, requests and persistent and unwanted invitations, unwanted date invitations, sexual insults or reproaches.

Women are creatures no different from men, but culturally different from men. Traditionally women have emerged "*as maintainers of social order and bearers of standards of morality and modesty*". Women are protectors of social order and guardians of morality and moral values. What a heavy task given to women. Even with a slight flaw in a woman's behavior, a certain amount of negative judgment would be cast on her. It is different with arrogant men who always feel as leaders and warriors of life, so it is as if they have never been guilty. Therefore, if a woman becomes a victim of a violent crime (in this case sexual harassment), the first thing that is shaken is morality and a sense of belonging. Meanwhile, if the man who is shaken is his pride.

The value that must be sacrificed by a woman who is a victim of crime is far greater than the value that is sacrificed by a man who is a victim of crime. For example, in Indonesia, rape victims (especially girls) will suffer shame throughout their lives. Meanwhile, Indonesian law does not provide adequate protection for rape victims, let alone victims of sexual harassment. On the other hand, sexual harassment of women is included as a violation of human rights. Therefore our role is to participate in thinking about how to lighten the burdens that are borne by victims of sexual harassment, and participate in thinking about how to reduce the number of incidents of sexual harassment in society (Kinasih, 2018).

The current regulations regarding victims of sexual harassment in Indonesia, sexual harassment in the Criminal Code is not clearly stated, sexual harassment is equated with a crime in the field of decency which is a crime related to matters related to sexual matters. The Criminal Code is regulated in Chapter XVI Book II with the title "Crimes Against Politeness in R. Soesilo's Book". What is contained in Article 281 which reads "*Sentenced to imprisonment for two years and eight months or a fine of up to Rp. 4,500, -: Whoever intentionally damages public decency; Anyone who deliberately damages decency in front of other people, who attends not of their own volition.*" in the above article, the researcher sees that it cannot cover the various forms of sexual harassment mentioned above, so there is a limit on sexual harassment victims to report other acts of sexual harassment in a non-verbal form. The Domestic Violence Act does not directly address the language of sexual harassment while the language is violence. Regarding the forms of violence that can be committed in the household, the main regulation is Article 5 of Law No. 23 of 2004, Everyone is prohibited from committing domestic violence against people within the scope of their household, by:

- a. physical abuse;
- b. psychological violence;
- c. sexual violence;
- d. household neglect ([Law No. 23 of 2004](#)).

Protection Policy for Victims of Sexual Harassment Against Women, Theoretically, the form of protection for victims of crime or victims of sexual harassment can be provided in various ways, depending on the suffering / loss suffered by the victim. For example, for losses of a mental/psychological nature, of course the form of compensation in the form of material/money is not adequate if it is not accompanied by

psychological recovery efforts for the victim. On the other hand, if the victim suffers only material harm, psychological services seem too redundant. So based on the description above, the things that can be given to victims of sexual harassment are as follows:

1. Legal Aid, Victims of sexual harassment who feel they need legal assistance can provide consultation and even free legal assistance for disadvantaged people based on Law Number 16 of 2011 concerning legal aid. Counseling guidance;
2. Medical treatment;
3. Strict law enforcement against sexual harassment;
4. Provide legal protection in accordance with Law no. 13 of 2006 concerning Protection of Witnesses and Victims;
5. Compensation.

Article 35 of Law no. 26 of 2000 on the Court of Human Rights provides a definition of compensation, namely losses incurred by the state because the perpetrators cannot provide full compensation for their responsibilities. In another paper, a settlement form is described, which sees that victims of sexual harassment do not look at the age and gender of men and women. Sexual harassment can have a variety of effects, psychologically, physically, and on the job. In dealing with revenge on the perpetrators of sexual harassment, forgiveness is a way that can be done by victims to relieve the trauma they feel. Forgiveness is something important but also difficult to do. Forgiveness cannot be done in a short time and each individual will experience a different process from one another ([Yudha, 2017](#)).

### III. VICTIMOLOGICAL REVIEW OF VICTIMS OF SEXUAL ABUSE

Victimology comes from the Latin *victima* which means victim and *logos* which means knowledge. Terminologically, victimology means a study that studies the causes of victims and the consequences of victimization which is a human problem as a social reality (Yulia, 2010). Victimology is a scientific knowledge/study that studies a victimization (criminal) as a human problem which is a social reality (Yulia, 2010). Victimology provides a better understanding of victims of crime as a result of human actions that cause mental, physical, and social suffering. The aim is to provide an explanation of the real role of the victims and their relationship with the victims as well as to provide confidence and awareness that everyone has the right to know the dangers they face in relation to their environment, work, profession, and others. In order to provide a better understanding so that people are more vigilant in creating a sense of security and a safe life it also includes knowledge about how to deal with danger and how to avoid danger.

The scope of victimology includes how someone can become a victim who is determined by a victimity that is not always related to the problem of crime, including victims of accidents, and natural disasters other than victims of crime and abuse of power (Sahetapy, 1995). According to Muladi, the aims of victimology are:

1. Analyze various aspects related to victims.
2. Attempts to provide an explanation of the causes of victimization.
3. Develop systems of action to reduce human suffering (Muladi & Arief, 2007).

The benefits of victimology basically relate to three main things in studying the benefits of victim studies, namely:

1. Benefits relating to efforts to defend the rights of victims and legal protection.
2. Benefits relating to the explanation of the role of the victim in a crime.
3. Benefits relating to efforts to prevent the occurrence of victims (Yulia, 2010).

Broadly speaking, victims of acts of sexual harassment have the right to obtain compensation for the things caused, some of these rights include includes: The right to obtain compensation for the suffering they have experienced. This compensation can be given by the perpetrator or other parties, such as the State or a special institution formed to handle the problem of compensation for victims of crime.<sup>1</sup> Right to acquire. guidance and rehabilitation, the right to obtain protection from the threat of the perpetrator, the right to obtain legal assistance, the right to regain his property, the right to obtain access to medical services, the right to be notified when the criminal will be released from temporary detention, or if fugitive from custody.

In the criminal justice system, crime victims need to be protected with the argument that First; the sentencing process is related to the determination of the criminal through the infrastructure of the penitentiary (judges, correctional officers, etc.) This includes moral demands, in the form of philosophical linkages on the one hand and sociological linkages

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<sup>1</sup> The concept of restitution and compensation based on 7 Law No. 26 of 2000 concerning the Human Rights Court is restitution as compensation given by perpetrators of crimes to victims, while compensation as compensation provided by the State.

within the framework of human relations in society on the other hand. Another argument that puts forward legal protection for victims of crime is the argument of the social contract and the argument of social solidarity. The state can be said to have a monopoly on all social reactions to crime and prohibits personal actions, therefore if a crime occurs and brings victims, the state must be held responsible to pay attention to the needs of the victims. Third; The protection of victims of crime is usually associated with one of the objectives of punishment, which is currently being prioritized, namely conflict resolution. Resolving conflicts caused by criminal acts, restoring balance, and bringing a sense of peace in society (Muladi, 2002).

#### IV. CONCLUSION

Crime can actually happen anywhere and at any time, as an Indonesian society with the spirit of gotong royong, of course, it is very compact and easy to overcome various crimes that exist in the community, but it must be realized that crimes can occur with people closest to them as is the case with the crime of sexual harassment. that can be experienced in the family environment. To overcome this, it is necessary to follow up on the protection of these victims clearly and correctly to reduce the number of sexual harassment. Because the Criminal Code does not yet have strict sanctions related to sexual harassment, then many victims are also reluctant to report this to the authorities. Then, if it is viewed from a victimization perspective, it can certainly provide many benefits from this victimization to victims of abuse. Because it can defend the rights of victims



and their legal protection, can provide explanations and can provide prevention against crimes of sexual harassment.

## V. SUGGESTION

The importance of regulations or regulations against acts of sexual harassment is a suggestion from the author to authorized officials, given that there are no strict regulations that deal with the issue of sexual harassment, although there are unwritten rules such as the value of decency, but they are still lacking in the current era with a lifestyle that leans towards lifestyle. living abroad is considered less relevant to the culture of the Indonesian people, the next suggestion is also to educate the public on sexual harassment behavior which contains the impact of sexual harassment so that it can provide insight and knowledge to the people in Indonesia.

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