

IMPLEMENTATION OF CRIMINAL LAW TO SEXUAL VIOLENCE

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Abstract

Sexual violence is a very serious crime and has adverse consequences for victims. From the results of data recorded in the National Commission on Violence against Women, there were 312,461 incidents of violence against women in Indonesia in 2022. Although sexual violence can happen to anyone, whether children, women, or men, children and women are the most vulnerable groups to sexual violence. The application of criminal law in dealing with sexual violence is a crucial step. Criminal law is able to provide a deterrent effect on perpetrators, protect victims, and restore their rights. The application of criminal law in handling sexual violence crimes in Indonesia is described in Law Number 12 of 2022 concerning Sexual Violence Crimes, a new law passed in 2022. This law presents several new, more progressive provisions in an effort to deal with sexual violence crimes.

Keywords: *Implementation, Criminal Law , Sexual Violence*

INTRODUCTION

Sexual violence is a very serious crime and has adverse consequences for victims. In Indonesia, sexual violence is one of the serious problems that provides positive benefits physically, mentally, and socially for affected individuals (Nurhasanah & Subandi, 2022). People who experience sexual violence will generally experience serious impacts on their physical health due to injuries, infections, and unwanted pregnancies. The psychological impact includes fear, trauma, and depression (BPS, 2021). In addition, the social impact includes dropping out of school, breaking up relationships, and social isolation.

From the results of data recorded in the National Commission on Violence against Women (Komnas Perempuan), there were 312,461 incidents of violence against women in Indonesia in 2022. Of these, 102,336 were cases of sexual violence. Although sexual violence can happen to anyone, whether children, women, or men, children and women are the most vulnerable groups to sexual violence. Criminal law enforcement is one of the important mechanisms in the protection of victims of sexual violence and to provide a deterrent effect on perpetrators..

Within the framework of the legal system in Indonesia, perpetrators of sexual violence can face various criminal sanctions as a result of their actions, ranging from imprisonment to payment of fines. Therefore, measures are needed to prevent and handle cases of sexual violence. One way that can be done is by applying criminal law. Criminal law has a role in protecting the interests of society from harmful or dangerous actions. In this

context, criminal law serves as a means to punish perpetrators of sexual violence as well as provide protection to victims.

RESULTS AND DISCUSION

Criminal Law Regulations on Sexual Violence

The criminal law system in Indonesia includes regulations related to sexual violence, which are regulated by the Criminal Code (KUHP) and Law Number 12 of 2022 concerning Sexual Violence (TPKS Law) (Law No. 12 of 2022). In the Criminal Code, regulations regarding sexual violence are explained in Articles 285, 286, 287, 288, and 289. Article 285 of the Criminal Code stipulates rape, which is the act of a man who commits abusive behavior with the intention of forcing women to engage in intimate relations outside marriage. Article 286 of the Criminal Code regulates lewd acts by someone who has power over others, for example such as teachers, heads of families, or employers. Article 287 of the Penal Code regulates lewd acts committed by a person intentionally rendering another person unconscious or helpless, or quickly taking advantage of the situation to commit lewd acts on a defenseless individual. Article 288 of the Criminal Code regulates obscene acts committed by more than two people on the same individual, or committed together. While Article 289 of the Criminal Code regulates obscene acts using force or threats of violence.

The TPKS Law regulates the criminal act of sexual violence in 12 chapters and 106 articles. The TPKS Law classifies sexual violence crimes into three types, namely:

1. Sexual violence based on power relations, namely sexual violence committed by individuals who have power or authority over the victim, for example sexual violence committed by teachers, heads of households, or employers.
2. Gender-based sexual violence, namely sexual violence committed because the victim has a certain gender, for example sexual violence committed against women.
3. Situation-based sexual violence, which is sexual violence committed in certain situations, such as sexual violence committed by unknown people or sexual violence committed online.

The TPKS Law also regulates more severe criminal sanctions for perpetrators of sexual violence, namely:

1. Perpetrators of power relationship-based sexual violence can be subject to a maximum prison sentence of 20 years and a fine of up to Rp 5 billion that causes victims to experience physical or mental disabilities.

2. Individuals who commit gender-based sexual violence can be punished with a maximum prison sentence of 15 years and a fine of up to Rp 3 billion that causes the victim to experience physical or mental disability.
3. Perpetrators of sexual violence based on certain situations can be sentenced to a maximum prison sentence of 12 years and a fine of up to Rp 2.4 billion that causes the victim to experience physical or mental disability.

Implementation of Criminal Law in Combating Sexual Violence

Law Number 12 of 2022 concerning Sexual Violence is the latest legal provision passed in Indonesia in 2022. This law includes improvements from previous regulations related to sexual violence crimes previously regulated in the Criminal Code (KUHP) now further regulated in Law Number 12 of 2022 concerning Sexual Violence Crimes, there are a number of new provisions that are more progressive in efforts to overcome sexual violence crimes, including:

1. The criminal act of sexual violence is expanding. This law expands the definition of sexual violence, so that it includes more categories of sexual violence crimes.
2. Toughening of criminal sanctions. This law imposes burdensome criminal sanctions for perpetrators of sexual violence crimes, both imprisonment and fines.
3. Establishment of the Women and Children Protection Unit (UPPA). This law requires every Indonesian National Police (Polri) to establish a UPPA. UPPA is tasked with providing protection to victims of sexual violence.

The application of criminal law in overcoming sexual violence can be done through two channels, namely:

1. Preventive

Preventive channels are the most important efforts to be carried out in overcoming acts of sexual violence (KemenPPPA, 2021). This is because preventive pathways can avoid the risk of sexual violence from the beginning. Preventive efforts in overcoming sexual violence can be carried out through various means, including:

- a. Socialization and education about sexual violence.
- b. Strengthening regulations and policies that support sexual violence prevention.

2. Repressive

Repressive efforts are efforts made to crack down on perpetrators of sexual violence crimes. Repressive pathways can be carried out through the criminal justice process as well as restorative justice. In the criminal justice process, perpetrators of sexual violence can be sentenced to criminal sanctions, both imprisonment, fines, and other crimes. Criminal sanctions imposed on perpetrators of sexual violence crimes aim to provide a deterrent effect, protect victims, and restore victims' rights. Restorative justice is a conflict resolution process involving victims, perpetrators, and other related parties. Restorative justice aims to achieve justice for all parties involved in the conflict, including victims, perpetrators, and communities.

In the application of criminal law to sexual violence, there are several things that need to be considered, namely:

1. Increased public awareness to report cases of sexual violence.
2. Improving the quality of investigation and prosecution of sexual violence cases.
3. Increased access of victims of sexual violence to recovery services.

Successful Application of Criminal Law

The successful application of criminal law can be seen from the decrease in cases, the increase in punishment for perpetrators, and the satisfaction of victims with their handling. The success of the implementation of criminal law can be measured from several indicators, including:

1. The degree of compliance of society with the law. The success of the application of the law increases along with the increase in the level of compliance of society with the criminal law
2. The level of effectiveness of the law in preventing criminal acts. The more effective the law is in preventing criminal acts, the more successful the application of criminal law will be.
3. The level of legal justice in providing legal protection and certainty. The fairer the law in providing legal protection and certainty, the more successful the application of criminal law.

CONCLUSION

In conclusion, the application of criminal law in dealing with sexual violence is a crucial step. Criminal law is able to provide a deterrent effect on perpetrators, protect victims, and restore their rights. The application of criminal law in handling sexual violence crimes in Indonesia is described in Law Number 12 of 2022 concerning Sexual Violence Crimes, a new law passed in 2022. This law presents several new, more progressive provisions in an effort to deal with sexual violence crimes.

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