

The Urgency of Law Number 12 of 2022 Concerning Criminal Acts of Sexual Violence as Legal Protection against Adult Man Victims of Sexual Violence



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ABSTRACT: Article 27 of the 1945 Constitution has regulated the equality of positions between women and men in Indonesia, this is also supported by the existence of a movement to fight for gender equality by feminists who want equal rights before the law without discrimination. In connection with this, related to the crime of sexual violence that can happen to anyone, including adult men who can become victims, this should be a special concern for law enforcement. However, it is not uncommon for views from the community regarding an unbalanced assessment of a community group, namely to men who are often not considered as a serious matter by the community. The majority of sexual violence crimes that occur in Indonesia occur against women and children as victims. The regulation of criminal acts of sexual violence in the Indonesian Criminal Code which is still considered lacking in protection against certain parties or groups is the author's idea or idea to suggest that there is a need to improve the provisions for regulating sexual violence crimes in Indonesia. The problem in this study is how the urgency of regulating sexual violence crimes is expected to be a solution for the community, especially victims of the crime of sexual violence. On April 12, 2022, the House of Representatives of the Republic of Indonesia ratified Law Number 12 of 2022 concerning the Crime of Sexual Violence. In this case, the author will discuss how the legal protection for adult men as victims of criminal acts of sexual violence is regulated in Law No. 12 of 2022 concerning the Crime of Sexual Violence, how the implementation of law enforcement of the Act. The law is expected to protect the dignity and worth of victims, but as a state of law it is necessary to have derivative regulations that formulate standard operating procedures for the implementation of the Crime of Sexual Violence.

KEYWORDS: Victims of Sexual Violence; Sexual Violence

1. PRELIMINARY

A. Background

Sexual violence crimes generally often occur in women and the majority of perpetrators who commit crimes of sexual violence are men. However, the incidence of criminal acts of sexual violence cannot deny that criminal acts of sexual violence can also occur in men. However, the crime of sexual violence against men is often not considered a serious matter by the community. Based on a quantitative study report on the barometer of gender equality launched by the Indonesia Judicial Research Society (IJRS) dan International NGO Forum on Indonesian Development (INFID), about 33% of men experience sexual violence, especially in the form of sexual harassment.

Data showing the occurrence of sexual violence against men are often ignored because men who have experience of being victims of criminal acts of sexual violence tend not to report it. In this case, there are many cases of sexual harassment that occur but legal protection for victims is still lacking due to the law in Indonesia which is still too lagging, especially in terms of criminal law which only regulates sexual violence crimes in the category of fornication (objects are not restricted) and rape (objects are women and children), but does not at all regulate the rape of adult men.

With this background causing anxiety and difficulty getting treatment, the role of Law Number 12 of 2022 concerning the crime of sexual violence is urgently needed which is the hope to be able to help protect adult men who are victims of sexual violence crimes and victims of sexual violence. Other.

B. Problem Formulation

Based on the background of the problem described above, in this study the identification of the problem can be formulated as follows:

1. What are the Urgency Factors for Law No. 12 of 2022 concerning the Crime of Sexual Violence?
2. How is the policy of implementing legal protection for adult male victims of sexual violence according to Law No. 12 of 2022 concerning the Crime of Sexual Violence?

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2. IMPLEMENTATION METHOD

1. Types and Nature of Research

Research is the application of a predetermined method in making a thesis. The type of research used by the author in this thesis is a normative research method. Normative legal research or library research is research that examines document studies, using various secondary data such as legislation, court decisions, legal theory, and can be in the form of scholarly opinions. The nature of the research used in this thesis is the nature of descriptive research, where the nature of this research reveals the laws and regulations relating to legal theories as the object of research. Likewise the law in its implementation in society with regard to the object of research.

2. Sources of Legal Materials

Sources of legal materials used in this study consist of:

- a. Primary legal materials are legal materials that are binding and include laws and regulations related to the issues to be investigated, such as: Law Number 1 of 1946 concerning Criminal Law Regulations (Book of Criminal Law)¹; Law Number 8 of 1981 concerning the Criminal Procedure Code (Book of the Criminal Procedure Code); Law Number 31 of 2014 concerning the Protection of Witnesses and Victims; Law Number 12 of 2022 concerning the Crime of Sexual Violence.
- b. Secondary legal materials are legal materials related to primary legal materials such as Court Decisions, the results of scholarly scientific works, research results related to Criminal Liability.
- c. Tertiary legal materials are materials that provide instructions or explanations for primary and secondary legal materials such as legal dictionaries, encyclopedias, etc.

3. Data Collection Techniques

The technique of collecting legal materials used in this research is library research, namely through a search for laws and regulations, documents and books and other scientific works in accordance with the object to be studied.

4. Data Analysis

A process or effort to process data into new information so that the characteristics of the data become easier to understand and useful for solving problems, especially those related to research.

3. RESEARCH RESULT

1. Urgency Factors of Law Number 12 of 2022 concerning the Crime of Sexual Violence

Regarding the handling of cases of sexual violence, Fatkhurrozi stated that there are several obstacles including the law in it, including:

- a. There are 15 types/forms of sexual violence found in Indonesia but listed in the Criminal Code only 2 types/forms of sexual violence;
- b. The definition of rape which is included in the Criminal Code is categorized only by threats of violence and penetration into the vagina. However, in fact there are many reports of rape cases carried out using deceit, persuasion, and experienced by women who are already married;
- c. The evidence provided for in the Criminal Procedure Code is very difficult to implement, because the characteristics of cases of violence are more common in quiet places and at night; and
- d. Law enforcement officials only prioritize the confession of the perpetrators, but in reality they are still weak in case investigations.

Various obstacles to the handling of cases of sexual violence turned out to make the case unable to be convicted, there were even reports of victims who were rejected because proving the case was quite difficult. This is because the existing living laws do not provide justice and do not provide proper deterrence to perpetrators. The issue of sexual violence is still viewed “narrowly”, blaming the victim, and focusing on punishment that is not effective in prevention or intervention.

Furthermore, the cultural factors of law enforcement and community support are still weak, until in the end the problem of sexual violence is increasingly complex and difficult to resolve. As a result, not only suffered physical and psychological losses.

In addition, the victim is also required to continuously retell the incident that has happened so that the victim feels tired, depressed and depressed. Not to mention after the completion of the trial, when the perpetrator is not sentenced, the victim will experience more social and psychological pressure.² As for another thing, victims often bear the costs themselves during the trial and in fact the losses suffered by victims have not been optimally accommodated in law enforcement practices. Therefore, Indonesia needs a law whose substance specifically regulates the crime of sexual violence.

¹ Indonesia, Law Number 1 of 1946 concerning Criminal Law Regulations, the Criminal Code.

² MaPPI FHUI, “Guidelines for Judging Women’s Cases Against the Law”, (Jakarta: MaPPI FHUI and AIPJ2, 2018), p. 33;

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2. Policy on the Implementation of Legal Protection for Adult Men Victims of Sexual Violence according to Law Number 12 of 2022 concerning the Crime of Sexual Violence

The crime of sexual violence against adult men is still very rarely discussed, especially in Indonesia. Regulations regarding criminal acts of sexual violence against adult men in Indonesia have not previously been regulated in the Criminal Code. The Indonesian Criminal Code itself is considered too old in adapting to the conditions of today's society because it only regulates sexual violence crimes that tend to occur in women, for example, rape cases that often occur in women, but this is not in line with the existing facts. , social reality and the development of crime trends show that crimes such as rape, for example, can occur between women and men or even between the same sex.

Indonesian law which is still too lagging, especially the regulation of criminal acts of sexual violence, which is made is still separated in several laws, for example the Criminal Code, Law no. 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Law no. 23 of 2004 concerning the Elimination of Domestic Violence, Law no. 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons and Law no. 44 of 2008 concerning Pornography, which regulates procedural law and victims' rights but depends on the articles used in the law. There are also regulations that do not accommodate the rights of victims and victim-oriented procedural laws, for example the meaning of rape and obscene acts in the Criminal Code, which makes the evidentiary process difficult.

On April 12, 2022, the House of Representatives of the Republic of Indonesia ratified the Law on the Crime of Sexual Violence. The ratification of Law Number 12 of 2022 concerning the Crime of Sexual Violence has an important meaning for strengthening regulations regarding treatment and state responsibilities to prevent, deal with cases of sexual violence and sexual violence. Comprehensive recovery of victims.

Law Number 12 of 2022 concerning the Crime of Sexual Violence has 93 Articles, and 12 Chapters. Reach out to material on:

1. General Provisions,
2. Types of Sexual Violence,
3. Other Crimes Related to Sexual Violence,
4. Investigation, Prosecution and Examination in Court Sessions
5. Rights of Victims, Victims' Families and Witnesses
6. Implementation of Integrated Services for the Protection of Women and Children at the Center and the Regions,
7. Prevention, Coordination and Monitoring,
8. Community and Family Participation,
9. Funding,
10. International cooperation,
11. Transitional Provisions,
12. Closing Terms

Law Number 12 of 2022 concerning the Crime of Sexual Violence is important because it emphasizes the principles of regulating sexual violence crimes based on respect for human dignity, non-discrimination, best interests for victims, justice, benefits and legal certainty contained in Article 2 of this Law, as well as Article 3, is the main objective of regulating victim-oriented sexual violence, which has never been contained in other laws.

The sexual violence crime law is an effort to reform the law to prevent, deal with all forms of sexual violence, protect and restore victims of sexual violence. This legal update has the following objectives:

1. Prevent all forms of sexual violence
2. Treat, protect, and recover victims
3. Implement law enforcement and rehabilitate perpetrators
4. Creating an environment without sexual violence, and
5. Ensure non-repetition of sexual violence.

Substantially, Law Number 12 of 2022 concerning the Crime of Sexual Violence regulates rights that are far more comprehensive, covering all aspects needed, starting from procedural rights in handling, protection rights that guarantee the treatment of law enforcement officers who do not demean the victim or blame the victim, and right of recovery in the form of medical rehabilitation; Mental and social rehabilitation; social empowerment (Articles 67-70); Restitution, Compensation to Victim Assistance Funds which strive to ensure effective recovery for victims (Articles 30-38), services for victims are guaranteed to be held in an integrated manner (Articles 73-75). There are also specific victim rights arrangements for cyber sexual violence that require a quick response in the removal of content (Article 47). As a law that is expected to be able to provide an umbrella for justice for victims of sexual violence, Article 3 of Law Number 12 of 2022 concerning the Crime of Sexual Violence³ states that the objectives of the Elimination

³ Indonesia, Law Number 12 of 2022 concerning the Crime of Sexual Violence.

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of Sexual Violence are to prevent all forms of sexual violence, to deal with, protect and restore victims, to carry out enforcement law and rehabilitate perpetrators, create an environment without sexual violence, and ensure non-repetition of sexual violence.⁴

4. CONCLUSION

Legal protection for adult men as victims of sexual violence from the perspective of criminal law and in the Draft Criminal Code is still minimal. The imposition of sanctions against criminal acts of sexual violence, for example, such as cases of rape that occurred in adult men as victims of only a crime of sexual immorality (Article 289 of the Criminal Code, Article 492 of the RKUHP) which sanctions against perpetrators are certainly much lighter than the protection of rape victims against women. Legal protection given to adult male victims as victims of rape according to the Witness Protection Act will also be limited to adult males as witness victims of what happened to them. This is an urgency related to increasing protection for victims of criminal acts of sexual violence because so far cases of criminal acts of sexual violence continue to exist and related to gender issues there must be equality in getting their rights back after being deprived. In the attempt to improve the regulation of the crime of rape, it should be carried out on the basis of equality of rights as ordered by Article 27 of the 1945 Constitution which does not discriminate against adult men as opportunities to become victims of the crime of sexual violence.

With the existence of Law Number 12 of 2022 concerning the Crime of Sexual Violence, it will not only regulate the crime of sexual violence, but also regulate the Procedural Law in handling cases of criminal acts of sexual violence, even the protection of witnesses and victims. This can fill the gaps in the provisions regarding the application of the procedural law which is not gender biased and is not regulated in the Criminal Procedure Code and Supreme Court Regulation (Perma) Number 3 of 2017 concerning Guidelines. Through this law, the state can guarantee the people's sense of security and protection from the threat of sexual violence. Law Number 12 of 2022 concerning the Crime of Sexual Violence will serve as an umbrella for this law and will also provide justice for all victims.

SUGGESTION

With the implementation of Law No. 12 of 2022 concerning the Crime of Sexual Violence, it does not only provide guarantees for the handling of cases of sexual violence. But it will also function in terms of prevention to protection and recovery for victims. However, in order to support the implementation of this law, I think it is necessary to further regulate its derivative regulations which are made such as integrated services that are integrated between relevant stakeholders, so victims of sexual violence can more easily get protection and assistance. All parties must encourage the relevant ministries to produce Presidential Regulations and Government Regulations that aim to strengthen the mandate in all articles in this Law, so they should not be contradictory. As is known, Law Number 12 of 2022 concerning the Crime of Sexual Violence contains 8 chapters and 93 articles that regulate the prevention, handling, and punishment of cases of sexual violence from the perspective of the victim.

After a number of derivative regulations are completed, the Government must immediately disseminate the contents of Law Number 12 of 2022 concerning the Crime of Sexual Violence and a number of its derivative rules to the public. So, after the law is passed and applies, the functions of a number of articles in it can run continuously as mandated in the law.

Therefore, it is necessary to have the same understanding and enthusiasm between the government, law enforcement officers and the community regarding the application of the articles in the Law in handling cases of Indonesian sexual violence. So that there is no longer any reason to declare other forms of sexual violence, no matter how small, to all victims, especially victims of sexual violence that have occurred to adult men who have been discriminated against in legal protection and if there is an act of sexual violence, law enforcement must be applied based on the mandate of the Act. -Invite this.

REFERENCES

Books:

- 1) MaPPI FHUI, "Guidelines for Judging Women's Cases Against the Law", (Jakarta: MaPPI FHUI and AIPJ2, 2018), p. 33.
- 2) Adami Chazawi, "Positive Criminal Law of Humiliation", (Surabaya: Putra Media Nusantara, 2009) p. 27

Legislation:

- 1) Indonesia, Law Number 1 of 1946 concerning Criminal Law Regulations, the Criminal Code.
- 2) Indonesia, Law Number 31 of 2014 concerning the Protection of Witnesses and Victims.
- 3) Indonesia, Law Number 12 of 2022 concerning the Crime of Sexual Violence.



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⁴Adami Chazawi, "Positive Criminal Law of Humiliation", (Surabaya: Putra Media Nusantara, 2009) p. 27