

# Legal Protections for Victims of Sexual Violence in Educational Institutions: A Legal Perspective in Indonesia

*by Universitas Muhammadiyah Kalimantan Timur*

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# LEGAL PROTECTIONS FOR VICTIMS OF SEXUAL VIOLENCE IN EDUCATIONAL INSTITUTIONS: A LEGAL PERSPECTIVE IN INDONESIA

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## ABSTRACT

Everyone can become a victim of sexual violence, regardless of circumstance, place, or time. This is inevitable as long as there is a power dynamic between individuals in the community. Indeed, sexual violence is a criminal act that is influenced by the powerless control of the perpetrator over the victim. In order to give these victims a sense of justice and safety, victims of sexual violence are constantly ignored by all parties, especially law enforcement. With numerous variations in the perpetrators' methods of operation, this crime can be easily encountered even in a learning environment. A few of the existing laws and regulations that address sexual violence in Indonesia include the criminal code, the law on the elimination of sexual violence, and the regulation of the minister of education that will specifically protect victims of sexual violence within educational institutions. This article aims to provide an overview of the various legal protections available to victims of sexual violence in educational institutions in Indonesia, namely such as student body harassment, rape and verbal sexual crimes. This paper employs normative juridical legal research with primary, secondary, and tertiary sources such as laws and regulations, journals, and books relevant to the subject at hand. Finally, this paper will provide an analysis of the results that show legal protections in Indonesia have fulfilled a sense of justice for victims of sexual violence in the educational environment.

**Keywords:** *Victims of Sexual Violence, Legal Protections, Educational Institutions*

**Themes:** Constitutional Law/Human Rights

## INTRODUCTION

Sexual harassment is any act of degrading, insulting, harassing, or attacking a person's body, and reproductive function, due to inequality in power relations and 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. One of the factors causing acts of sexual harassment in the educational environment is because the perpetrators feel they have power. Perpetrators also feel entitled to act arbitrarily on students. Various countries have enacted legislation to eliminate sexism and gender discrimination in the education field. This is due to the fact that many students are sexually harassed while attending schools. As a result, the quality of mental, physical, and academic outcomes may suffer (Reitanza, 2018). Meanwhile, negative effects of sexual abuse include depression, post-traumatic stress disorder (PTSD), shyness, and alcohol use that interferes with learning process at school. The Indonesian Minister of Education, Culture, Research, and Technology (PERMENDIKBUD) has issued a regulation outlining the prevention and handling of sexual violence in the higher education environment, which is detailed in PERMENDIKBUD Law No. 30 of 2021 (Karami et al., 2021). Furthermore, Indonesia passed Law No. 12 of 2022 regarding the crime of sexual violence as a form of protection from violence and the right to be free from torture or treatment that degrades the degree of human dignity as guaranteed in the Republic of Indonesia's 1945 constitution (Huda, 2021).

## LITERATURE REVIEW

A review of previous studies can be beneficial in determining what the authors will undertake in this study. Further, preliminary studies can be used to assess a researcher's position and identify previous

literature (Hejase, 2015). Deding Ishak conducted research on sexual harassment in educational institutions under the title "Sexual Harassment in Educational Institutions: A Policy Perspective." The research is expected to find a way to create policies on cases of violence and sexual harassment in educational institutions. As a result, the author has identified a gap in the writing where the author is lacking in knowledge regarding legal protection instruments for victims of sexual harassment. The author also does not include legal instruments that regulate sexual crimes

## METHODOLOGY

The study utilises the qualitative method involving analysis on the primary and secondary data. The data used in this study was gathered from journals, books, or online articles with topics related to the research's themes, such as sexual harassment, sexual violence, violations in the field of education, etc. The analysis of data was done systematically using the designated themes and coding.

## FINDINGS AND DISCUSSION

1. According to previous research findings, 19% of students have experienced sexual harassment committed by university staff in educational institutions in Indonesia. 75.9% of these victims of sexual abuse had experienced such harassment two to three times while in college. According to new student reports, the level of harassment reached 12.5%, while it could reach 24.9% for senior students. This implies that the rate of sexual harassment in college is increasing over time. It can also be seen that 28.6% of freshmen are sexually harassed by peers, while 35.7% of senior students are sexually harassed by peers. Sexual harassers on college staff or faculty are 78% men, 15% women, and 7% of the victim's gender is unknown. 84% of these incidents of harassment occur on college campuses. The perpetrators of this sexual harassment included up to 61% of faculty members, 27% of student employees, and 12% of staff. Meanwhile, 86% of sexual harassment cases committed by peers were committed by men. 11% of perpetrators are women, and 3% of perpetrators are unknown to the victim. As a matter of fact, there are legal instruments in Indonesia that govern the protection of victims of sexual violence, as stated in the PERMENDIKBUD Law No. 30 of 2021 and Law No. 12 of 2022 concerning The Crime of Sexual Violence (TPKS Law) (Mohamed, 2015).
2. Law No. 12 of 2022 concerning The Crime of Sexual Violence (TPKS Law)  
This law addresses the prevention of all types of sexual violence crimes, as well as the treatment, protection, and restoration of victims' rights, along with coordination between central and local governments, and international cooperation so that the Prevention and Treatment of Sexual Violence Victims can be effectively implemented. Furthermore, community involvement in the prevention and recovery of victims is regulated in order to achieve sexual violence-free environments. The legal basis of this law is Article 20, Article 21, and Article 28G paragraph (2) of the 1945 Constitution of the Republic of Indonesia (Republik Indonesia, 2021).
3. PERMENDIKBUD Law No. 30 of 2021  
PERMENDIKBUD Law No. 30 of 2021 on the Prevention and Handling of Sexual Violence (PPKS) is a regulation issued by the Minister of Education, Culture, Research, and Technology in response to the numerous cases of sexual violence that occur in universities in Indonesia. The regulation is aimed specifically at the academic community, particularly universities (Mahmudah & Fatimah, 2021). The Minister of Education and Culture issued the regulation because every citizen has the right to be protected from all forms of sexual harassment and the growing number of cases of sexual violence in universities, which is interfering with the implementation of the Tridharma of higher education and lowering the quality itself; and regulations or laws that guarantee in cases of sexual harassment in universities are required to prevent and deal with sexual harassment (Komisi Nasional Perempuan, 2020). The goal of issuing Minister of Education and Culture Number 30 of 2021 is to develop and implement initiatives to prevent and respond to sexual harassment on and off campus, as well as to be humane and dignified, collaborative, and violence-free among students, educators, education staff, and campus residents in universities. Cases of sexual harassment in Indonesia are still problematic and do not have strong legal certainty, especially in terms of evidence in court. Protection for victims of sexual harassment in Indonesia is currently still very minimal. Victims of sexual harassment are still difficult to prove when he was a victim of sexual violence. In addition,

the long judicial process often makes this case hampered and not followed up of the legal structure. In Indonesia, both human resources (HR) and government agencies or institutions are still few who are trained to be able to understand victims. There are still many institutions that don't care about victims of sexual harassment, and not a few people even blame victims of sexual violence. legal culture that still applies a patriarchal culture. The complicated justice system often makes victims exhausted both psychologically and financially, which causes them to choose to withdraw their lawsuits.

## CONCLUSION AND RECOMMENDATIONS

Referring to the text of the TPKS Law, there are nine types of sexual violence as stated in Article 4 Paragraph 1. The types of sexual violence consist of non-physical sexual harassment, physical sexual harassment, forced contraception, and forced sterilization. Then there are forced marriages, sexual torture, sexual exploitation, sexual slavery, and finally, electronic-based sexual violence. In addition to the nine types of sexual violence, there are 10 forms of sexual violence that are categorized as criminal acts. It is imperative that there be laws that specifically protect those who have been the victims of sexual violence because these individuals are sometimes neglected when it comes to legal protection. And it is also necessary to establish a task force within educational institutions as stated in PERMENDIKBUD Law No. 30 of 21 Article 23 (1) In implementing the Prevention and Handling of Sexual Violence, the Higher Education Leader forms a Task Force at the Higher Education level. (2) The Task Force is referred to in paragraph (1) is formed for the first time through a selection committee. Moreover, the crime of sexual violence is already governed and protected by general law in Indonesia. In higher education, the Minister of Education issued a regulation as a serious effort to reduce cases of sexual violence and as legal protection for victims of sexual violence in universities.

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