

**Article History**

Received: 24 Sep 2024

Reviewed: 04 Oct 2024

Accepted: 20 Nov 2024

Published: 30 Nov 2024

The Existence of Sexual Violence Crime in Indonesia

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Abstract: This study aims to determine the existence of the sanctions of the sexual violence crime act called (TPKS) in various ways to provide preventive and repressive legal protection for victims of sexual violence. They are compiled using the normative method, which includes the study of laws and regulations, legal theories, opinions of experts, and other legal materials. Sexual harassment is an act that has a severe impact on victims, and the existence of the TPKS Law Number 12 of 2022 in Indonesia was formed as a legal umbrella effort and as an effort to renew punitive sanctions to follow up firmly on perpetrators of sexual harassment. The Criminal Code that has been amended and regulated in the Criminal Code Number 1 of 2023, which is explained in Chapter XV concerning criminal acts of decency, mainly regulated in articles 414 to 423 of the Criminal Code, has also not been able to provide complete legal protection for victims of sexual harassment. The Criminal Code also does not mention explicitly or explicitly the problem of sexual abuse. The result of this research is to provide explanation and legal protection for victims who are mentally disturbed due to the impact of sexual harassment and can provide punishment for perpetrators regardless of their status to create a deterrent effect for the perpetrators.

Keywords: Sexual harassment; protection of the law; legal arrangements

Abstrak: Penelitian ini memiliki tujuan untuk mengetahui eksistensi sanksi Undang-Undang Tindak Pidana Kekerasan Seksual (TPKS) dalam berbagai hal memberikan perlindungan hukum secara preventif dan represif terhadap korban pelecehan seksual. Disusun dengan metode normatif, yaitu: studi terhadap peraturan perundang-undangan, teori-teori hukum, pendapat para ahli dan bahan hukum lainnya. Pelecehan seksual merupakan perbuatan yang menimbulkan dampak sangat serius bagi korban dan eksistensi keberadaan Undang-Undang TPKS (Tindak Pidana Kekerasan Seksual) Number 12 Tahun 2022 di Indonesia, dibentuk sebagai upaya payung hukum dan sebagai upaya pembaharuan sanksi hukuman untuk menindaklanjuti secara tegas pelaku pelecehan seksual. Kitab Undang-Undang Hukum Pidana (KUHP) yang sudah dirubah dan diatur dalam Kitab Undang-Undang Hukum Pidana Number 1 Tahun 2023 yang dijelaskan dalam Bab XV tentang tindak pidana kesusilaan, khususnya diatur dalam Pasal 414 sampai dengan pasal 423, juga belum dapat memberikan perlindungan hukum secara penuh bagi korban pelecehan seksual. Kitab Undang-Undang Hukum Pidana juga tidak menyebutkan secara eksplisit atau tegas mengenai masalah pelecehan seksual. Hasil penelitian ini yaitu memberikan penjelasan dan perlindungan hukum bagi korban yang terganggu jiwanya akibat dampak pelecehan seksual serta dapat memberikan hukuman bagi pelaku tanpa memandang statusnya, sehingga membuat efek jera bagi pelaku.

Kata Kunci: Pelecehan seksual; perlindungan hukum; pengaturan hukum

INTRODUCTION

Sexual harassment is an act that, from the past until now, has become a problem in the community; until now, sexual harassment cases have occurred everywhere and in various places where the victim is primarily a woman. Hence, sexual harassment is committed against a person without consent or intentionally to do so despite being initially unwanted and detrimental to the victim.¹ Sexual harassment can occur due to coercion ranging from physical and psychological by the perpetrator against the victim.² The existence of the existence related to sexual harassment is located in Act Number 12 of 2022 related to TPKS regulated in Article 4 point (1).³

Furthermore, the impact of sexual harassment on victims is physical and mental health impacts. It takes a very long time and gradual process for victims to heal from the trauma they have experienced. Another impact is that it affects the development of the victim's identity and social life for the victim.⁴ As a result of sexual harassment, many are not strong with the suffering experienced, so unpleasant problems occur for victims, including depression and suicide.⁵ Sexual harassment that often occurs against adult women is not only physical but also verbal and non-verbal. If the harassment is verbal, it is an act such as whistling with the opposite sex and throwing words that intersect with sexual lust (immoral) so that it makes the victim feel amused and uncomfortable.⁶ While non-verbal sexual harassment is seeing sexual acts by looking at their genitals, as well as friction carried out to other people. The form of sexual harassment is also physical harassment, namely, acts of sexual harassment committed by the perpetrator against the victim physically. This physical sexual harassment can be said to be severe and mild because it includes, for example, groping a woman's body with sexual categories, kissing, and hugging.⁷

Victims of sexual harassment are generally adult women, but in some cases, they are, come victims of sexual harassment. Most of those who do it are persons familiar with the

¹ Raja Aisha Kencanadewi and Amanda Lovita, "Upaya Perlindungan Korban Pelecehan Seksual Pada Perempuan (Studi Pada Dinas Pemberdayaan Perempuan , Perlindungan Anak Dan Pemberdayaan Masyarakat Di Kota Tanjungpinang)," *Jurnal Kajian Gender Dan Anak* Vol. 8, Number 1;Tanjung Pinang: Universitas Maritim Raja Ali Haji, (2024): 14, DOI: <https://doi.org/10.24952/gender.v8i1.10882>

² Laela Rahmah Putri, Namira Infaka Putri Pembayun, and Citra Wahyu Qolbiah, "Dampak Kekerasan Seksual Terhadap Perempuan: Sebuah Sistematis Review," *Jurnal Psikologi* 1, Number 4 (2024): 11, DOI: <https://doi.org/10.47134/pjp.v1i4.2599>

³Republik Indonesia, "Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana KekerasanSeksual.," *KementerianSekretariat Negara Republik Indonesia*, 2022, https://jdih.setkab.go.id/Puudoc/176736/Salinan_UU_Nomor_12_Tahun_2022.Pdf

⁴ Patrisius Boli Tobi et al., "Dampak Pelecehan Seksual Terhadap Perkembangan Jati Diri Anak: Studi Kasus Tanjungpinang," *Jurnal Ilmu Hukum* 1, Number 4 (2024): 157, DOI: <https://doi.org/10.62017/syariah.v1i4.1525>

⁵Dody Suryandi, Nike Hutabarat, and Hartono Pamungkas, "Penerapan Sanksi Pidana Terhadap Pelaku Tindak Pidana Kekerasan Seksual Terhadap Anak," *Jurnal Darma Agung* 28, Number 1 (2020): 84, DOI: <https://doi.org/10.46930/ojsuda.v28i1.464>

⁶Ferdianicko Maulana Hardiman, Yusuf Saefudin, and Riwayat Artikel, "Pertanggungjawaban Pelaku Tindak Pidana Pelecehan Seksual Secara Verbal Terhadap Perempuan Di Muka Umum," *Jurnal Ilmu Sosial Dan Humaniora* 3, Number 1 (2023): 33–40, Diakses dari <https://ejournal.amertamedia.co.id/index.php/amerta/article/view/134>

⁷ Cinta Rifqi Amalia and Fany N R Hakim, "Kajian Pelecehan Seksual Melalui Teori Viktimisasi Pada Anggota Perempuan Di Organisasi Kota X" 4, Number 5 (2024): 1561, DOI: <https://doi.org/10.38035/jihhp.v4i5>

victim, including close friends, relatives, lovers, teachers, religious leaders, and superiors.⁸ Victims of sexual harassment are predominantly adult women who should have legal protection from the state and from the community so that there is comfort for adult women and avoid sexual harassment against irresponsible perpetrators. The factors themselves are due to hormonal changes of the perpetrator, the development of technology, changing lifestyles, and sexual ignorance.⁹ Women from the past until now, according to the view of society, still have a shallow position. Therefore, the most common sexual harassment targeted is women.¹⁰ Therefore, it is essential to legally protect a woman who is a victim of sexual harassment by using preventative and repressive legal protections in handling the case. The regulation of the perpetrators of sexual harassment is stipulated in Law Number 1 of 2023 on the new KUHP in Chapter XV on criminal acts of decency. However, in the Criminal Code Number 1 of 2023, several articles cannot provide prevention or protection to victims of sexual harassment, and their existence is also doubtful. In addition to using these regulations, there are also regulations governing the criminal of sexual harassment, including Act Number 12 of 2022 regarding TPKS, which explains all penalties for those who commit criminal acts of non-physical and physical harassment.

The study conducted by researcher is "The Existence of Sexual Violence Crime in Indonesia." Based on some previous studies such as from Desi Puspita Sari et al. study entitled Desi Puspita Sari et al., "*Perlindungan Hukum Bagi Korban Pelecehan Seksual Menurut Perspektif Undang-Undang Nomor 12 Tahun 2022 Tentang TPKS*". The study focuses more on Law Number 12 of 2022 related to TPKS and how to protect victims in a preventive way. The characteristics of this study and Desi Puspita Sari's et al. that the studies regulate the law not only refers to Act Number 12 of 2022 related to TPKS but also Act Number 1 of 2023 related to the new KUHP (Criminal Code), this study not only mentions 10 points in the TPKS law but also explains in detail the solution important point in the TPKS law. The similarity is that it discusses legally protecting victims who experience sexual harassment using the legal basis of the TPKS Law.¹¹

By comparing previous studies, researcher understand that the legal protection for victims of sexual harassment in Indonesia well and improvements are still needed to improve legal protection. Researcher see many victims of sexual harassment cases. Thus this study provides an understanding of preventive and repressive legal protection and applicable laws. Therefore the researcher uses the title "Existence of Sexual Violence Crime in Indonesia".

8 Riyan Alpian, "Perlindungan Hukum Bagi Korban Tindak Pidana," *Lex Renaissance* 7, Number 1 (2022): 69–83, DOI: <https://doi.org/10.20885/JLR.vol7.iss1.art6>

9 Rizka Puspita Sari, Siti Zahra Bulantika, and Tiara Nadalifa, "Analisis Dampak Dan Faktor Penyebab Kekerasan Seksual Di Lingkungan Sekolah," 2024, 165, DOI: <https://doi.org/10.52217/lentera.v17i1.1493>

10 Desita Sari et al., "Edukasi Dan Upaya Pencegahan Kekerasan Seksual Pada Remaja," *Jurnal Pembelajaran Pemberdayaan Masyarakat (JP2M)* 4, Number 1 (2023): 48–59, DOI: <https://doi.org/10.33474/jp2m.v4i1.19818>

11 Desi Puspita Sari et al., "Perlindungan Hukum Bagi Korban Pelecehan Seksual Menurut Perspektif Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual," *Al-Qisth Law Review* 7, Number 1 (2023): 65, DOI: <https://doi.org/10.24853/al-qisth.7.1.65-87>

METHOD

The method in this study is to use normative legal research methods or legal research sourced from literature, namely research by examining various applicable laws and regulations, legal theories, opinions of experts, and legal bases related to the issues to be discussed so that they know the procedures for resolving the law and are used to answer legal issues systematically which are appropriate in this study. The researcher uses this method to understand the legal issues being studied in a problem currently busy in the community and aims to provide an understanding of the efforts to resolve it with the applicable regulations.

DISCUSSION

Legal Protection for Victims of Sexual Harassment

The existence of legal protection against the TPKS Law in providing legal protection lies in its focus on law in dealing with victims (victim trust) and in favor of the victim's perspective. According to Article 3 of the TPKS Act, namely:¹² Abandon all acts of sexual assault; Serve, protect, or heal the victims; Carrying out the application of the law and the process of restoring the perpetrator; Building an environment where there is no sexual assault; Guaranteed the non-repetition of sexual assault. For example, a case of sexual violence recently occurred by the caregiver of an Islamic boarding school located in Dukun Subdistrict, Gresik Regency. Before entering the boarding school, the victim had experienced sexual abuse and became pregnant in 2018. Some time ago, the victim had already been one of the victims of sexual abuse; because of this incident, the victim was taken by the Gresik Regency KBPPA Office, which was eventually put into an Islamic Boarding School, to be able to recover from the previous incident. The purpose of the inclusion in the Islamic Boarding School was to be able to heal mentally from the trauma. However, it was unfortunate that the victim still became one of the heinous treatment by the caretaker of her Islamic boarding school, namely, molesting her students. Often, as in the case of sexual harassment, it is important to deepen the sentence for the offender and not protect the interests of the offender.¹³

In general, in Indonesia, in the Criminal Code, legal protections for victims of sexual harassment can be carried out in various ways, in balance with the needs of victims who experience the impact of sexual abuse. For example, if the victim suffers a psychological loss, then the compensation that must be given to the victim is not in the form of money because it is inadequate if there is no mental healing action for the victim psychologically.¹⁴ Legal

¹²Op.Cit,"Undang-Undang Nomor 12 Tahun 2022"

¹³ Reynalda Fransin Patty, Hadibah Zachra Wadjo, and Jetty Martje Patty, "Penegakan Hukum Bagi Pelaku Tindak Pidana Kekerasan Seksual Terhadap Anak (Studi Kasus Putusan Nomor 482/Pid.Sus/2021/PN)," *TATOHI: Jurnal Ilmu Hukum* 3, Number 10 (2023): 1047, DOI: <https://doi.org/10.47268/tatohi.v3i10.1963>.

¹⁴Diding Rahmat, "Penyuluhan Hukum Di Desa Sampora Tentang Perlindungan Hukum Korban Pelecehan Seksual Terhadap Perempuan Di Indonesia," *Empowerment: Jurnal Pengabdian Masyarakat* 3, Number 01 (2020): 42, DOI: <https://doi.org/10.25134/empowerment.v3i01.2684>

protection measures that the government must take against adult women who experience criminal acts of sexual harassment, include: preventative legal protection efforts and repressive legal defense efforts.¹⁵

According to Philipus M. Hadjon (1987), the legal protections of society are categorized into two types: preventative and repressive. Preventative legal protection is aimed at objecting to or preventing before a problem occurs. Preventative legal protection makes the government vigilant in acting and makes discretionary decisions, while repressive legal protection is aimed at resolving an event or a problem in its enforcement in the judiciary.¹⁶

Legal protection following the theory of Philipus M. Hadjon should be used and applied to the interests of Indonesian citizens and unite the thoughts of Pancasila and the principles of the legal protection of Western people. The theory is worth applying in Indonesia so that the application of law in Indonesia does not come out of Pancasila which is used as a thought or view and the basis of the Indonesian state.¹⁷ preventative legal protection carried out for the security and order of the entire community must be done, namely: approach, educate, strengthen regulations, and cooperate with other parties;¹⁸ Teach and educate the community about sexual matters and teach the consequences of sexual harassment.¹⁹ The government, in protecting victims, must have a regulatory role, a facilitator role, and an implementing role.²⁰

In addition to protecting the law with preventive measures carried out by the government officials who enforce the law, they also carry out repressive legal protection to teach lessons to perpetrators who commit sexual harassment so that the perpetrators do not dare to do the same thing again with all the people who will become victims. Regarding efforts using repressive methods, the apparatus of enforcing punishment against the perpetrator must conduct an investigation and then continue to investigate the perpetrator to the Court. Repressive efforts are carried out by strictly processing and sanctions given to the perpetrators following the regulations.²¹ This repressive legal protection effort by law

¹⁵Khalisa Aliya Indriany and Dona Raisa Monica, "Upaya Penanggulangan Tindak Pidana Pelecehan Seksual Anak Di Media Sosial (Studi Di Kepolisian Daerah Polda Metro Jaya) Efforts To Overcome Child Sexual Abuse in Social Media (Study in Regional Police Police Metro Jaya)" 11, Number 1 (2023): 94. DOI: <https://doi.org/10.35450/jip.v11i01.345>

¹⁶Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia* (Surabaya: Pt. bina ilmu, 1987).

¹⁷Syahrl Ramadhon, Aaa Ngr Tini, and Rusmini Gorda, "Perlindungan Hukum Terhadap Perempuan Sebagai Korban Kekerasan Dalam Rumah Tangga Secara Preventif Dan Represif," *Jurnal Analisis Hukum (JAH)* 3, Number 2 (2020): 209, DOI: <https://doi.org/10.38043/jah.v3i2.2698>

¹⁸ Yayan Agus Siswanto, Fajar Rachmad Dwi Fajar Miarsa, and Sudjiono, "Upaya Preventif Sebagai Bentuk Perlindungan Hukum Dari Kejahatan Kekerasan Seksual Pada Anak," *Jurnal Kolaboratif Sains* 7, Number 5 (2024): 1651–67, DOI: <https://doi.org/10.56338/jks.v7i5.5313>

¹⁹ Tri Utami Rahayu et al., "Strategi Pencegahan & Penanganan Kekerasan Seksual Terhadap Anak Di Universitas Ichsan Satya," *Jurnal SOLMA* 12, Number 3 (2023): 1573. DOI: <https://doi.org/10.22236/solma.v12i3.13251>

²⁰ Is Fadhilah Dimas Irfan Maulana, "Peran Pemerintah Dalam Upaya Perlindungan Anak Dari Kekerasan Seksual Di Wilayah Kota Surabaya (Studi Kasus Pada Dinas Pemberdayaan Perempuan Dan Perlindungan Anak Serta Pengendalian Penduduk Dan Keluarga Berencana Kota Surabaya)" 1192 (2024): 410–414. DOI: <https://doi.org/10.572349/neraca.v2i9.2374>

²¹ Oktir Nebi, "Analisis Upaya Preventif Dan Represif Penegakan Hukum Pidana Terhadap Kekerasan Anak Di

enforcement officials, in addition to following up from the beginning of the reporting process from the victim to the court, law enforcement officials also monitors the condition of victims who experience criminal acts of sexual harassment until their condition is normal again. In repressive law enforcement, among others, namely provide legal protection for victims and witnesses who experience criminal acts of sexual harassment against adult women; law enforcement officials must be quick in handling the completion of sexual harassment cases committed by perpetrators to adult women and provide facilities for victims in terms of psychology so that victims can eliminate depression or severe trauma suffered for victims of sexual harassment;²² provide compensation and leniency and inform the judge of the progress of the decision.²³

People can see in the following legal protection efforts for victims of sexual harassment from preventive efforts that must be carried out by the government, namely: socializing and educating about sexual harassment is most important so that people can be more careful and avoid any actions that can harm others; creating a joint group or task force in maintaining a safe and comfortable environment from sexual harassment; patrols are conducted in areas that may be considered to have a very high risk of sexual abuse; the opening of a swift service for the reporting of victims who are subjected to sexual harassment.²⁴

The TKPS Law complements the prevailing rules for providing legal protection for victims.²⁵ Repressive legal protection efforts according to Law Number 12 of 2022 on TPKS, namely as follows:²⁶ Article 28 explain that People who accompany victims and witnesses are given legal protection during the examination process; then Article 30 paragraph (1): victims of sexual harassment will receive compensation and healing; while Articles 42 to 47 describe protection for victims who experience sexual harassment or sexual violence.

Articles 42 through 47 read as follows: Article 42 paragraph (1): a process of 1x24 (one time twenty-four) hours starting at the time of receipt of information of criminal acts of sexual harassment, the police immediately take measures to protect the victim legally temporarily; Article 43 paragraph (1): The process is 1x24 (one time two four) hours from the

Wilayah Hukum Kepolisian Sektor Kota Jambi" Number 3 (2024): 215, DOI: <https://doi.org/10.62383/parlementer.v1i3.121>

²²Kadek Dandi Saputra et al., "Peran Kepolisian Resor Buleleng Dalam Upaya Penggulangan Dan Penanganan Tindak Pidana Kekerasan Seksual Terhadap Anak" 4, Number November (2021): 821–26. https://ejournal.undiksha.ac.id/index.php/jatayu/article/view/43083/20723?_cf_chl_tk=oSbK1E72QCQAsYznHWYSvtKycG3cdSFv.vEo4fQYHefY-1727850875-0.0.1.1-6036

²³ Dina Al-Karimah, Kristina Sulatri, and Wiwin Ariesta, "Perlindungan Hukum Terhadap Anak Korban Kejahatan Seksual Oleh Homoseksual Dalam Perspektif Perlindungan Anak," *Yurijaya: Jurnal Ilmiah Hukum* 5, Number 3 (2024): 74–75, DOI: <https://doi.org/10.51213/yurijaya.v5i3.115>

²⁴ Darmini, "Peran Pemerintah Dalam Pencegahan Kekerasan Seksual Terhadap Anak," *Qawwam: Journal for Gender Mainstreaming Issn:* 15, Number 1 (2021): 45, DOI: <https://doi.org/10.20414/qawwam.v15i1.3387>.

²⁵ Eko Nurisman, "Risalah Tantangan Penegakan Hukum Tindak Pidana Kekerasan Seksual Pasca Lahirnya Undang-Undang Nomor 12 Tahun 2022," *Jurnal Pembangunan Hukum Indonesia* 4, Number 2 (2022): 170–96, DOI: <https://doi.org/10.14710/jphi.v4i2.170-196>

²⁶Op.Cit., Republik Indonesia, "Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual."

time temporary protection is granted as described in Article 42 point (1). The police must provide it to *Lembaga Perlindungan Saksi dan Korban (LPSK)*, the witness and victim protection agency; Article 44: in order protect with the non-permanent nature stipulated in Article 42 point (1) and Article 43 point (1), the police and LPSK are entitled to complete their duties together; Article 45 paragraph (1): in relation to the situation where a suspect or defendant is released due to the risk that he or she may perpetrate a sexual assault, terrorize, coerce and/or assault upon another person, and according to the request of another person, relative, investigator, prosecutor, or lawyer, the judge is able to create a limit on the activity of the perpetrator, to try to avoid the distance between the perpetrator and the victim and the restriction of the existing rights of the perpetrator; Article 46 paragraph (1): The central government has the power to remove and or stop the search for news from technology or digital files that include criminal sexual assault; Article 47: for mutual benefit, the public prosecutor may also apply to the president of the district court to order the ministry of communication and informatics to delete digital data or electronic documents because they contain sexual assault cases.

The Existence of Sanctions in Law Number 12 of 2022 on the Crime of Sexual Violence

The Act of sexual harassment is a grave crime, regulated by the old Criminal Code (KUHP), which explains itself under Book II Section XIV, the crime of decency morality. Actors of sexual assault are charged with articles of decency as regulated under Article 281 of the KUHP up to Article 296 of the KUHP,²⁷ or by using Law Number 1 of 2023 regarding the new KUHP which is still valid for the next 3 years after the enactment of the Law, which is contained in Chapter XV concerning criminal acts of decency stipulated in Articles 414 to 423. Similarly, Law Number 12 of 2022 regarding TPKS is a rule to be more apparent in resolving a crime of sexual harassment.

The Criminal Code (KUHP), which is generally called Law Number 1 of 2023, does not yet have the capability or ability to regulate the Act of sexual harassment; thus, the rules of Law Number 12 of 2022 concerning TPKS make an appropriate rule in regulating the crime of sexual harassment.²⁸ Article 1 point (1) mentions: that the Act of sexual abuse is an action which contains part of the criminal offense, based on the rules in the present Act and other acts of sexual abuse in accordance with the rules in the Act to the extent specified in the present Act.

Based on this article, the material act in the TPKS Law is the renewal of the handling cases of sexual abuse criminal acts. As for Law Number 12 of 2022 related to TPKS, it has its own ten important points, including: 1) All acts of sexual abuse are included in sexual assault. How to prevent acts of sexual harassment non-physically, the victim himself must maintain a

²⁷Moeljatno, *Kitab Undang-Undang Hukum Pidana* (Jakarta: Bumi Aksara, 2011).

²⁸Moh. Al-vian Zul Khaizar, "Analisis Pembaharuan Hukum Pidana Dan Hukum Acara Pidana Dalam Undang-Undang Tindak Pidana Kekerasan Seksual," *Diktum: Jurnal Ilmu Hukum* 10, Number 1 (2022): 103–17, <https://doi.org/10.24905/diktum.v10i1.204>. DOI: <https://doi.org/10.24905/diktum.v10i1.204>

way of dressing so as not to trigger other people to take actions that harass the victim or report the perpetrator to the authorities; 2) In protecting protecting victims of revenge porn, the solution to solving problems for the perpetrator is to threaten the perpetrator with imprisonment, confinement, or fines.²⁹ By saving evidence, then blocking the perpetrator and reporting the perpetrator to the authorities; 3) Coercion of marriage, the solution in the coercion of marriage carried out by the perpetrator against the victim, the regulation in question is stipulated in Article 10 point (1), which states that if the perpetrator is against the Law by forcing marriage with him or with another person, then the perpetrator will be subject to imprisonment for 9 years and/or an additional fee of 200 (two hundred million rupiah); 4) Coercion of marriage, the solution in the coercion of marriage carried out by the perpetrator against the victim, the regulation in question is stipulated in Article 10 point (1) states that if the perpetrator is against the law by forcing marriage with him or with another person, then the perpetrator will be subject to imprisonment for 9 years and / or an additional fee of 200 (two hundred million rupiah); 5) The perpetrator is not only punished and fined, but apart from these penalties, he also receives a more severe consequence, including losing custody of his child because it is revoked; his identity is made publicly known to the public, replacing the losses suffered by the victim and returning all profits obtained; 6) A corporation that commits an act of TPKS may be subject to criminal penalties and fines. The perpetrator will be subject to an additional sanction such as forfeiture of profits obtained from the TPKS, announcement of the court decision, full or partial suspension of the corporation's activities, or dissolution of the corporation³⁰; 7) The explanation of the witness/victim and one piece of evidence can be fulfilled in determining the defendant, meaning that it can be used as a determinant for the perpetrator of TPKS to become a defendant; 8) Victims have the freedom to obtain restitution and healing services, but if the offender is not able to pay or compensate for a loss, then the offender can be imprisoned instead for a year; 9) Victims of TPKS have the right to assistance. In this case, the victim or anyone who witnesses a TPKS can report the perpetrator to the police; 10) There is no restorative justice. The settlement of the TPKS case cannot be done with restorative justice because it is to avoid efforts to resolve it using money.

All of the points above are ways to provide repressive legal protections for victims of the actions of the perpetrators who commit TPKS and provide an additional criminal sanction against the perpetrators so that there is a deterrent effect for perpetrators who have committed TPKS. The existence of the TPKS Law is used to overcome a criminal act of sexual harassment so that it can complement the rule of law that was still unable to provide complete legal protection or that is still imperfect in the application of law and its

²⁹Mufidatul Ma'sumah, Halimatus Khalidawati Salmah, and Bellinda Oktovani BP, "Perlindungan Hukum Terhadap Perempuan Korban Revenge Porn Melalui Konten Pornografi Yang Dibuat Berdasarkan Kesepakatan (Based On Consent)," *Jurnal Bedah Hukum* 8, Number 1 (2024): 235–42, DOI: <https://doi.org/10.36596/jbh.v8i1.1320>

³⁰murida Isnawati Moh. Muhlis, "Pertanggungjawaban Korporasi Dalam Tindak Pidana Kekerasan Seksual Menurut Uu Nomor 12 Tahun 2022," 2023, 1–14, <https://repository.um-surabaya.ac.id/8669/1/MOH.%20MUHLIS%20%2820191440045%29.pdf>

enforcement. Legal arrangements for victims of sexual abuse regulated in the Law of the Number 1 Year 2023 regarding the new KUHP, which is the problem related to the author's discussion, is described according to Article 423 of Law Number 1 of 2023 which states that the articles that regulate to ensnare the actions of perpetrators who commit sexual harassment or sexual violence are regulated in Articles 414 to Article 422. The article explains how criminal sanctions for perpetrators, whether starting from officials, employees, doctors, teachers, institutions, or other government institutions.³¹

Meanwhile, the regulation of sexual assault under Law Number 12, the Year 2022 TPKS regulates both physical and sexual abuse and electronic-based sexual harassment to protect victims and provide criminal penalties for perpetrators who commit these acts. In the TPKS Law, which regulates criminal acts of sexual assault or sexual harassment, the author uses Articles 6 to 29. The articles explain the legal protection, starting from the victim himself, as well as from the companions and witnesses. In addition, it also provides penalties for perpetrators if they intentionally commit criminal sexual abuse for officials, teachers, superiors with subordinates, and parents who commit sexual abuse against their children.

Regarding legal arrangements in proving the crime of sexual assault, it is stipulated under Articles 184 of the Criminal Procedure Code (KUHP) concerning legally valid evidence, among others: witness explanations, expert explanations, letters, indications, and testimony of the accused. As for sexual abuse or rape, it can be proven using a Visum from an expert statement which regulates Article 187 letter c of the KUHP, which explains the letter from an expert explanation which contains the views or explanations of a professional expert in a particular field.³²

The evidentiary arrangements according to legal provisions in criminal acts such as sexual assault in Act Number 12 the Year 2022 regarding TPKS are stipulated in Article 24 point (1), which explains that evidence following the law, among others are evidence as referred to in the KUHP; electronic information evidence; evidence used in committing sexual harassment such as objects or goods. Article 24, paragraph (2) also explains that evidence in conformity with the rules and provision is in the form of witness testimony and the results of the victim examination conducted during the investigation. The TPKS Law also includes evidence in the form of letters proving the criminal act of sexual assault as stipulated in Article 24 point (3), such as letters from psychologists, psychiatrists, or mental doctors; medical history records; examinations resulting from forensics; and examinations resulting from bank accounts.

Article 6 through Article 29 of Law Number 12 of 2022 related to TPKS above in providing sanctions to the perpetrators, namely:³³ sanctions for physical, sexual assault are regulated in Article 6 letter a regulates the perpetrator's act of touching the victim's body

³¹Presiden Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana," Direktorat Utama Pembinaan Dan Pengembangan Hukum Pemeriksaan Keuangan Negara Badan Pemeriksa Keuangan, Number 16100 (2023): 1–345.

³²Penjelasan Pasal 17 Undang-Undang Nomor 8 Tahun 1981 Tentang Hukum Acara Pidana.

³³Op.Cit, Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual.

without consent with the purpose of humiliating or insulting the victim. The criminal elements proven in this article are: The perpetrator's actions are carried out without the victim's consent; his actions have the purpose of humiliating and degrading the victim, so in this case, the perpetrator is punishable by a penalty sanction for 4 years and/or a fine of fifty million rupiahs.

A person who forces an arranged marriage. Article 10 points (1) states that it regulates the criminal offense of coercion in marriage. The criminal elements proven in this article are coercion, placement under power, abuse of power, and marriage resulting from coercion that the victim does not desire. In this case, the perpetrator can be imprisoned for 9 years and/or a fine of Rp200,000,000.00 (two hundred million rupiah). Thus, officials committing sexual torture are ensnared. Article 11 explains that acts of sexual violence by an official or a person acting in the course of being authorized by an official can take the form of intimidation to obtain information, persecution, or degrading a person on discriminatory or sexual grounds in all their forms. This sexual violence is committed to obtaining information or confessions, punishing suspected acts, or dehumanizing a person. Actors of sexual assault against such persons are liable to a 12-year sentence of imprisonment and/or a fine of three hundred million rupiahs.

As for sexual exploitation, it is described in Article 12 states that Acts of sexual exploitation, whether by force, threat, or abuse of position, are crimes subject to imprisonment and fines. Persons who engage in sexual exploitation to obtain financial gain or use a person's body organs sexually without consent shall be punished following applicable laws. Forms of sexual exploitation include tricking a vulnerable, helpless, or indebted person for personal gain or making sexual use of the body without consent. Perpetrators who commit such acts will be subject to 15 years imprisonment and/or a fine of one billion rupiah. While sexual slavery is regulated, Article 13 states that every person or official taking action in his/her position as an official or a person who acts due to the movement or knowledge of the official with the unlawful purpose of putting another person under their power to make the person helpless and have the purpose of sexual exploitation. Then, the perpetrator who commits the act will be subject to 15 15-year prison sentence and/or a fine of one billion rupiah.

Handling of sexual violence up to court is regulated. Article 20 states that Investigations, prosecutions, and trials in court are conducted based on criminal procedure law. The applicable laws influence the legal procedures for the TPKS case. The handling of the TPKS case has its own legal rules that must be followed during the legal process. Suppose the types of evidence described in Article 24 paragraph (1) explain that the legal evidence used in the criminal offense of sexual harassment is evidence described in the KUHAP, evidence in the form of electronic or electronic documents stipulated in the Law, evidence of goods or objects related to the criminal offense. Disability assistance is regulated by Article 27, paragraph (1). Witnesses and/or Victims with Disabilities may be accompanied by their parents and guardians upon a decision made by the court and/or the accompanying

person. While assistance for victims is regulated, Article 29 states that people who assist cannot be prosecuted for treating a victim. Prosecution of assistants is only possible if the assistance is not carried out in good faith.

Meanwhile, Article 414 to Article 422 of Law Number 1 Year 2023 on the new KUHP to provide sanctions to the perpetrators, among others:³⁴ sanctions for obscene acts are regulated Article 414 paragraph (1) in letter a explains that if a person intentionally commits an obscene act in a public place, the perpetrator is given a prison sentence of 1 year and 6 months; Article 414 paragraph (1) letter b if a person forcibly commits violence or threatens violence, the perpetrator is sentenced to 9 years imprisonment; Article 414 paragraph (1) letter c explains that if someone publishes pornographic content, the perpetrator is given a 9-year prison sentence; Thus, sexual harassment with threats is regulated Article 414 paragraph (2) explains that if the perpetrator commits an act of violence or with the threat of violence coerces another person into committing an act of sexual abuse against him, the perpetrator is given a sanction of 9 years imprisonment.

Article 415, if a person commits the crime of obscenity against another person knowing that the person is helpless or unconscious, and if a person also commits obscene acts intentionally committed against a child, the perpetrator is liable to imprisonment for 9 years. Article 416 point (1) states that if a person intentionally commits an act as described in Article 414 and Article 415 against a victim, which results in the death of the victim, then the perpetrator is liable to 12 years imprisonment. Whereas sexual abuse by abuse of authority is regulated, Article 417 explains that if a person intentionally makes a promise, gives a gift, and abuses the authority arising from a relationship or by misleading another person who is known to be suspected of being a minor into committing obscene acts or allowing act of obscenity against him/her. The perpetrator will be subject to 9 years imprisonment.

Sexual harassment committed by parents against children is regulated. Article 418 paragraph (1) explains that if there is a person with the intention and purpose of committing the criminal act of sexual harassment against biological children, stepchildren, adopted children, or children under his/her guardianship who are entrusted to him/her for education and care, then the perpetrator can be subject to imprisonment for 12 years; Thus, obscene acts by state officials or institutions are regulated Article 418 paragraph (2) letter a also explains that if an official commits sexual abuse against his/her subordinates, then the perpetrator can be subject to imprisonment for 12 years. As Article 418 paragraph (2) letter b, explains that if a teacher, doctor, employee, administrator, or officer is assigned to a state institution, educational home, orphanage, mental hospital, or social institution, then the perpetrator commits obscene acts against other people who are included in the institution, home, or institution will be subject to a 12-year prison sentence.

A person who facilitates sexual intercourse is ensnared. Article 419, paragraph (1) explains that if a person intentionally facilitates or connects other people to commit obscene acts or have cohabitation with someone known to be suspected of being a child, then the

³⁴ Op.Cit, Presiden Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 1 Tahun 2023."

perpetrator is subject to a 7-year prison sentence. Meanwhile, 419 paragraph (2) also explains that if the perpetrator who commits a criminal act described in paragraph (1) is allegedly a biological child, stepchild, adopted child, or a child under his/her guardianship who has been entrusted to his/her care, then the perpetrator may be subject to 9 years imprisonment.

Concerning the obscene act described in Article 420, a person who has the intent and purpose of connecting or facilitating another person to commit an obscene act will be sentenced to 2 years imprisonment. Article 421 explains that if a person commits an act as intended in Article 419 and Article 420 and then commits it habitually or seeks a profit as a daily livelihood, then the criminal sanction is increased by 1/3 (one-third). Article 422, paragraph (1) explains that if someone intentionally moves, brings, places, or hands over the child to another person to commit sexual abuse, prostitution, or other violations of decency, the perpetrator will be subject to 9 years imprisonment. Meanwhile, Article 422 paragraph (2) also explains that if a person intentionally commits a criminal offense, as described in point (1), by promising the child to get a job or making other promises, the perpetrator can be subject to a 10-year prison sentence.

CONCLUSION

It can be concluded that the problems that are often encountered and many victims of the criminal act of sexual assault against women often occur in Indonesia; therefore, providing an important service starts from protecting victims both before the event occurs and after the event occurs, which can be seen in Article 3 of the TPKS Law. As for legal protection, by preventing an act, the government agencies provide education or regular socialization to all citizens, especially women who are vulnerable to becoming victims, with how to prevent criminal acts of sexual harassment so that citizens know how acts can be categorized as acts of sexual harassment. Providing penalties for perpetrators who commit criminal acts of sexual harassment can be seen in Act Number. 1 Year 2023, which generally replaces the old KUHP and can also use the existence of Law Number 12 of 2022 related to TPKS to provide criminal sanctions against irresponsible perpetrators by committing criminal acts of sexual harassment to provide repressive legal protection to the victim and the perpetrator are punished following applicable regulations to have a deterrent effect on their actions that make many people suffer losses. Therefore, the government must provide the best service and legal protection for victims, starting from educating the public regarding what should be avoided from actions that cause sexual harassment committed by others and making more leverage in legal protection and compliance with applicable legal arrangements. Thus, cases of sexual harassment will be minimized as victims, and the perpetrators will also be minimized due to the deterrent effect of the punishment that has been given regardless of the status or position of the perpetrator.

ACKNOWLEDGEMENT

The author also expresses his deepest gratitude to his parents and his sister, who have given full support from beginning to finish in writing this study. The author would also like to

thank the supervisor who patiently guided the author through the journal writing process and all Faculty of Law, Universitas Muhammadiyah Gresik lecturers. The author would also like to thank all the managers of the JUSTISI Journal, Faculty of Law, Universitas Muhammadiyah Sorong (UNAMIN) for their attention and patience in guiding the writing of this article so that it can be considered worthy of publication.

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