

Handling Violence in Legislation in Indonesia

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Abstract

Violent crimes are a form of legal violation that have multidimensional impacts on victims, perpetrators, and society. Violence not only causes physical and psychological suffering but also creates social instability, collective fear, and economic and psychological burdens. The characteristics of violent crimes in Indonesia reflect socio-cultural and legal complexities that require a holistic response strategy. With a high prevalence of gender-based violence and high levels of underreporting, victim protection, legal outreach, and law enforcement reform are crucial to reducing the number of violent crimes. This research uses legislative, conceptual, and comparative approaches. The research is related to the prevention and handling of violence, so it is hoped that this research can provide considerations for policymaking related to the prevention and handling of violence in the future. In other words, this research can also serve as ius constituendum. Before the specific regulations on sexual violence, the Criminal Code, the ITE Law, and the Pornography Law were in effect. Then, Regulation of the Minister of Education, Culture, Research, and Technology No. 55 of 2024 concerning the prevention and handling of sexual violence that favors victims came into effect. The ministerial regulation requires every educational institution to establish a PPKS Task Force, provide holistic services for victims, and impose administrative sanctions on perpetrators. The existence of these various special regulations creates challenges, the solution of which lies in harmonizing norms and implementing the lex specialis principle, where the TPKS Law is positioned as the primary and comprehensive special law.



Keywords: violence, sexual violence, violence regulations, protection from violence

INTRODUCTION

Violent crimes are a form of legal violation that have multidimensional impacts on victims, perpetrators, and society. Violence not only causes physical and psychological suffering but also creates social instability, collective fear, and economic and psychological burdens for the state and individuals. In the context of Indonesian criminal law, violence is regulated by various provisions of the Criminal Code (KUHP) and specific legislation, including the most recent Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS).

The phenomenon of violence has been on the rise year after year. Data from the National Commission on Violence Against Women shows that reports of violence against women, including sexual violence, have increased sharply each year. In 2022, more than 457,895 cases of violence against women were recorded, an increase from previous years. However, this figure is believed to be just the tip of the iceberg, as many cases go unreported due to fear, social stigma, and a lack of effective legal protection. Violence in educational settings is a significant concern, both within educational institutions and at universities. Indonesia regulates various legal instruments to prevent and address violence, including specifically within educational institutions and universities. Minister of Education and Culture Regulation No. 30 of 2021 concerning the Prevention and Addressing of Violence Sexual Violence in the Higher Education Environment arises because of the increasing number of sexual violence occurring in the community, including universities, which will directly or indirectly impact the less than optimal implementation of the Tridharma of Higher Education and reduce the quality of higher education.

This Ministerial Regulation of Education and Culture is an effort to prevent and handle cases of sexual violence in the campus environment. The legal basis for Ministerial Regulation Number 30 of 2021 concerning the Prevention and Handling of Sexual Violence in the Higher Education Environment is in accordance with the Hierarchy of Legislation, namely the 1945 Constitution of the Republic of Indonesia, Law Number 7 of 1984 concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women , Law Number 20 of 2003 concerning the National Education System, Law Number 39 of 2008 concerning the Ministry of State, Law Number 12 of 2012 concerning Higher Education, Law Number 8 of 2016 concerning Persons with Disabilities, Government Regulation Number 53 of 2010 concerning Civil Servant Discipline, and without disregarding the Criminal Law and the Law on Sexual Violence Crimes that apply. nationally.



Seeing the development of violence in Higher Education, the Minister of Education, Culture, Research and Technology updated the legal basis for preventing and handling violence in the Higher Education Environment through Regulation of the Minister of Education, Culture, Research and Technology of the Republic of Indonesia Number 55 of 2024 concerning the Prevention and Handling of Violence in Higher Education. This broadens the scope of violence in higher education. While Ministerial Regulation 30 of 2021 only regulates the prevention and handling of sexual violence, Ministerial Regulation 55 of 2024 addresses six categories of violence: physical violence, psychological violence, bullying, sexual violence, discrimination and intolerance, and policies containing violence. Violence can be perpetrated directly or indirectly through electronic and/or non-electronic media. Violence occurs due to unequal power relations.

Inequality of power relations is a condition where a person abuses resources in the form of education, knowledge, economics, social status, authority, and/or physical condition to control others. Physical violence is any act involving physical contact carried out with or without the use of assistive devices. Psychological violence as referred to in is any non-physical act carried out with the aim of demeaning, insulting, frightening, and/or making someone feel uncomfortable. Bullying is a pattern of behavior in the form of physical violence and/or psychological violence as referred to in which is carried out repeatedly and there is an imbalance in power relations. Sexual violence is any act that demeans, insults, harasses, and/or attacks a person's body and/or reproductive function, due to unequal power relations and/or gender, which results or may result in psychological and/or physical suffering, including those that disrupt a person's reproductive function and the loss of the opportunity to carry out education and/or work safely and optimally. Discrimination and intolerance are any act of violence in the form of differentiation, exclusion, limitation, or selection based on tribe/ethnicity, religion, belief, race, skin color, age, socioeconomic status, nationality, affiliation, ideology, gender, and/or intellectual, mental, sensory, and physical abilities. Policies that contain violence are policies that have the potential or give rise to violence. Policies that contain violence include written and unwritten policies. Written policies include decrees, circulars, official memos, guidelines, and/or other forms of written policies. The unwritten policies referred to include appeals, instructions and/or other forms of action.

Various cases of violence involving academics, academics and campus residents in general have made researchers interested in conducting research entitled Prevention and Handling of Violence in Higher Education from the Perspective of Legislation in Indonesia accompanied by Administrative Regulations applied in Higher Education



RESEARCH METHODS

This research uses a legislative, conceptual, and comparative approach. The research concerns the prevention and management of violence in higher education. It is hoped that this research will inform future policymaking and prevention efforts, or in other words, serve as a *ius constituendum*.

RESULT AND DISCUSSION

The characteristics of violent crimes in Indonesia reflect socio-cultural and legal complexities that require a holistic handling strategy. With a high prevalence of gender-based violence and high underreporting, victim protection, legal socialization, and law enforcement reform are crucial to reduce the number of violent crimes. Violent crimes in Indonesia include various forms, both physical and non-physical, including: Physical violence: such as abuse, beatings, torture, murder, and domestic abuse.

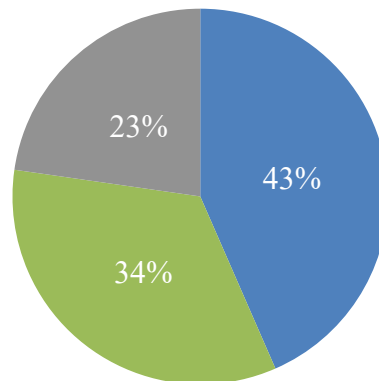
According to Moeljatno (2002), a crime or offense is an act prohibited by criminal law and punishable by law. Violence, as a form of offense, is an *actus reus* that can be committed physically or non-physically against another person. Van Hamel stated that subjective and objective elements of an offense must be proven for someone to be convicted, including malicious intent (*mens rea*) and actual action (*actus reus*). In the context of violence, it is important to understand that not all physical aggression automatically constitutes a crime. It depends on the intent, consequences, and tools used. One of the most prominent and increasing types of violence is sexual violence. Sexual violence includes rape, sexual harassment, sexual exploitation, and digital-based sexual violence. Psychological or emotional violence: such as intimidation, threats, and verbal abuse that cause mental trauma. Economic violence: the perpetrator's control or restriction of the victim's access to economic resources, which usually occurs in the context of domestic violence. Information technology-based violence: such as the distribution of pornographic content without consent, harassment via social media, and cyberbullying.

Based on data from the Ministry of Education, Culture, Research, and Technology from 2021 to 2025, there were 310 reports of violence in higher education institutions, 49.7% of which were cases of sexual violence, followed by 38.7% of bullying and other cases related to intolerance. In fact, according to online media, there were 1,298 cases of sexual violence in higher education institutions in 2019. This can be seen in the following diagram:



The issuance of Regulation of the Minister of Education, Culture, Research, and Technology (Permendikbudristek) Number 30 of 2021 concerning the Prevention and Handling of Sexual

■ Sexual Violence ■ Violence ■ intolerance



Violence (PPKS) in Higher Education is a historic milestone. This regulation was issued in response to the emergency situation of sexual violence on campus, which has been an open secret for years. Various surveys and reports indicate that higher education institutions rank among the top locations for sexual violence, with unequal power relations between lecturers and students, seniors and juniors, as the primary risk factors. Prior to this regulation, the handling of sexual violence cases on campus was often ad hoc, nontransparent, and often covered up to protect the institution's "good name." Victims often didn't know where to report it, and even if they did, their reports were often not seriously pursued. Perpetrators, especially those who were officials or senior lecturers, often faced impunity. Regulation of the Minister of Education, Culture, Research, and Technology No. 30 of 2021 aims to break this deadlock by providing a legal framework that compels every higher education institution in Indonesia to have a standardized, victim-centered prevention and handling system.

The primary objective of Minister of Education, Culture, Research, and Technology Regulation No. 30 of 2021 is clear: to foster a campus life that is humane, dignified, equal, inclusive, collaborative, and free from violence. More specifically, its purpose is to serve as a basis for university leaders in formulating policies and taking action to prevent and address sexual violence. This regulation aims to ensure the fulfillment of the right to education for every campus community, which can only be realized if they feel safe from all forms of violence, including sexual violence. This regulation is built on a series of principles that favor victims. These principles



include: the best interests of victims, justice and gender equality, equal rights and accessibility for persons with disabilities, accountability, independence, prudence, consistency, and guarantees of non-recurrence.

The principle of “best interests of the victim” is the guiding star in every action, which means that the safety, protection and recovery of the victim must be the top priority.

The principle of independence is also crucial, ensuring that the team handling the case (the PPKS Task Force) can work without intervention from any party that has the potential to have a conflict of interest. These principles radically changed the way cases are handled on campus. While previously focused on protecting the institution, the focus now shifts to protecting the individual. The principle of accountability demands that every handling process be conducted transparently and responsibly. Meanwhile, the principle of ensuring non-recurrence extends beyond punishing the perpetrator and demands systemic improvements on campus to prevent similar cases from occurring in the future. Although initially controversial, particularly regarding the phrase “without the victim's consent,” which was misunderstood by some, this regulation fundamentally shifted the paradigm in the academic environment. It emphasized that sexual violence is not a personal moral issue, but rather a serious violation of the campus community's right to a safe and violence-free education. This regulation focuses on administrative and preventive measures at the institutional level, complementing the criminal legal process that operates off-campus. The goal is to create a deterrent effect through academic and administrative sanctions, as well as to build a safer and more respectful campus culture. Expanding on the previous regulation, a new regulation was then created.

As a regulation, Ministerial Regulation No. 30 of 2021 is not perfect and is continuously being evaluated. Based on several years of implementation experience and to align it with the subsequent TPKS Law, the Ministry issued a new regulation, Ministerial Regulation No. 55 of 2024 concerning the Prevention and Handling of Violence in Educational Institutions. This new regulation has a broader scope, addressing not only sexual violence but also bullying, discrimination, and intolerance. However, in the context of our discussion, this regulation brings several important reinforcements to the mechanisms for handling sexual violence that were established by its predecessor. One of the main objectives of Ministerial Regulation No. 55 of 2024 is to simplify and strengthen institutional governance. Previously, there was only a PPKS Task Force at the university level. Now, a more integrated structure has been established: Violence Prevention and Handling Teams (TPPK) at every level of education, from early childhood education



to secondary education, and a Task Force at the university level. This demonstrates a commitment to building a safe and holistic education ecosystem from the earliest stages.

This new regulation also explicitly aligns the definitions and forms of violence with those in the TPKS Law and other laws. This harmonization is crucial to avoid confusion and overlapping interpretations between ministerial-level regulations and national laws. This will allow case handling at the educational unit level to be more closely aligned with the criminal legal process, which may be running parallel. This regulation reiterates that internal handling does not eliminate the victim's right to report to law enforcement.

Ministerial Regulation No. 55 of 2024 introduces several significant enhancements to the case handling mechanism. One of these is the reaffirmation of the reporting process, which must be easily accessible, confidential, and secure for the reporter. This regulation emphasizes the importance of providing various reporting channels, both offline and online, to facilitate victims or witnesses in filing reports. The handling procedures are also more detailed, from report receipt and investigation to the issuance of recommended sanctions, with clearer timelines for each stage. This aims to ensure the process runs efficiently and accountably.

Strengthening also occurs in the protection of victims and witnesses. Ministerial Regulation No. 55 of 2024 explicitly requires educational institutions to provide protection from all forms of threats, intimidation, and retaliation to reporters, victims, and witnesses. This protection includes guarantees of identity confidentiality and security during the examination process. This obligation is crucial for building trust and encouraging more people to speak up without fear of negative consequences (Ministry of Education, Culture, Research, and Technology, 2024). Furthermore, the administrative sanction mechanism has been clarified and strengthened. Sanctions for perpetrators (whether students, educators, or education personnel) are formulated in stages, ranging from mild, moderate, to severe, depending on the severity of the act and its impact on the victim. Severe sanctions can include dismissal or suspension for students, dismissal from duties, postponement of promotions, and dishonorable discharge for educators or education personnel. The strictness of these sanctions is crucial to creating a real deterrent effect in the educational environment. Harmonization of legal norms is the process of adjusting and aligning various laws and regulations so that they do not conflict and can work synergistically to achieve the same goal. In the issue of sexual violence, harmonization is crucial due to the numerous regulations involved. Ideally, the government and legislature should conduct a comprehensive mapping of all laws related to sexual violence and revise them if any inconsistencies or overlapping laws are found that could be detrimental (Saleh, 2021). For example, revising problematic articles



in the ITE Law and the Pornography Law to better align them with the principles of victim protection advocated by the TPKS Law.

The harmonization process also occurs at the judicial level through judicial interpretation. Judges, when faced with cases that could be prosecuted under multiple laws, play a crucial role in selecting and applying the most appropriate and just article for the victim. The Supreme Court's jurisprudence is expected to provide clear guidance to lower-ranking judges on how to navigate these regulatory complexities. For example, the Supreme Court could issue a circular emphasizing that in cases of sexual violence, the TPKS Law should be the primary reference (*lex specialis*).

Furthermore, harmonization also requires close coordination between law enforcement agencies and other relevant institutions. Police, prosecutors, judges, campus-based victim protection task forces, and victim service agencies must have a shared understanding of how these regulations operate. A shared protocol or standard operating procedure (SOP) is needed to govern how these cross-agency cases are handled, such as how the victim's case coordination with the police should be pursued through criminal channels. Without harmonization at the implementation level, synergy between regulations will be difficult to achieve.

The rapid development of information technology has given rise to a new interactive space: cyberspace. However, this same space has also opened up new terrain for the emergence of previously unimaginable forms of sexual violence. Electronic-Based Sexual Violence (KSBE), or online gender-based violence, has become a disturbing global phenomenon, and Indonesia is no exception. Prior to the enactment of the TPKS Law, Law Number 11 of 2008, as amended by Law Number 19 of 2016 concerning Electronic Information and Transactions (UU ITE), was the sole legal instrument frequently used to address these cases. Overlapping regulations occur when two or more regulations address the same object, which can lead to confusion, duplication, or even contradiction. In the context of sexual violence, the overlap between the ITE Law, the Pornography Law, and the TPKS Law is a clear example. All three can be used to ensnare perpetrators of non-consensual intimate content distribution. This overlap can have a positive impact if law enforcement officers use it to impose multiple charges that incriminate perpetrators.

Although various specific regulations have been discussed in this chapter, the enactment of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (TPKS Law) remains fundamentally urgent. First, the TPKS Law is the only law in Indonesia that comprehensively and integrately regulates criminal acts of sexual violence from upstream to downstream. It not only defines the types of crimes (substance) but also regulates the procedural law (procedure) and detailed victims' rights (recovery). Second, the TPKS Law is built on a completely new, victim-



centered paradigm. Unlike the Pornography Law, which is based on morality, or the Electronic Information and Transactions Law, which is based on the order of electronic transactions, the TPKS Law was designed from the outset with the philosophy of protecting victims' human rights to security, bodily integrity, and recovery. This paradigm is reflected in every article, from the consent-centered definition, victimfriendly evidentiary rules, to the regulation of victim assistance funds. This philosophical clarity avoids the ambiguity and potential criminalization of victims inherent in other laws. Third, the TPKS Law serves as the "glue" that binds and orchestrates various efforts to address sexual violence. It mandates the establishment of Regional Technical Implementation Units for the Protection of Women and Children (UPTD PPA) as integrated service centers and requires coordination between institutions. Thus, the TPKS Law serves not only as a criminal law instrument but also as a public policy instrument that encourages the creation of an integrated service ecosystem for victims. This urgency makes it the crown jewel of sexual violence law reform in Indonesia, complementing and refining the various specific regulations that already exist.

CONCLUSION

The characteristics of violent crimes in Indonesia reflect socio-cultural and legal complexities that require a holistic handling strategy. With a high prevalence of gender-based violence and high underreporting, victim protection, legal outreach, and law enforcement reform are crucial to reducing the number of violent crimes. Prior to the introduction of specific regulations related to sexual violence, the Criminal Code and the Electronic Information and Transactions (ITE) Law were often used to address digital-based sexual violence. However, their multiple interpretations (particularly Article 27 paragraph 1) were often problematic and even can criminalize victims. The Pornography Law, which is based on a morality paradigm, has a very broad definition of pornography and risks equating sexual exploitation with personal expression, potentially ensnaring victims and focusing more on controlling women's bodies than addressing gender-based violence and exploitation. More specifically, the Minister of Education, Culture, Research, and Technology Regulation No. 30 of 2021 and its update through Ministerial Regulation No. 55 of 2024 represent a breakthrough in creating a standardized, victim-centered mechanism for preventing and handling sexual violence in educational settings. This ministerial regulation requires every educational unit to establish a PPKS Team/Task Force, provide holistic recovery services for victims, and impose strict administrative sanctions on perpetrators. The existence of these various special regulations creates the challenge of overlapping regulations, the solution of



which lies in harmonizing norms and implementing the *lex specialis* principle, where the TPKS Law is positioned as the primary and comprehensive special law.

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