

LAW NUMBER 12 OF 2022 REGARDING SEXUAL VIOLENCE CRIMES AS IMPLEMENTATION OF THE 5TH POINT OF THE SUSTAINABLE DEVELOPMENT GOALS IN INDONESIA

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Abstract: This study aims to understand the changes that have occurred since the enactment of the Sexual Violence Crimes Law in providing legal protection for women, who are the majority of victims of sexual violence in Indonesia, and to assess the implementation of the SVCL in Indonesia in line with SDG Goal 5 on Gender Equality. The method used in this research is normative legal research. Normative legal research is research conducted by reviewing the applicable laws and regulations on a particular legal issue. The proposed legislation aims to serve as a comprehensive legal framework that addresses various issues related to sexual violence. It is expected to provide a legal umbrella to effectively deal with the complexities and challenges associated with sexual violence. The drafting of this legislation was prompted by the alarmingly high number of sexual violence cases in Indonesia between 2001 and 2011, totaling 1,398 reported cases. During that period, 25 percent of the total reported cases amounted to sexual violence against women. Based on this calculation, at least 35 women became victims of sexual violence. As a result of the alarming number of cases, the National Commission on Violence Against Women (Komnas Perempuan) issued a statement declaring that Indonesia is currently in a state of emergency regarding sexual violence. Overall, the intention behind this legislation is to address the pressing issue of sexual violence in Indonesia comprehensively. It seeks to provide a strong legal framework to protect victims, hold perpetrators accountable, and contribute to a safer and more equitable society. It is linked to SDG Goal 5 on Gender Equality.

Keywords: sexual violence, SDGs, gender equality.

BACKGROUND

Crimes that occur in this era of globalization are often related to sexuality, which is usually called a crime of decency or sexual harassment. Crimes of decency or sexual harassment have occurred and are not only a national legal problem in a country but have been included in legal problems for all countries in the world and have become a global problem (Sumera, 2013). Violence against women is a crime with a wide range of behaviors and can occur in public and private spaces.

There are several causes that could be behind the occurrence of sexual harassment, namely opportunity or circumstances, desire or lust, ignorance, curiosity about women, and women's appearance. Apart from that, there are also things that cause sexual harassment based on spiritual emptiness, which leads to a moral crisis. In the Anti-Violence Campaign against Women in 2018, Komnas Perempuan found many complaints and cases of sexual violence that were not handled or protected because there was no law that could understand and know the exact substance of cases of sexual violence against women (Suharto, 2015).

In the Criminal Code (KUHP), which become a reference for law enforcement to arrest perpetrators of sexual crimes, which has substantial deficiencies in terms of protecting victims of criminal sexual violence. On the legal side, victims do not receive special protection (Wahid et al., 2001). Rules regarding the protection of witnesses and victims are contained in Article 5 and Article 6 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, but in these articles, the form of protection provided is only complex protection for when the woman, as the victim, becomes a witness so that she is not intimidated and also protects the victim's psychological well-being as a result of an act that has occurred. by the victim. The most cases of sexual violence crimes This creates difficulties in carrying out resolutions both at the investigator, prosecution, and decision stages, as well as difficulties in terms of proof, for example, in cases of rape or obscene acts that generally occur without the presence of other people. In Indonesia, regulations relating to criminal acts Sexual violence is regulated in Chapter XIV concerning crimes against morality in the Criminal Code in Articles 281-283, 285-285, and 289-296. Article 289 of the Criminal Code states that "anyone who, by force or threat of violence, forces someone to commit or allows an obscene act to be committed shall be punished for committing an act which attacks the honor of morality with a maximum sentence of nine years."

Threat of punishment given to perpetrators of violence Sexual violence is actually enough to teach a lesson, but what the victim needs is not only punishment for the perpetrator, but also the psychology of the victim, which is also a special concern because the impact of sexual violence provides deep trauma for the victim. Currently, the President of the Republic of Indonesia has ratified the TPKS (Criminal Crimes of Sexual Violence) Bill No. 12 of 2022, which became official law on April 12, 2022. This is good news for Indonesian women because, after waiting for approximately 10 years, the TPKS (Criminal Crimes of Sexual Violence) Bill was finally passed into law as a form of protection for women from acts of sexual violence that are often experienced.

There are many cases of sexual violence against women. Very much discussed is the case of sexual violence that occurred in North Jakarta, where two female employees with the

initials DF and EF became victims of sexual harassment by the boss of their own company. The two victims were still 20 years old; both of them were also his personal secretaries, each of whom had only worked for approximately 3–4 months. This case has been going on since October 2020, but the victim only reported the incident in February 2021 after the victim left the company. The victim did not dare to fight back because the perpetrator often carried a sharp weapon in his trouser pocket to scare the victim, so in the end, the two victims resigned from the company because they could not stand the treatment of the boss of the company where they worked (Rahmahdani, 2022).

Currently, sexual violence is increasing in number and variety. People sometimes fail to prevent themselves from committing deviant and evil acts because of their interests and self-esteem. Women's sexuality is very vulnerable to discriminatory treatment and violence, which can hardly be denied. So it is necessary to harmonize criminal regulations related to sexual violence, considering that there is a special law that regulates sexual violence, namely Law Number 12 of 2022 concerning the Crime of Sexual Violence. Harmonization of legal regulations is very important to ensure that the law is provided against a criminal act that is right on target (Siregar *et al.*, 2021).

In recent times, the alarm bells signalling the danger of sexual violence crimes in the country seem to be losing their off switch. Over time, the alarm has become even more concerning and disturbing. In response to the increasing cases of sexual violence, the Government of Indonesia, together with the People's Consultative Assembly (DPR RI), has issued several regulations to strengthen law enforcement agencies in handling these cases (Maulida, 2021).

Sexual violence is a term that refers to behavior. Deviative sexual relations, or deviant sexual relations, are detrimental to the victim and destroy peace in society (Khuzaimah, 2014). The term "violence refers to a condition or characteristic that destroys human life. Humans, as rational and noble creatures, have become mired in animalistic characteristics. Destroying, suppressing, blackmailing, raping, terrorizing, stealing, killing, and exterminating are actions that tarnish and destroy the glory of humans as God's creatures (Saputro *et al.*, 2018). Sexual violence or sexual abuse refers to all sexual activity, which can take the form of assault or not. The category of assault causes suffering in the form of physical injury; the category of sexual violence without assault suffers from emotional trauma. Sexual violence includes forced sexual intercourse against a woman. Forms of sexual violence such as being seduced, poked, hugged forcefully, squeezed, forced to masturbate, oral sex, anal sex, and rape in the Criminal Code regarding sexual violence can be seen in articles 281–287, article 289, article 290, article 294, and section 295 (Gultom, 2008).

Sexual violence can also be said to be an assault sexual in nature towards women, whether sexual intercourse has occurred or not, and without regard to the relationship between the perpetrator and the victim. The distinction between physical and sexual is considered necessary because it turns out that acts of violence against women with sexual nuances are not only through physical behavior (Ismiati, 2020). This violence involves actions based on differences in gender that result in or may result in physical, sexual, and psychological misery or suffering for women, including threats of certain actions, whether occurring in public or in private life. Violence against women, as an act of blasphemy and

emasculation of human dignity, can occur at all levels of life, whether at the educational, economic, cultural, religious, or ethnic levels. This is because, basically, violence occurs due to an understanding of the world that is still dominated by men.

It began with the acknowledgment of the lack of arrangements in the Lawbreaker Code (KUHP) to arraign the culprits of sexual brutality. Subsequently, Regulation Number 23 of 2002 on Kid Security was sanctioned, which was subsequently altered by Regulation Number 17 of 2016. Moreover, there is the Law Number 23 of 2004 on the Disposal of Aggressive Behavior at Home (PKDRT), the Law Number 21 of 2007 on the Annihilation of Illegal Exploitation Violations (TPPO), the Ecclesiastical Guideline Number 30 of 2021 on the Counteraction and Treatment of Sexual Viciousness in Advanced Education Organizations, and most recently, the Law Number 12 of 2022 on Sexual Brutality Wrongdoings (SVCL). With the order of the SVCL, Indonesia is exhibiting its obligation to carry out Objective 5 of the Manageable Advancement Objectives (SDGs), as advanced by the United Nations (UN). As an individual from this critical global association, Indonesia is viewing the issue of sexual savagery in a serious way (Yasar, 2022).

This situation provides hope for addressing the problem of sexual violence across various sectors while also presenting a legal challenge for the Indonesian government in effectively implementing the existing legislation, particularly Law Number 12 of 2022 on Sexual Violence Crimes (SVCL). It is crucial to ensure that the laws are applied in a comprehensive and effective manner in order to combat the issue of sexual violence and fulfill Indonesia's commitment to the SDGs.

Based on the background information provided above, the research problem addressed in this study is as follows:

1. Has there been any change after the enactment of the SVCL in providing legal protection for women, who are the majority of victims of sexual violence in Indonesia?
2. Is the implementation of the SVCL in Indonesia aligned with SDG Goal 5, which focuses on Gender Equality?

These research questions aim to examine the impact of the SVCL on legal protection for women as victims of sexual violence and assess whether the implementation of the law aligns with the broader goals of gender equality outlined in SDG Goal 5.

RESEARCH METHODOLOGY

The method used in this research is normative legal research. Normative legal research is conducted by reviewing the applicable legislation regarding a specific legal issue. According to Peter Mahmud Marzuki, the object of legal research is an intrinsic legal condition, such as law as a system of legal values and social norms. The desired outcome of normative legal research is to provide an understanding of what should be (Marzuki, 2005).

Normative legal research focuses on examining legal regulations and other library materials as its objects. Therefore, normative research is often referred to as doctrinal research (Ashshofa, 2003).

This legislative approach itself is an approach that can be taken in studying legal liability for leaks of customers' personal identities from online buying and selling sites. Apart from the legislative approach, conceptual research can also be applied, which can help understand the concepts that can be known from the security of consumer personal data using online buying and selling sites (Ali, 2021). The approach method used in this legal research is normative juridical legal research or literature study, where the juridical approach is an approach that refers to applicable laws and regulations. In this normative legal research, the author conducted research on library sources and library studies in collecting research materials by collecting books, journals, scientific works, and related laws and regulations. The type of approach used is the statutory approach, namely conducting a review of legal regulations related to the issue of personal data protection and techniques for collecting primary legal materials based on the statutory hierarchy (Bachtiar, 2019).

RESULTS AND DISCUSSIONS

Sexual violence can happen to anyone at any time. Harassment often occurs in everyday life, both internal and external family, school, community, work, and peer environments. Sexual violence in general often happens to people who are helpless. The rise of violence against women is something that is very frightening for all women. Sexual violence that often occurs against women is mostly caused by a value system that places women as weak creatures and lower when compared to men. There are still many people who view women as people who can be controlled, exploited, and enslaved by men. Sexual violence is a real reality and has often occurred in society from the past until now (Cecep & Humaedi, 2018).

The Criminal Sexual Violence Act regulates the offense. The crime of sexual violence is not fully regulated in the Criminal Code (KUHP), so Law Number 12 of 2022 concerning the Crime of Sexual Violence is a special provision (*lex specialist*) of the Criminal Code. Law Number 12 of 2022 concerning Crimes of Sexual Violence also formulates types of punishment as basic crimes and additional crimes, which are different from the Criminal Code. Law Number 12 of 2022 concerning Crimes of Sexual Violence also formulates a number of additional criminal threats imposed in accordance with the act committed, such as additional criminal threats of confiscation of profits obtained from the crime, special guidance, revocation of parental rights, revocation of certain permits, revocation of political rights, revocation of position or profession, and announcement of judges (Utomo, 2020).

Another thing in the Criminal Code is the establishment of the crime of rape in the chapter on criminal acts against decency. Morality is interpreted as social manners with sexual desires. Therefore, decency places more emphasis on protecting 'sense of social morality'. In fact, the crime of rape is basically a crime against a person or a crime against the bodily integrity and sexuality of the victim, most of whom are women and children. Placement of articles on rape and obscene acts as types of sexual violence in Chapter Morality Crimes tend to obscure the essence of sexual violence, which is a crime against a person that violates the victim's bodily integrity, reducing it to the issue of violating society's sense of morality (Kristiani, 2014).

Komnas Perempuan's statement highlights the gravity of the situation and the urgent need for action to address the pervasive issue of sexual violence in Indonesia. By declaring a state of emergency, it aims to draw attention to the severity of the problem and mobilize efforts to effectively combat sexual violence. The declaration of a state of emergency by Komnas Perempuan underscores the necessity of comprehensive measures to protect women, ensure justice for victims, and prevent future occurrences of sexual violence. It serves as a call to action for various stakeholders, including the government, law enforcement agencies, civil society organizations, and the general public, to work together to address this critical issue.

Efforts to address the state of emergency may involve implementing stricter laws and policies, enhancing support services for victims, strengthening law enforcement and judicial systems, promoting gender equality and women's empowerment, conducting awareness campaigns, and fostering a culture of respect and consent. Recognizing and responding to the state of emergency on sexual violence in Indonesia requires a coordinated and multi-faceted approach that prioritizes the safety, well-being, and rights of women. It involves not only immediate responses to assist victims but also long-term strategies to create a society free from sexual violence.

The enactment of the SVCL has brought about significant changes in the legal framework and protection for women who are victims of sexual violence in Indonesia. Some key changes and improvements include:

1. **Strengthened Legal Protection:** The SVCL provides a comprehensive legal framework to address various forms of sexual violence, such as rape, sexual assault, and harassment. It ensures that these acts are treated as serious criminal offenses and establishes appropriate penalties for perpetrators.
2. **Victim-Centric Approach:** The SVCL places a strong emphasis on the rights and well-being of victims. It recognizes the entitlement of victims to receive protection, support, and access to legal remedies. Measures are in place to ensure the safety, privacy, and confidentiality of victims throughout the legal process.
3. **Access to Justice:** The SVCL aims to facilitate access to justice for victims by streamlining legal procedures and providing necessary support services. It includes provisions for special measures to protect victims during investigation, trial, and throughout the judicial process.

4. **Prevention and Awareness:** The SVCL emphasizes the importance of prevention through public awareness campaigns, educational programs, and the promotion of gender equality. These initiatives aim to change societal attitudes, challenge harmful gender norms, and prevent sexual violence from occurring.

Regarding the implementation of the SVCL in Indonesia in line with SDG Goal 5 on Gender Equality, efforts have been made to align the law with the broader goals and principles of gender equality and women's empowerment. The SVCL serves as a legal instrument to address gender-based violence and promote gender equality by:

1. **Recognizing the Disproportionate Impact:** The SVCL acknowledges that women are disproportionately affected by sexual violence and provides specific provisions to protect and empower women as victims.
2. **Addressing Gender Stereotypes:** The law challenges harmful gender stereotypes and norms that perpetuate sexual violence. It promotes a culture of consent, respect, and equality, aiming to reshape societal attitudes towards gender roles and relationships.
3. **Coordinating with SDG Implementation:** Efforts are being made to ensure the coordination and synergy between the implementation of the SVCL and other initiatives aimed at achieving SDG Goal 5. This includes collaboration between relevant government agencies, civil society organizations, and international partners.

It is important to note that the effectiveness and impact of the SVCL in practice may vary and require ongoing evaluation. Continued monitoring, evaluation, and improvement of implementation mechanisms are crucial to ensuring that the law effectively protects women, promotes gender equality, and contributes to the achievement of SDG Goal 5 in Indonesia.

The proposed legislation aims to serve as a comprehensive legal framework that addresses various issues related to sexual violence. It is expected to provide a legal umbrella to effectively deal with the complexities and challenges associated with sexual violence. The drafting of this legislation was prompted by the alarmingly high number of sexual violence cases in Indonesia between 2001 and 2011, totalling 1,398 reported cases.

By enacting this legislation, several important steps are anticipated to be taken:

1. **Clear Definitions and Offenses:** The law is expected to provide clear definitions of sexual violence and establish a range of offenses related to it. This will help in identifying and categorizing different forms of sexual violence accurately.
2. **Enhanced Legal Protection:** The legislation is expected to strengthen legal protection for victims of sexual violence, particularly women, by establishing their rights, ensuring access to justice, and setting standards for their support and rehabilitation.
3. **Penalties and Deterrence:** The proposed law is likely to introduce appropriate and stringent penalties for perpetrators of sexual violence. By doing so, it aims to deter potential offenders and send a strong message that such acts will not be tolerated.
4. **Support Mechanisms:** The legislation is expected to outline support mechanisms for victims, including access to medical, psychological, and legal services. It may also

emphasize the importance of establishing shelters and support centres for victims of sexual violence.

5. **Prevention and Education:** The proposed law is anticipated to emphasize prevention efforts by promoting awareness campaigns, educational programs, and community engagement initiatives. These initiatives aim to challenge societal norms, promote gender equality, and prevent sexual violence from occurring in the first place.
6. **Data Collection and Reporting:** The legislation may include provisions for improved data collection and reporting of sexual violence cases. This can help in monitoring the prevalence of such incidents, identifying trends, and formulating evidence-based policies and interventions.

Overall, the intention behind this legislation is to address the pressing issue of sexual violence in Indonesia comprehensively. It seeks to provide a strong legal framework to protect victims, hold perpetrators accountable, and contribute to a safer and more equitable society.

CONCLUSIONS

The conclusions regarding the implementation of Law Number 12 of 2022 regarding Sexual Violence Crimes (SVCL) in Indonesia, in line with SDG Goal 5 on Gender Equality, would depend on an in-depth analysis and evaluation of the law's impact. Some conclusions based on the general expectations of such legislation **Strengthened Legal Protection:** The implementation of the SVCL is expected to enhance legal protection for women who are victims of sexual violence. The law provides a comprehensive legal framework to address sexual violence crimes, ensuring that perpetrators are held accountable and victims receive the necessary support and justice.

Improved Access to Justice: The SVCL may contribute to improving access to justice for survivors of sexual violence. By defining and criminalizing various forms of sexual violence, the law facilitates the reporting, investigation, and prosecution of such crimes, ensuring that survivors have a legal avenue to seek justice. **Support for Victims:** The implementation of the SVCL is likely to emphasize the importance of support services for victims of sexual violence. This may include access to medical, psychological, and legal assistance, as well as the establishment of support centers and shelters to provide a safe environment for survivors.

Prevention and Education: The SVCL may emphasize prevention efforts through awareness campaigns, educational programs, and community engagement. By promoting gender equality and challenging societal norms that perpetuate sexual violence, the law can contribute to preventing future occurrences of such crimes.

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