



Reconstruction of Law Number 12 of 2022 Concerning Criminal Acts of Sexual Violence: The First Milestones in Eliminating Sexual Violence in Indonesia

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Abstract: *The enactment of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence in harmony with Islam, as stated in the Qur'an, QS. An-Nur verse 33. Prohibiting violence against women also contradicts the values of monotheism, and Al-Insaniyah is a concrete manifestation and gift for women in Indonesia. It has very comprehensive content regulating the classification of criminal acts of sexual violence, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence. It establishes appropriate penalties and optimizes the prevention and handling of cases of sexual violence in Indonesia, which continues to show a high level every year. However, its implementation has not been as optimal as desired by victims and the public due to several obstacles, including: 1) Not all derivative regulations of the TPKS Law have been enacted; 2). Limited human resources, facilities, infrastructure, and operational costs, and only 30 percent of districts/cities in Indonesia have safe houses for victims of sexual violence.*

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INTRODUCTION

Cases of sexual violence occurring in several regions are the tip of the iceberg. Data from the Online Information System for the Protection of Women and Children (Simfoni PPA) from 2021 to March 17, 2022, shows that of the 8,478 cases of violence against women, 1,272 were sexual violence. Of the 11,952 cases of violence against children, 7,004 (58.6 percent) were sexual violence.

Islam prohibits exploitation and sexual violence against women. In Surah An-Nur, verse 33, for example, Allah prohibits forcing women into prostitution. According to some commentators, this verse was revealed in response to Abdullah bin Salul's actions in forcing his slave girl, Musaikah, to prostitute herself for his profit. "This verse describes how a slave named Musaikah was hired out and forced to commit adultery, and the proceeds were enjoyed by her master, a hypocrite." After being forced into prostitution, Musaikah refused and reported the incident to the Prophet Muhammad.

In Islam, sexual violence is highly reprehensible. It is considered a reprehensible act because Islam teaches all its followers to respect and honor everyone regardless of position, rank, age, or even gender. Therefore, Islam also calls for the elimination of sexual violence, from sexual harassment to sexual exploitation. Islam strictly forbids its followers from

touching a woman's body parts without her permission, or even from looking at her in a way that arouses lust. This is because it is feared that this could lead to and lead to adultery.

It is strictly forbidden for a man to touch a woman who is not his mahram. Likewise, a woman may not touch a man who is not her mahram. Even touching the opposite sex, which is not permitted by Islamic teachings, is not permitted. It is incorrect to interpret the word "touching" in the above hadith as meaning "having sexual intercourse with a woman who is not permissible for him." This hadith confirms that sexual violence is prohibited in Islam because it can degrade human dignity, both the perpetrator and the victim.

Violence against women is not only mentioned in the Quran but also contradicts the values of monotheism and the Islamic teachings. Legally, both physical and non-physical forms of sexual violence are prohibited.

The reconstruction of the TPKS Law (Law on the Crime of Sexual Violence) refers to efforts to refine or improve Law Number 12 of 2022 concerning Crimes of Sexual Violence. The goal is to ensure that this law is more effective in protecting victims of sexual violence, preventing violence from occurring, and providing legal certainty for both perpetrators and victims.

Although the TPKS Law has been passed, several challenges remain in its implementation, such as: Paradigm shift, Limited resources, Education and outreach. The enactment of the Sexual Violence Crimes Law marks a milestone in the elimination of sexual violence. However, the struggle to eradicate sexual violence remains a long way off.

To optimize the prevention and handling of sexual violence cases, the TPKS Law, passed by the House of Representatives (DPR), regulates nine TPKS: non-physical sexual harassment, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence.

In addition, the TPKS Bill regulates ten other crimes as TPKS regulates in other laws and regulations, such as rape and indecent acts, and forced prostitution. "The TPKS Law contains many significant provisions, including the treatment and recovery of victims, mandating regional governments to provide support."

The TPKS Law represents a concrete manifestation of the state's presence in preventing and addressing all forms of sexual violence. The law will protect and rehabilitate victims, enforce the law, rehabilitate perpetrators, create an environment free from sexual violence, and ensure the non-recurrence of sexual violence.

The Draft Law on Sexual Violence Crimes (RUU TPKS) is a breakthrough due to its comprehensive procedural legal provisions and recognition and guarantee of victims' rights. TPKS victims are entitled to restitution or compensation paid by the perpetrator. This is the spirit and spirit of our collective struggle, between the House of Representatives (DPR), the government, and civil society, which we must continue to remember, so that this law will be beneficial when implemented, especially for victims of sexual violence.

The ratification of the TPKS Bill into Law Number 12 of 2022 concerning Sexual Violence Crimes is a gift for all women in Indonesia. The TPKS Law is the result of our collective work and shared commitment. We hope that the implementation of this law will address and resolve cases of sexual violence and protect women and children in Indonesia. Therefore, Indonesian women must remain enthusiastic.

The obstacles facing the TPKS Law include: 1) Not all derivative regulations of the TPKS Law have been enacted; they await the President's signature, 2) The implementation

of the Law on Sexual Violence Crimes is considered less than optimal because implementing regulations are not yet available. Four human rights organizations collaborated to oversee the drafting of implementing regulations³. Other challenges to the implementation of the TPKS Law include limited facilities, infrastructure, and operational costs. The National Commission on Violence Against Women (Komnas Perempuan) noted that only 30 percent of regencies/cities in Indonesia have safe houses for victims of sexual violence. 4) The quality of human resources and regional services for handling TPKS cases is also inadequate. The Indonesian Child Protection Commission (KPAI) noted that the handling of several TPKS cases in the regions was ultimately taken over by civil society organizations.

This previous research has been conducted by several previous researchers, including: Research conducted by Reno Efendi, et al., *Suara Hukum Journal* Vol. 3 No. 1 E-ISSN: 2656-5358. In 2021, entitled "*The Urgency of Accelerating the Ratification of the Draft Law on the Elimination of Sexual Violence*". This research focused on legal regulations that accommodate all forms of sexual violence to prevent a legal vacuum.

And Ani Purwanti, Marzellina Hardiyanti, *E-Journal of Diponegoro University Legal Issues* Volume 47 No. 2 e-ISSN: 2527-4716. In 2018, with the title "*Strategies for Resolving Acts of Sexual Violence Against Women and Children Through the Sexual Violence Bill*". The research focused on the Sexual Violence Bill, which is expected to become a regulation capable of addressing the problem of sexual violence cases that occur against women and children in Indonesia etc.

Meanwhile, the research conducted by this author, entitled *Reconstruction of Law No. 12 of 2022 concerning the TPKS*, the first milestone in the elimination of sexual violence in Indonesia, focuses more on realizing and demonstrating a real breakthrough in the state's presence in preventing and addressing all forms of sexual violence, protecting and rehabilitating victims, enforcing the law, rehabilitating perpetrators, creating an environment free from sexual violence, and ensuring the non-recurrence of sexual violence. This is a gift for all women in Indonesia and a shared commitment. We hope that the implementation of this law will be able to address and resolve cases of sexual violence and protect women and children in Indonesia. Therefore, Indonesian women must remain enthusiastic.

METHODOLOGY

Based on the above background, the problem formulation in this paper is: "Is the Reconstruction of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence a Milestone in the Elimination of Sexual Violence in Indonesia?"

This data collection technique utilizes online data searches/internet searches, browsing, surfing, downloading data, books, media, websites, expert sources, and other data related to "Reconstruction of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence: A Milestone for the Elimination of Sexual Violence in Indonesia."

RESULTS AND DISCUSSION

Indonesia currently faces a significant number of cases of violence. According to the official website of the Ministry of Women's Empowerment and Child Protection, as of October 4, 2024, there were 19,145 cases of violence, consisting of 4,151 male victims and 16,603 female victims. Among these cases are cases of sexual harassment. The government, through Presidential Regulation Number 9 of 2024, regulates the

Implementation of Education and Training for the Prevention and Handling of Criminal Acts of Sexual Violence. Violence in any form (sexual violence) and in any environment, such as the household, workplace, education, and society, is completely unacceptable. Islam teaches us to resolve differences amicably, through dialogue and deliberation.

Islam is a religion with a noble and noble mission: *Rahamatan lil'alamin* (Blessing of the Universe). Islam teaches us that all living creatures created by Allah SWT have equal status in His eyes. Islam's teachings do not discriminate between men and women, as the only differences are in their devotion to Allah SWT and devotion to Him. Therefore, Islam views violence against women as reprehensible and even a violation of Islamic law and sharia.

Women are often the targets of sexual violence. This is due to society's perception of women as weak, lacking strength and abilities. Furthermore, women are still viewed with disdain, leading to inappropriate behavior. Sexual violence dates back to the Greek, Roman, Indian, and Chinese civilizations. Furthermore, sexual violence also occurs in various religions, including Judaism, Christianity, Buddhism, Islam, and others. At that time, women were considered merely complementary, half-human, and so on.

Islam prohibits exploitation and sexual violence against women. In Surah An-Nur, verse 33, for example, Allah forbids forcing women into prostitution. According to several commentators, this verse was revealed in response to Abdullah ibn Salul's actions, who forced his slave girl, Musaikah, to prostitute herself for his own profit. "This verse describes how a slave named Musaikah was hired out and forced to commit adultery, while her master, a hypocrite, enjoyed the proceeds." After being forced into prostitution, Musaikah refused and reported the incident to the Prophet. Based on his complaint, QS was issued. An-Nur verse 33, where Allah says:

وَلَا تُكْرِهُوا فَتِيَّتَكُمْ عَلَى الْبِغَاءِ إِنْ أَرَدْتُمْ تَحَصُّنًا لِّتَبْتَغُوا عَرَضَ الْحَيَاةِ الدُّنْيَا ۖ وَمَنْ يُكْرِهْهُمْ فَإِنَّ اللَّهَ مِنْ بَعْدِ
إِكْرَاهِهِمْ غَفُورٌ رَحِيمٌ

Meaning: *"And do not compel your female slaves to prostitution, while they desire chastity, seeking the benefits of the worldly life. Whoever compels them, then indeed, Allah is Oft-Forgiving, Most Merciful to them after they have been compelled"* (Surah An-Nur: 33).

Prohibition of Sexual Violence According to Islam

In Islam, sexual violence is highly reprehensible. Sexual violence is viewed as a reprehensible act because Islam teaches all its followers to respect and honor everyone regardless of position, rank, age, or even gender. Therefore, Islam also calls for the elimination of sexual violence, from sexual harassment to sexual exploitation. Islam strictly forbids its followers from touching a woman's body parts without her right, or even looking at them in a way that arouses lust. This is because it is feared that this could lead to and lead to adultery. This is explained in the word of Allah in Surah An-Nur, verses 30-31.

قُلْ لِّلْمُؤْمِنِينَ يَغُضُّوْا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوْا فُرُوْجَهُمْ ۖ ذٰلِكَ اَزْكٰى لَهُمْ ۗ اِنَّ اللّٰهَ خَبِيْرٌۢ بِمَا يَصْنَعُوْنَ

This means: *"Tell the believing men to lower their gaze and guard their chastity; that is purer for them. Indeed, Allah is All-Aware of what they do."* (QS: An-Nur, verses 30-31)

In the Quran, violence against women also contradicts the values of monotheism and Islam. The Quran prohibits sexual violence, both physical and non-physical. The Quran refers to sexual violence as "Ar-Rafast" and "Fakhisyah." According to the

mufasssirin, Ar-Rafast is Al-lfhasy Ii al-mar'ah fi AI-kalam, or cruel expressions against women that lead to sexuality. The Prophet Muhammad (peace be upon him) said;

لَأَنْ يَطْعَنَ فِي رَأْسِ أَحَدِكُمْ بِمَخِيطٍ مِنْ حَدِيدٍ خَيْرٌ لَهُ مِنْ أَنْ يَمَسَّ امْرَأَةً لَا تَحِلُّ لَهُ

Meaning: *Indeed, if one of you were to have his head pierced with an iron needle, it would be better for him than touching a woman who is not lawful for him. This hadith was narrated by Imam ath-Thabrâni in al-Mujamul Kabîr no. 486, 487 and ar-Rûyânî in his Musnad II/227. This hadith was judged to be hasan by al-Albani in ash-Sahîhah No. 226. This hadith clearly shows the affirmation of the prohibition of a man touching a woman who is not his mahram. Likewise, a woman should not touch a man who is not her mahram., just touching the opposite sex that is not lawful according to Islamic teachings is not permissible. It is not correct if anyone interprets the word 'touching' contained in the hadith above to mean 'having physical relations with a woman who is not lawful for him'. The hadith confirms that sexual violence is something that is prohibited in Islam because sexual violence can degrade human dignity, both the dignity of the perpetrator himself, and the dignity of the victim.*

Although many women experience sexual harassment, when they are presented with Islamic teachings aimed at protecting them, many are quick to reject them altogether. Women should have a strong sense of self-commitment to applying Islamic law in their daily lives. This includes dressing according to Islamic guidelines, avoiding being alone with non-mahram men when conducting affairs outside the home to prevent potential slander, and refraining from displaying their face or body in ways that may attract inappropriate attention from the opposite sex. A Muslim woman's beauty and grooming should be reserved exclusively for her husband, not for others. Wearing fragrances that may attract attention outside the home should also be avoided, except when intended for the husband. Lastly, before leaving the house, a woman is encouraged to seek permission from her husband, family, or someone close to her as a form of responsibility and caution.

From the law, we can understand that acts of sexual violence that seem very trivial, like looking, etc., can lead to very big acts, such as the occurrence of adultery and sexual violence.

That's why Prophet Muhammad SAW. encouraging his people to get married. This Hal is, of course, meant to prevent people from committing adultery. Although marriage in Islam is not just to fulfill sexual desire, because in today's age, many men commit adultery under the guise of religious law. Lust or sexual desire should be discouraged by obeying the rules of Islam that have been outlined.

Sexual violence is the substance of ikrah (coercion) and abuse (tyranny) against victims of violence. The perpetrator of violence is called a person who forces (mukrih), while the victim who is forced is called mukrah. Because of the existence of the element of persecution, the victim of violence can also be called a madhlûm (person who is persecuted). For the person who forces, he can enter the category of adulterer (zâni), but not for his victim. Adulterers, let alone rapists, should be punished as severely as possible. Rapists and child murderers should be sentenced to death.

Understanding Sexual Violence

Sexual violence can be defined as unwanted sexual advances by one person toward another. These advances can take various forms, both physical and verbal.

According to Experts

- *According to McDonald & Charles (2021)*, sexual violence includes "any form of

unwanted and harmful sexual conduct, including offensive sexual comments, unwanted touching, and coercion to engage in sexual acts." (McDonald & Charles, 2021).

- *According to UN Women*, sexual violence is "any act that forces a person to engage in sexual activity without their consent, including rape, sexual harassment, and other gender-based violence involving force or the threat of force." (UN Women, 2023).
- *According to the World Health Organization (WHO)*, sexual violence is any act committed with the intent to obtain a sexual act or other act directed at a person's sexuality, using coercion, regardless of their relationship status with the victim (WHO, 2017). Sexual violence against children worldwide requires serious attention from various parties to reduce the number of incidents.
- *According to Law Number 12 of 2022*, sexual violence, according to the law, is any form of sexual act committed by force, indecent force, or involving exploitation of a person, which violates individual rights and results in physical, psychological, or sexual harm.

Referring to Article 1 number 1 of the TPKS Law, the crime of sexual violence is defined as any act that meets the elements of a crime as stipulated in this law, as well as other sexual acts as regulated by law, to the extent specified in this law.

Reconstruction of the TPKS Law

Reconstruction of the TPKS Law (Law on the Crime of Sexual Violence) refers to efforts to refine or amend Law Number 12 of 2022 concerning the Crime of Sexual Violence.

The goal is to ensure that this law is more effective in protecting victims of sexual violence, preventing violence from occurring, and providing legal certainty for both perpetrators and victims.

Several aspects of focus in the reconstruction of the TPKS Law:

- (1) Expanding the scope of sexual violence crimes:
This includes non-physical sexual violence, sexual harassment in the context of marriage, and sexual crimes committed through social media (web grooming).
- (2) Improving victims' rights:
Ensuring victims receive their rights, such as assistance, restitution, identity protection, recovery, and the right to provide information without pressure.
- (3) Improving the legal process:
This includes reporting procedures, investigations, prosecutions, and court hearings, as well as ensuring restitution and financial assistance for victims.
- (4) Prevention and community participation:
Strengthening efforts to prevent sexual violence through education, awareness campaigns, and community and family involvement.
- (5) Supervision:
Involving ministers, national human rights institutions, and the community in monitoring the implementation of the TPKS Law.

Challenges in Implementation:

Although the TPKS Law has been passed, several challenges remain in its implementation, such as:

- (1) Paradigm Shift:

A paradigm shift is still needed in law enforcement and society to focus more on fulfilling victims' rights and preventing sexual violence.

(2) Limited Resources:

Some regions may still face limited resources in handling sexual violence cases.

(3) Education and Outreach:

More extensive education and outreach efforts are needed to ensure the public understands their rights and how to report sexual violence.

The Importance of Reconstruction

The reconstruction of the TPKS Law aims to ensure that this law is truly an effective legal instrument in protecting victims of sexual violence, preventing violence, and achieving justice for all parties. Here are some key points typically included in TPKS Law infographics:

(1) Background:

A brief explanation of the importance of the TPKS Law and why it was created.

(2) Purpose of the TPKS Law:

Explanation of the main objectives of the TPKS Law, namely prevention, handling, protection, and recovery of victims, as well as law enforcement.

(3) Types of Sexual Violence:

This infographic will list the various types of sexual violence regulated in the TPKS Law, such as physical, non-physical, and electronic-based sexual violence.

(4) (Victims' Rights:

Explanation of the rights of victims of sexual violence protected by the TPKS Law, including the right to recovery, economic support, and access to justice.

(5) Role of Government:

Explanation of the role of the central and regional governments in preventing, handling, and enforcing the law regarding sexual violence.

(6) Sanctions:

A summary of the criminal sanctions imposed on perpetrators of sexual violence.

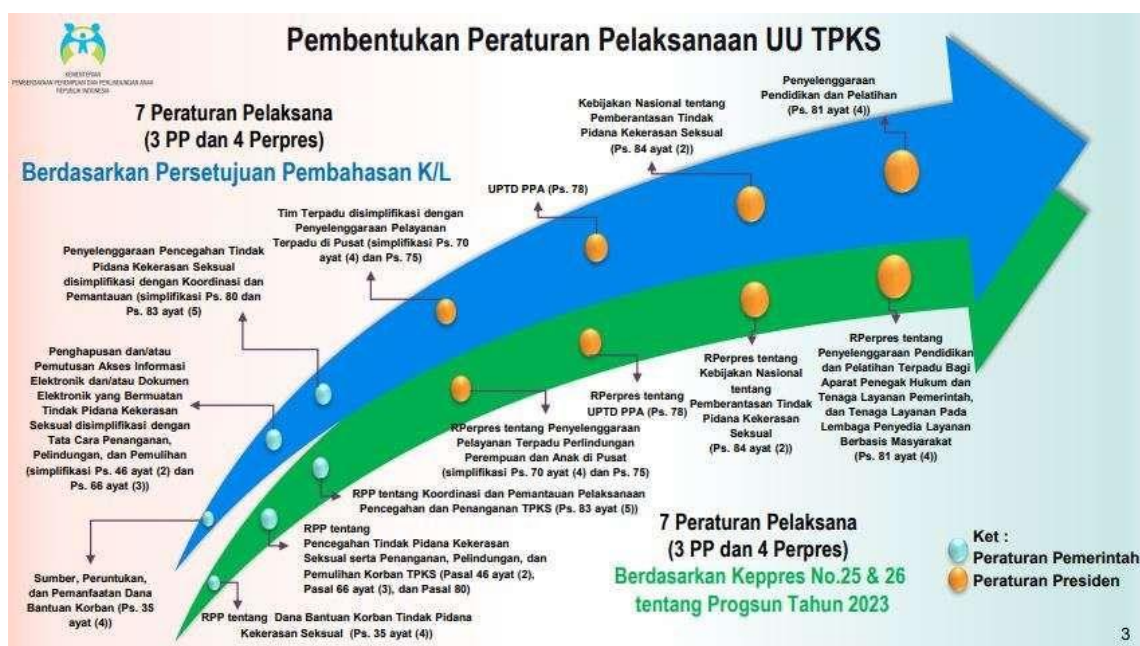
(7) Evidence:

Information regarding valid evidence in legal proceedings related to crimes of sexual violence.

(8) Prevention:

Information regarding efforts to prevent sexual violence that can be implemented, such as awareness education and campaigns.

The TPKS Law can help the public to better understand and care about the issue of sexual violence and the rights of victims protected by the TPKS Law. For further details regarding the Formation of Implementing Regulations for the TPKS Law, please see the Indonesian language image below:



Source: Documentation/Ministry of Women's Empowerment and Child Protection (2024).

Enactment of the TPKS Law Marks First Milestone in Eliminating Sexual Violence

The enactment of the Law on the Crime of Sexual Violence marks a first milestone in the elimination of sexual violence. However, the struggle to eliminate sexual violence remains long.

The Law on the Crime of Sexual Violence, passed by the House of Representatives on Tuesday (April 12, 2022), provides momentum for the state to be present for victims of sexual violence. The journey to eliminate sexual violence remains long. Commitment from all parties to implementing the law is crucial.

According to Sulistyowati Irianto, Professor of the Faculty of Law, University of Indonesia, in response to the results of the House of Representatives' Plenary Session that approved the TPKS Bill into the TPKS Law. "Of course, first, implementing regulations must be drafted immediately, especially those concerning procedural law. Second, they must be disseminated to all parties. Because legal literacy will provide women and children with a shield to protect themselves."

The Law on the Crime of Sexual Violence (UU TPKS), which contains important and strategic legal policies and represents a breakthrough in legal reform, is expected to address the various issues of sexual violence that continue to occur in various modes.

Cases of sexual violence occurring in several regions are the tip of the iceberg. Data from the Online Information System for the Protection of Women and Children (Simfoni PPA) from 2021 to March 17, 2022, shows that of the 8,478 cases of violence against women, 1,272 were sexual violence. Of the 11,952 cases of violence against children, 7,004 (58.6 percent) were sexual violence. (Kompas.id, April 13, 2022). For further details regarding the types of sexual violence in the personal sphere of TPKS, please see the Indonesian language image below:



Source: National Commission on Violence Against Women (2022)

Source: National Commission on Violence Against Women (2022).

Types of Sexual Violence According to the TPKS Law

Types of sexual violence can legally refer to the provisions in Article 4 of the TPKS Law. According to Article 4 paragraph (1) of the TPKS Law, criminal acts of sexual violence include:

- non-physical sexual harassment, namely inappropriate statements, gestures, or activities that are sexually suggestive with the intent to demean or humiliate;
- physical sexual harassment;
- forced contraception;
- forced sterilization;
- forced marriage;
- sexual torture;
- sexual exploitation;
- sexual slavery; and
- electronic-based sexual violence.

Furthermore, Article 4 paragraph (2) of the TPKS Law explains that criminal acts of sexual violence also include:

- rape;
- indecent acts;
- sexual intercourse with a child, indecent acts against a child, and/or sexual exploitation of a child;
- acts violating morality against the victim's will;
- pornography involving children or pornography that explicitly contains violence and sexual exploitation;
- forced prostitution;
- human trafficking for sexual exploitation;
- sexual violence within the household;

- i. money laundering, the predicate crime of which is sexual violence; and
- j. other crimes expressly designated as sexual violence as regulated by statutory provisions.

Meanwhile, the 2021 National Women's Life Experience Survey conducted by the Ministry of Women's Empowerment and Child Protection, the Central Statistics Agency, and the Demographic Institute of the University of Indonesia found that 1 in 19 women (aged 15-64) had experienced sexual violence from someone other than their partner.

The 2021 National Survey of Children and Adolescents' Life Experiences also found that 4 in 100 boys and 8 in 100 girls aged 13-17 in urban areas had experienced sexual violence in any form at some point in their lives. Three out of every 100 boys and eight out of every 100 girls aged 13-17 in rural areas have experienced some form of sexual violence in their lifetime.

To optimize the prevention and handling of sexual violence cases, the TPKS Law, passed by the House of Representatives (DPR), regulates nine TPKS: non-physical sexual harassment, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence.

In addition, the TPKS Bill regulates ten other crimes as TPKS regulated in other laws and regulations, such as rape and indecent acts, and forced prostitution. "The TPKS Law contains many significant provisions, including the treatment and recovery of victims, and mandates local governments to provide support." However, this law also leaves problems because the most core concept of sexual violence, namely rape, cannot be included due to legal doctrine.

A Gift for National Progress

House Speaker Puan Maharani emphasized that the law is a gift to all women in Indonesia ahead of Kartini Day. "This is also a gift to all Indonesian people and the progress of our nation," she said after hearing the President's Final Opinion on the TPKS Bill delivered by Minister of Women's Empowerment and Child Protection I Gusti Ayu Bintang Darmawati on Tuesday (April 12, 2022) at the MPR/DPR Building, Jakarta. The TPKS Law is the result of collaborative work and shared commitment. Puan also expressed her gratitude to the Minister of Women's Empowerment and Child Protection, all ministers, and the leadership and members of the House of Representatives' Legislation Body (Baleg) for the smooth completion of the TPKS Bill deliberations.

Puan, who was brought to tears, emphasized that there is no place for sexual violence in Indonesia. Implementation of the TPKS Law can resolve cases of sexual violence and provide protection for women and children in Indonesia. "Therefore, Indonesian women must remain enthusiastic,".

The plenary session for the ratification of the TPKS Law was filled with emotion. As Puan banged the gavel to signify her approval of the TPKS Law, several members of the House of Representatives (DPR) stood in their seats and applauded. At the same time, applause and cheers from civil society activists could be heard from the balcony, chanting, "Long live Ms. Puan, long live women." The women activists cried and embraced each other upon hearing the TPKS Law was passed.

The Minister of Women's Empowerment and Child Protection emphasized that the TPKS Law represents a concrete manifestation of the state's presence in preventing and

addressing all forms of sexual violence. The law will protect and rehabilitate victims, enforce the law, rehabilitate perpetrators, create an environment free from sexual violence, and ensure the non-recurrence of sexual violence.

I Gusti Ayu Bintang Darmawati, who was present along with Deputy Minister of Law and Human Rights S. Eddy OS Hiariej, Deputy V of the Presidential Staff Office Jaleswari Pramodhawardan, and representatives from relevant ministries and institutions, stated, "This is the spirit and spirit of our collective struggle, between the DPR, the government, and civil society, which we must continue to remember, so that this law will benefit when implemented, especially for victims of sexual violence."

The TPKS Bill is a breakthrough due to its comprehensive procedural legal provisions and recognition and guarantee of victims' rights. TPKS victims are entitled to restitution or compensation paid by the perpetrator. This is the spirit and spirit of our collective struggle, between the House of Representatives (DPR), the government, and civil society, which we must continue to remember, so that this law will be beneficial when implemented, especially for victims of sexual violence.

The Chair of the TPKS Bill Working Committee, Willy Aditya, expressed his gratitude to all elements of society who provided input, suggestions, and even criticism during the bill's deliberations. "These criticisms, suggestions, and input were collected and accommodated for the sake of the bill's perfection and the benefit of handling TPKS, and can be scientifically and legally justified."

Civil Society Appreciation

The ratification of the TPKS Law was welcomed by civil society groups and the National Commission on Violence Against Women (Komnas Perempuan), which oversees the bill. In fact, after the House of Representatives (DPR) Plenary Session, they immediately presented flowers to the Minister of Women's Empowerment and Child Protection (PPPA), the Deputy Minister of Law and Human Rights, the Chair of the Working Committee for the TPKS Bill, and members of the House, such as Luluk Nur Hamidah, Taufik Basari, My Esti Wijayanti, and Diah Pitaloka.

This appreciation was expressed by the Service Provider Forum (FPL) for Women and Children Victims of Violence, the Civil Society Network (JMS) for Advocacy of the Sexual Violence Bill, and the Network for the Defense of the Rights of Women Victims of Sexual Violence (JPHPKKS).

According to Mike Verawati, representing the FPL and JMS, the TPKS Law leaves much to be desired because the crime of rape is not regulated in the TPKS Law. In addition to overseeing the criminal act of rape in the Draft Criminal Code (KUHP) process, her group will advocate for derivative regulations from the TPKS Law. "This is necessary so that the TPKS Bill can be implemented immediately after its passage."

In addition to urging the government to immediately issue government regulations and presidential regulations as implementing regulations for the TPKS Law, the JPHPKKS also requested that the government involve civil society, particularly victim advocates.

Crucial Articles in the Sexual Violence Crimes Bill (TPKS)

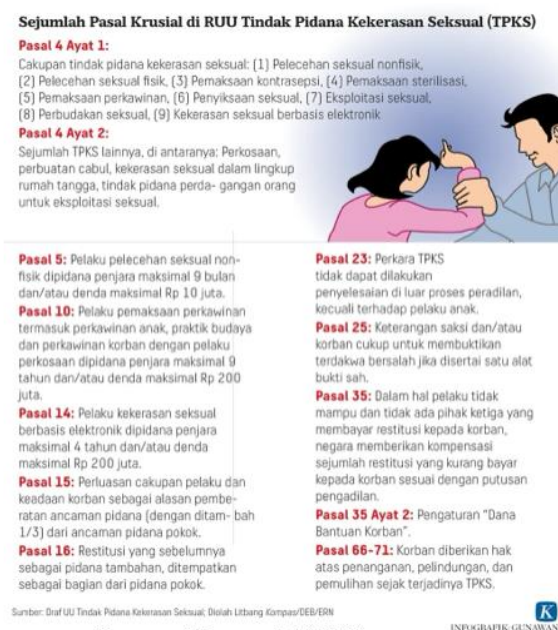
According to Asfinawati and Ratna Batara Munti, representing the JPHPKKS, "We must all appreciate the achievements and hard work of the House of Representatives (DPR) and the government, especially since this law also regulates external monitoring by

the National Commission on Violence Against Women, the National Commission on Human Rights, the Indonesian Child Protection Commission, and the National Commission on Disabilities."

According to Maidina Rahmawati from the Institute for Criminal Justice Reform (ICJR), "The ratification of the TPKS Law is crucial for strengthening regulations regarding the treatment and responsibility of the state to prevent and handle cases of sexual violence, and comprehensively rehabilitate victims."

Adinda Tenriangke Muchtar, Executive Director of the Indonesian Institute, Center for Public Policy Research, expressed her appreciation for the ratification of the TPKS Law. However, the law's implementation needs to be monitored at various levels, sectors, and domains. Immediate dissemination of the law and its derivative regulations is needed to prepare for its implementation.

Gender and human rights awareness among the government and law enforcement agencies Law enforcement, in particular, and the general public, are needed to ensure this law's optimal implementation. It is hoped that the ratification of the TPKS Law will truly serve as a catalyst for preventing and eliminating sexual violence in Indonesia. For a clearer understanding of the crucial articles in the TPKS Bill, You can see it in the Indonesian language the infographic below:



Source: : Kompas.id (2022)

Source: Kompas.id (2022).

Mapping Implementing Regulations

Jaleswari Pramodhawardani emphasized that the TPKS Law has been a long road. However, its successful completion was thanks to collaboration with all elements of the nation, from the legislature, government, other state institutions, civil society, academics, and the judiciary.

"The government will then map out implementing regulations, both government regulations and presidential regulations. Permits for the initiative to draft a government

regulation (PP) and a draft presidential regulation (Perpres) are also being prepared for immediate submission to the President."

The TPKS Bill was initially proposed as a House of Representatives (DPR) initiative under the name RUU PKS (Elimination of Sexual Violence Bill) in 2016. Despite initial delays and facing pros and cons, the bill, originally named RUU PKS (Elimination of Sexual Violence Bill), finally continued.

The TPKS Bill's journey spanned two DPR terms, until President Joko Widodo finally intervened. In early 2022 (January 5, 2022), the President assigned the Minister of Law and Human Rights and the Minister of Women's Empowerment and Child Protection (PPPA) to expedite deliberations and ratification of the bill.

The President also requested that the government task force immediately prepare a problem inventory list (DIM) for the draft TPKS Bill. On January 18, 2022, the House of Representatives (DPR) plenary session approved the TPKS Bill as a proposed House initiative bill. The government then drafted the DIM for the PKS Bill and submitted it to the DPR.

Since March 24, 2022, the TPKS Bill Working Committee has been working and deliberating the DIM intensively for a week. On April 6, 2022, the DPR's Legislation Body (Baleg) approved the TPKS Bill's enactment into law. Of the nine factions in the DPR, only the Prosperous Justice Party (PKS) faction dissented from the bill. Less than a week later, the DPR held a plenary session with the agenda of Level II Discussion/Decision Making on the TPKS Bill.

Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence (TPKS Law) is a visual representation explaining the key points of the law. The TPKS Law aims to prevent, address, protect, and rehabilitate victims of sexual violence, as well as enforce the law and rehabilitate perpetrators. This law also ensures the non-recurrence of sexual violence and creates an environment free from sexual violence.

For a clearer understanding of the Criminal Penalties articles and key points in the TPKS Law, You can see it in the Indonesian language the infographic below:



Source: Kumparan (2022)

Source: : Antaranewa (2022)

Source: Kumparan (2022) and Antaranewa (2022).

The TPKS Law is a Gift for National Progress

The Draft Law on Sexual Violence Crimes was finally passed into law during a House of Representatives (DPR) plenary session on Tuesday (April 12, 2022).

The House of Representatives (DPR) plenary session on Tuesday (April 12, 2022) approved the Draft Law on Sexual Violence Crimes as the Sexual Violence Crimes Law. This law is a gift to victims of sexual violence in the country.

The House of Representatives' (DPR) approval of the Law on Sexual Violence Crimes (UU TPKS) was greeted with prolonged applause from both DPR members and civil society members present at the DPR plenary session, which focused on level II discussions/decision-making on the TPKS Bill. Female activists from civil society groups who have been monitoring the TPKS Bill cried and hugged each other shortly after the DPR voted in favor of the TPKS Bill being passed into law.

- 1) The ratification of the TPKS Bill into law is a gift for all women in Indonesia.
- 2) The TPKS Law is the result of our collective work and shared commitment. We hope that the implementation of this law will address and resolve cases of sexual violence and protect women and children in Indonesia. Therefore, Indonesian women must remain enthusiastic.

Legal Breakthrough

When delivering the President's final opinion on the TPKS Bill, Minister of Women's Empowerment and Child Protection Bintang Darmawati emphasized that the bill is a breakthrough. The TPKS Bill qualifies types of sexual crimes, along with other crimes expressly declared as crimes of sexual violence, as regulated in other laws and regulations.

Bintang Darmawati (April 12, 2022) said with a trembling voice, "It is a breakthrough because it regulates comprehensive procedural law, from the investigation, prosecution, and court hearing stages, while still paying attention to and upholding human rights, dignity, and without intimidation."

The ratification of the TPKS Bill into law is a gift for all women in Indonesia, especially as it approaches Kartini Day. It is also a gift for all Indonesians and for the progress of our nation. (Kompas.id, April 12, 2022).

Furthermore, the TPKS Bill recognizes and guarantees victims' rights to treatment, protection, and recovery from the time of the crime of sexual violence. This is a state obligation and is implemented according to the victim's circumstances and needs.

This strong concern for the victim's suffering is also manifested in the provision of restitution. Restitution is provided by the perpetrator of sexual violence as compensation for the victim. "If the confiscated assets of the convict are insufficient to cover the costs of restitution, the state will provide compensation to the victim in accordance with the court's decision." Furthermore, TPKS cases cannot be resolved outside the judicial process, except for child perpetrators.

Restorative Justice in Sexual Violence Cases

Restorative justice is not an alternative to the criminal justice system, but is useful for complementing criminal justice systems that are incomplete regarding victims' rights. Therefore, restorative justice does not abolish existing criminal law. (Kompas.id, December 12, 2022).

The principle of restorative justice is a principle of law enforcement in case resolution that can be used as an instrument of recovery and has been implemented by the Supreme Court in the form of policy enforcement, but its implementation within the criminal justice system. Indonesian criminal justice is not yet optimal.

Restorative justice focuses on transforming punishment into a process of dialogue and mediation involving the perpetrator, victim, the perpetrator/victim's family, and other relevant parties.

According to Natalia Widiasih, an academic and mental health specialist and forensic psychiatry consultant, during an online discussion on Monday, December 12, 2022, the objectives of implementing restorative justice in sexual violence cases are:

- 1) To collaboratively create a fair and balanced agreement or settlement for both victims and perpetrators, prioritizing restoration to the original state and restoring good relationships within society.
- 2) Restorative justice is not an alternative to the criminal justice system, but rather serves to complement criminal justice systems that lack comprehensive coverage of victims' rights. Therefore, restorative justice does not abolish existing criminal law.
- 3) The benefits of implementing restorative justice include giving victims choices about how their violations are handled and anticipating punishment, thereby restoring a sense of self-worth, security, dignity, and control.
- 4) Prior to the enactment of Law No. 12 of 2022 concerning Sexual Violence Crimes (TPKS), sexual violence cases were often resolved solely through mediation between the victim and the perpetrator. This is inconsistent with the provisions of the newly enacted TPKS Law, which stipulates that sexual violence crimes must be prosecuted in court.

There are four stages in ensuring the safety of victims of sexual violence in restorative justice cases:

- (1) Preparation Period
This prioritizes the safety of both the victim and the perpetrator, so they are not directly confronted face-to-face.
- (2) Intake and Referral Period
All parties receive comprehensive information through free legal counseling. The perpetrator then takes responsibility for admitting their actions, and thereafter undergoes a rigorous and repeated evaluation to determine the suitability of restorative justice.
- (3) Conference Period
The victim maps out the conference structure, taking into account meeting sessions between the perpetrator and other victims of violence to build empathy. Furthermore, time must be allocated, a letter of apology must be written if requested by the victim, and the facilitator provides feedback and conducts a formal evaluation. The process can be terminated at any time by the facilitator.
- (4) Accountability and Reintegration Period
The compensation agreement must also include supervision of the perpetrator. The perpetrator must undergo a rigorous curriculum involving education, and cognitive restructuring to increase self-awareness is necessary.

"What is necessary in implementing restorative justice is an assessment of the suitability and feasibility of the program for participants. There must be a risk assessment, thorough preparation, flexibility, sufficient time allocation, trained mediators, protection and supervision to ensure victims are not re-victimized as a result of the restorative justice process, and that perpetrators implement collective rehabilitation programs to prevent recurrence."

Restorative justice is not an alternative to the criminal justice system; it is useful to complement criminal justice systems that lack comprehensive coverage of victims' rights. Therefore, restorative justice does not abolish existing criminal law.

A restorative justice approach can only be implemented if the perpetrator is a child, as children are victims of their environment, which shapes their behavior. Furthermore, children are not yet able to think clearly about what is permissible and what is not.

Solution

Government Urged to Issue All Implementing Regulations of the TPKS Law

The implementation of the TPKS Law remains hampered. Not all implementing regulations of the TPKS Law have been enacted, awaiting the President's signature.

Less than two weeks remain until the ratification of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, which will mark its second anniversary. However, not all implementing regulations of the law have been issued by the government.

To date, only two of the seven implementing regulations of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (TPKS Law) have been enacted by President Jokowi.

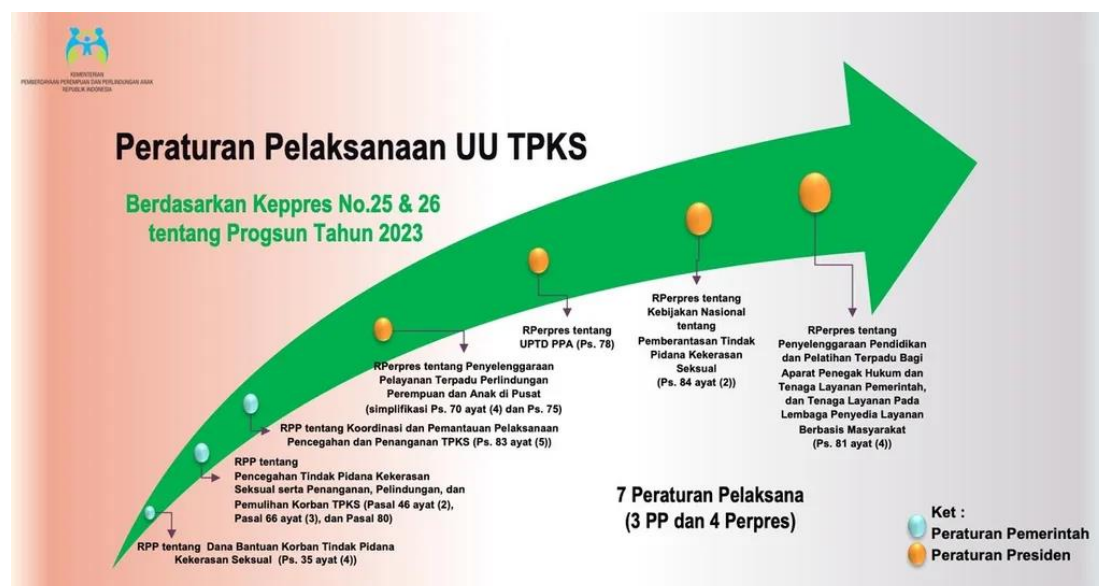
- 1) *First*, Presidential Regulation Number 9 of 2024 concerning the Implementation of Integrated Education and Training for Law Enforcement Officers, Government Service Personnel, and Service Personnel in Community-Based Service Providers, promulgated on January 23, 2024.
- 2) *Second*, Presidential Regulation Number 55 of 2024 concerning Regional Technical Implementation Units for the Protection of Women and Children (UPTD PPA), promulgated earlier this week, Tuesday (April 22, 2024). Five additional implementing regulations are still awaited. Article 91 of the TPKS Law states that implementing regulations must be enacted no later than two years after the TPKS Law was promulgated on May 9, 2022.

Siti Aminah Tardi, commissioner of the National Commission on Anti-Violence Against Women (Komnas Perempuan), Friday (April 26, 2024). Given that the TPKS Law will soon be two years old on May 9, which also marks the deadline for implementing regulations to be available, we hope the remaining five implementing regulations will be ratified by the President soon.

Nevertheless, the National Commission on Violence Against Women (Komnas Perempuan) commends the enactment of the second of seven implementing regulations mandated by the TPKS Law. The enactment of Presidential Regulation 55/2024 is seen as both a challenge and an opportunity for fulfilling the rights of TPKS victims.

The challenge lies in how all stakeholders can collaborate to establish and strengthen the UPTD PPA, increase human resource capacity, establish service mechanisms, and allocate budgets.

The issuance of this presidential regulation also marks the beginning of public participation in overseeing the establishment and strengthening of the UPTD PPA. "We hope that strengthening and collaborating with community-based victim service institutions, including organizations for people with disabilities, will become part of the working mechanisms established through the UPTD PPA. For further details regarding the implementing regulations of the TPKS Law, please see the Indonesian language image below:



Source: Documentation/Ministry of Women's Empowerment and Child Protection (2024).

The Minister of Women's Empowerment and Child Protection (PPPA), I Gusti Ayu Bintang Darmawati, stated in Jakarta on Friday evening that the presidential regulation ensures the fulfillment of the rights of victims of sexual violence to treatment, protection, and recovery, and strengthens the UPTD PPA with new governance. "We are grateful that one of the derivative regulations mandated by the TPKS Law regarding the UPTD PPA has been enacted so that it can be implemented in the regions. The Presidential Regulation will strengthen institutions in handling victims of sexual violence, especially women and children."

Therefore, she hopes that the UPTD PPPA Presidential Regulation will encourage UPTD PPA services that increasingly prioritize the best interests of victims, are responsive and equitable.

Article 5 of the presidential regulation regulates 11 duties of the UPTD PPA at provincial and district/city levels: receiving reports or reaching out to victims; providing information on victims' rights; facilitating the provision of health services; facilitating the provision of psychological strengthening services; facilitating the provision of psychosocial services, social rehabilitation, social empowerment, and social reintegration. Providing legal services.

In addition, the UPTD PPA is also tasked with identifying economic empowerment needs; identifying temporary shelter needs for victims and their families that require immediate attention; facilitating the needs of victims with disabilities; coordinating and

collaborating with other institutions to fulfill victims' rights; and monitoring the fulfillment of victims' rights by law enforcement officials during the judicial process.

"This Presidential Regulation ensures the protection and fulfillment of victims' rights through an integrated service mechanism to ensure victims receive prompt services according to their needs while minimizing the recurrence of violence against victims."

Furthermore, it will strengthen the collaborative role between government service institutions, community-based service institutions, and other institutions. Furthermore, ministerial regulations are currently being prepared for technical operational matters.

In addition to the two presidential regulations that have been ratified, the government is also preparing two others: a Presidential Regulation on the National Policy on the Eradication of TPKS (Community Violence Against Women) and a Presidential Regulation on the Implementation of Integrated PPA Services at the Center.

The government is also preparing four government regulations (PP) on the Coordination and Monitoring of the Implementation of TPKS Prevention and Handling; Government Regulation on the Prevention of Sexual Violence and the Handling, Protection, and Recovery of Victims of Sexual Violence; and Government Regulation on the Assistance Fund for Victims of Sexual Violence. (Kompas.id, April 26, 2024).

Implementation of the TPKS Law Hampered by Implementing Regulations

Since its enactment in May 2022, the implementation of the Law on the Crime of Sexual Violence, or the TPKS Law, has not been optimal. In addition to the uneven understanding of the law among the public and state officials, the implementing regulations for the TPKS Law are also not all available.

Initially, there were 10 implementing regulations derived from the TPKS Law. Nahar, Deputy for Special Protection of Children at the Ministry of Women's Empowerment and Child Protection (PPPA), stated that three government regulations are currently being drafted.

The number of implementing regulations has been simplified to seven, consisting of three government regulations (PP) and four presidential regulations (Perpres). These include the Draft Government Regulation (RPP) on the Assistance Fund for Victims of Sexual Violence; the RPP on the Prevention of Sexual Violence and the Handling, Protection, and Recovery of Victims of Sexual Violence; and the Draft Presidential Regulation on the National Policy for the Eradication of TPKS.

Nahar said in Jakarta on Thursday (May 11, 2023), "We hope there will be good news from July to December (2023). The process is ongoing. We hope (the availability of implementing regulations) will not take more than two years. We must ensure the implementation of these regulations is completed by May 9, 2024."

The drafting of these implementing regulations must also be monitored. This must also be done when the TPKS Law is harmonized with other regulations. The goal is to ensure that the legal breakthroughs in the TPKS Law remain included.

Some of these breakthroughs include guarantees for victims' rights to treatment, protection, and recovery; and special procedural laws that address obstacles to justice for victims, from the reporting process, investigation, to prosecution and trial.

To that end, four human rights organizations signed a memorandum of understanding on coordination and joint monitoring of the prevention and handling of TPKS. The four institutions are the National Commission on Human Rights (Komnas HAM), the National Commission on Violence Against Women (Komnas Perempuan), the

Indonesian Child Protection Commission (KPAI), and the National Commission on Disabilities (KND).

According to National Commission on Violence Against Women Chairperson Andy Yentriyani (May 11, 2023), "This MoU (memorandum of understanding) reinforces the commitment to ongoing cooperation. Several cases are currently under coordination to ensure the fulfillment of victims' rights, the provision of appropriate services, and the implementation of impartial legal services," (Kompas.id, May 11, 2023). To expedite the preparation of derivative regulations for the TPKS Law, please see the Indonesian language infographic below:



Source: Antaranews (2023)

Challenges

In addition to implementing regulations, the implementation of the TPKS Law is also hampered by the lack of understanding of the law by law enforcement officials. One defendant in a TPKS case handled by the Jombang District Court, for example, was

sentenced to five months in prison for obstructing the legal process. The judge's verdict was based on the Criminal Code (KUHP), not the TPKS Law. "This means there are differing understandings (of the TPKS Law). The police are okay with (using the TPKS Law), prosecutors are okay with it, but the judges are not."

Other challenges to implementing the TPKS Law include limited facilities, infrastructure, and operational costs. The National Commission on Violence Against Women (Komnas Perempuan) noted that only 30 percent of regencies/cities in Indonesia have safe houses for victims of sexual violence.

The quality of human resources and regional services to handle TPKS cases is also inadequate. The Indonesian Child Protection Commission (KPAI) noted that the handling of several TPKS cases in the regions was ultimately taken over by civil society organizations.

According to KPAI Commissioner Diyah Puspitarini, "We must ensure that treatment and recovery services (for victims) are available, quickly accessible, and of high quality. Furthermore, the rights of victims, witnesses, families, and child perpetrators must be upheld and protected. Furthermore, it is also necessary to ensure that the TPKS prevention strategy is targeted appropriately."

The implementation of this law is often hampered by several factors, such as social stigma, a lack of understanding of legal rights, and a lack of resources within law enforcement agencies (Sari, 2022). Research conducted by Widodo (2021) shows that many victims do not report for fear of stigma or lack of support.

Broader Understanding

According to Komnas HAM Commissioner Anis Hidayah, the TPKS Law is important not only for ensuring the fulfillment of women's human rights in Indonesia. This law also broadens public understanding of forms of sexual violence that have been difficult to define, let alone bring to justice. Yet, this sexual violence is frequently experienced by the public. "Before the TPKS Law, perhaps only the National Commission on Violence Against Women (Komnas Perempuan) referred to the case of a female employee being invited on a staycation by her superior in Karawang as sexual violence. With the TPKS Law, public understanding has automatically improved. The strong suspicion is that this is sexual violence in the workplace."

This law also encourages the strengthening of community movements to combat TPKS. With the guaranteed protection and recovery of victims under this law, some people have become braver in reporting TPKS cases.

This law indirectly uncovers TPKS cases that have previously been hidden. According to the National Commission on Violence Against Women's Annual Report, there were more than 2,000 cases of sexual violence reported in 2022.

KND Chairperson Dante Rigmalia added that the TPKS Law builds public understanding of sexual violence. "When public understanding, including that of officers handling victims of sexual violence, increases, this means we can provide better support to victims."

Criminal Sanctions for Perpetrators of Sexual Violence

a. Non-Physical Sexual Harassment

Any person who commits a non-physical sexual act directed at the body, sexual desire, and/or reproductive organs with the intent to degrade a person's dignity based on their

sexuality and/or morality shall be punished with a maximum of 9 months' imprisonment and/or a maximum fine of IDR 10 million.

b. Physical Sexual Harassment

Any person who commits a physical sexual act directed at the body, sexual desire, and/or reproductive organs with the intent to:

- a) degrade a person's dignity based on their sexuality and/or morality, which is not covered by other, more severe criminal provisions, shall be punished with a maximum of 4 years' imprisonment and/or a maximum fine of IDR 50 million.
- b) placing a person under their unlawful control, whether within or outside of marriage, shall be punished with a maximum of 12 years' imprisonment and/or a maximum fine of IDR 300 million.

Furthermore, any person who abuses their position, authority, trust, or influence arising from deception or a relationship of circumstances, or exploits a person's vulnerability, inequality, or dependency, coerces or misleads that person into committing or allowing sexual intercourse or indecent acts with them or another person, shall be punished with a maximum of 12 years' imprisonment and/or a maximum fine of IDR 300 million.

For information, non-physical sexual harassment as referred to in Article 5 and Article 6 letter a of the TPKS Law is a complaint-based offense. However, this provision does not apply to victims with disabilities or children.

c. Coerced Contraception

Any person who coerces another person to use contraceptives by violence or threat of violence, abuse of power, misdirection, fraud, or creating or exploiting a helpless condition that could result in the temporary loss of reproductive function shall be punished for coerced contraception, with a maximum prison sentence of 5 years and/or a maximum fine of IDR 50 million.

d. Forced Sterilization

Anyone who forces another person to use contraceptives by using violence or the threat of violence, abuse of power, deception, fraud, or creating or exploiting a helpless condition that can result in permanent loss of reproductive function shall be punished for forced sterilization, with a maximum prison sentence of 9 years and/or a maximum fine of Rp 200 million.

e. Forced Marriage

Anyone who unlawfully forces, places someone under their control or another person's, or abuses their power to enter into or allow a marriage to be entered into with them or another person shall be punished for forced marriage, with a maximum prison sentence of 9 years and/or a maximum fine of Rp 200 million.

For your information, forced marriage also includes child marriage, forced marriage under the guise of cultural practices, or forced marriage between a victim and a perpetrator of rape.

f. Sexual Torture

Our investigation reveals that sexual torture in the TPKS Law specifically regulates torture perpetrated by officials. According to Article 11 of the TPKS Law, an official or person acting in an official capacity, or a person acting under the instigation or knowledge of an official, commits sexual violence against a person with the aim of:

- a) intimidation to obtain information or a confession from that person or a third party;

- b) persecution or punishment for acts suspected of or committed; and/or
- c) humiliating or degrading someone's dignity for reasons of discrimination and/or sexual orientation in any form.
- d) Sexual torture is punishable by a maximum of 12 years' imprisonment and/or a maximum fine of IDR 300 million.
- g. Sexual Exploitation
Anyone who, through violence or the threat of violence, or by abusing their position, authority, trust, or influence arising from deception or a relationship of circumstances, vulnerability, inequality, powerlessness, or dependency, debt bondage, or by providing payments or benefits with the intent to gain an advantage, or exploiting the sexual organs or other organs of that person for sexual purposes with them or another person, is punished by a maximum of 15 years' imprisonment and/or a maximum fine of IDR 1 billion.
- h. Sexual Slavery
According to Article 13 of the TPKS Law, any person who unlawfully places a person under their own or another person's control and renders them powerless with the intent to sexually exploit them shall be punished for sexual slavery, with a maximum imprisonment of 15 years and/or a maximum fine of IDR 1 billion.
- i. Electronic-Based Sexual Violence
Furthermore, according to Article 14 paragraph (1) of the TPKS Law, any person who without the right:
 - a) records and/or takes images or screenshots of sexual content against the will or consent of the person subject to the recording or image or screenshot;
 - b) transmits electronic information and/or electronic documents of sexual content against the will of the recipient, aimed at sexual desires; and/or
 - c) stalks and/or tracks using an electronic system the person subject to the electronic information/document for sexual purposes, shall be punished for committing electronic-based sexual violence, with a maximum imprisonment of 4 years and/or a maximum fine of IDR 200 million.

However, if the above acts are committed with the intention of blackmailing or threatening, coercing, or misleading and/or deceiving someone to do, allow, or not do something, the punishment is a maximum of 6 years' imprisonment and/or a maximum fine of IDR 300 million.

It is important to note that electronic-based sexual violence as referred to in Article 14 paragraph (1) is a complaint offense, unless the victim is a child or a person with a disability.

Then, if the acts referred to in Article 14 paragraph (1) letters a and b are carried out in the public interest or in self-defense against the crime of sexual violence, they cannot be punished. If the victim of electronic-based sexual violence as referred to in Article 14 paragraph (1) letters a and b is a child or a person with a disability, the victim's will or consent does not eliminate criminal charges.

The types of sexual violence in Article 4 paragraph (2) of the TPKS Law are subject to different criminal penalties, for example:

- a) Rape, indecent acts, acts against morality, and forced prostitution are regulated under the old Criminal Code, which was still in effect at the time of publication, or Law

1/2023 concerning the new Criminal Code, which came into effect three years from the date of its enactment, namely in 2026.

- b) Sexual intercourse with a child, indecent acts against a child, and sexual exploitation of children are regulated under the Child Protection Law and its amendments. Meanwhile, pornography involving both adults and children is regulated under the Pornography Law.
- c) The crime of human trafficking is regulated under the Human Trafficking Law.
- d) Sexual violence within the household is regulated under the Domestic Violence Law.

CONCLUSION

Cases of sexual violence in Indonesia remain high each year. Therefore, Islam, as stated in the Quran, Surah An-Nur, verse 33, prohibits violence against women, which also contradicts the values of monotheism and Islam. This aligns with Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, which aims to ensure that this law is more effective in protecting victims of sexual violence, preventing violence from occurring, and providing legal certainty for both perpetrators and victims.

The enactment of the TPKS Law represents a tangible breakthrough in the state's efforts to prevent and address all forms of sexual violence. This law will protect and rehabilitate victims, enforce the law, rehabilitate perpetrators, create an environment free from sexual violence, and ensure the non-recurrence of sexual violence. Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence is a gift for all women in Indonesia and a shared commitment. We hope that the implementation of this law will address and resolve cases of sexual violence and protect women and children in Indonesia. Therefore, Indonesian women must remain enthusiastic.

Furthermore, the TPKS Law comprehensively regulates the classification of sexual violence crimes, establishes appropriate penalties, and optimizes the prevention and handling of sexual violence cases. The TPKS Law, passed by the House of Representatives (DPR), regulates nine TPKS: non-physical sexual harassment, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence. However, its implementation has not been as optimal as desired by victims and the public due to several obstacles, including:

- 1) Not all derivative regulations of the TPKS Law have been enacted, awaiting the President's signature.
- 2) Limited facilities, infrastructure, and operational costs. The National Commission on Violence Against Women (Komnas Perempuan) noted that only 30 percent of districts/cities in Indonesia have safe houses for victims of sexual violence.
- 3) Inadequate quality of human resources and regional services to handle TPKS cases in Indonesia.

Therefore, in this regard, the government is expected to increase public awareness regarding the importance of eradicating sexual violence more equitably, including emphasizing the urgency of prevention, treatment, and victim recovery efforts within a legal framework. Monitoring of the implementation of the TPKS Law must also be carried out continuously to ensure its effectiveness.

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