



LIMITATIONS ON NON-PHYSICAL SEXUAL ACTS IN THE LAW 12 OF 2022 CONCERNING CRIMINAL ACTIONS OF SEXUAL VIOLENCE AS AN ANALYSIS

Aliza Yohana S

Md. Shodiq

Ramlani Lina Sinaulan

Aturkian Laia

Nur Afiah

Abdul Rahmat

Universitas Jayabaya Jakarta Indonesia

Universitas Negeri Gorontalo Indonesia

emdeshodiq@pascajayabaya.ac.id

lina.sinaulan@dsn.ubharajaya.ac.id

emdeshodiq@pascajayabaya.ac.id

afiah9933@gmail.com

abdulrahmat@ung.ac.id

Article history:	Abstract:
<p>Received: December 14th 2023</p> <p>Accepted: January 10th 2024</p> <p>Published: January 14th 2024</p>	<p>Cases of sexual violence are like an iceberg phenomenon, where the visible cases are only a phenomenon that occurs on the surface . Research result This is In non-physical sexual violence as regulated in Article 4 of the Sexual Violence Crime Law, there is a need for an explanation regarding what non-physical sexual violence is and protection. law towards victims of violence sexual arranged in laws , among others Constitution about Act Criminal Violence Sexual , Law about Protection child , Act about Information and Technology Electronics , and the Criminal Code . Formulation mass in study This is How characteristics follow criminal violence non- physical sexual ? And how protection law towards victims of violence non- physical sexual ? Research methods This use normative law .</p> <p>Result of research This that Catcalling is an act of verbal harassment related to criminal acts that violate morality. In non-physical sexual violence as regulated in Article 4 of the Sexual Violence Crime Law, there is a need for an explanation regarding what non-physical sexual violence is. Currently in Indonesia protection law towards victims of violence non- physical sexual accommodated in Constitution Act Criminal Violence Sexual</p>

Keywords: *Sexual violence, Criminal Law, Legal Politics*

INTRODUCTION

Cases of sexual violence are like an iceberg phenomenon, where the visible cases are only a phenomenon that occurs on the surface. What's more, it turns out it's deeper than that, as more and more victims emerge. Data from the National Commission on Violence Against Women's annual records (CATAHU) shows that 95 percent of those who were victims of sexual violence were women. Although it does not rule out the possibility that men can also become victims. Other data shows that physical violence has the highest percentage as the most frequently experienced cases of violence. This is followed by non-physical violence such as psychological, verbal and economic.

Data from the National Commission on Violence Against Women shows that 31 percent of violence occurs physically, followed by 30 percent, namely sexual violence, the remaining 28 percent is psychological and 10 percent is economic. The main reason why physical violence is more numerous than non-physical is because the number of complaints is greater. Reporting cases of physical violence is easier to spot than non-physical. Evidence of physical violence can be clearly seen from scars such as bruises, bruises, or wounds caused by sharp objects. However, not with non-physical violence. It is possible that the opposite is true. The lack of evidence from victims of non-physical violence will further discourage victims from reporting. In fact, there is a lot of non-physical violence that occurs around us, such as mental abuse, verbal violence, and even economic violence.

The lack of evidence that victims of non-physical harassment or violence, whether verbal, psychological (emotional) or economic, has made victims reluctant to report. Apart from that, the psychological dynamics experienced

by victims is also the reason why victims of non-physical violence are reluctant to report. The emergence of thoughts such as "maybe this is all my fault", or "he should behave this way because I am the cause" makes the victim reluctant to speak up. Especially if we can see that most perpetrators of non-physical violence such as verbal, psychological and economic have a manipulative nature that can play with the reality experienced by the victim so that the victim can only be trapped by the thoughts in his head. Types of behavior that reflect that someone has experienced non-physical violence include dominant behavior from one of the parties which is controlling, degrading, intimidating, insulting and harassing, both verbally such as speech and non-verbally such as attitude. There is interdependent behavior both emotionally and economically which means they cannot live without each other, possessive behavior which tends to control and isolation, such as distancing from friends, family and the surrounding environment which if allowed to continue will become a problem. bigger things later (Karin, 2022).

Legal politics is the policy of state administrators regarding what is used as a criterion for punishing something. So, in that case the policy can related with formation , implementation, and enforcement law That Alone. (Isharyanto, 2016). If related with various definition political existing laws , ideas or draft formation new state institutions were realized through making law new purpose as base legality in frame reach destination country as listed _ in Opening Constitution of the Republic of Indonesia of 1945. This is One the package is not Can inseparable in political law (Manan, 2018).

This non-physical sexual violence is regulated in Article 4 paragraph (1) of the Sexual Violence Crime Law, then the question arises as to what the limits are for someone being said to have committed this non-physical sexual violence to what extent and how. protection law towards victims of violence non- physical sexual . So the author is interested in studying this.

RESEARCH METHODS

In this article used method study law normative with secondary data consisting on material primary law in the form of regulation legislation and materials law secondary form books , articles , journals , etc ingredients from the Internet.

DISCUSSION

Women in Indonesia are still vulnerable to violence due to patriarchal culture. As stated by Purwanti, this patriarchal culture is a perspective that states that men dominate all roles in the social system; because women are excluded from roles that they can also play like men. This social role includes social, religious, economic, political or cultural aspects. This is one of the factors in which women are vulnerable to violence in Indonesia.

Sexual violence is violence that has a sexual nuance, including various unwanted behaviors that have a sexual meaning, which is called sexual harassment, as well as various forms of forced sexual intercourse, which is called rape.

Heise considers violence against women to be a phenomenon that has unique and special characteristics. He believes that the roots of violence against women come from inequality in the relationship between men and women in the social life of society. Therefore, in Heise's view, violence against women has a basis that can be seen both from a cultural and biological perspective. (Susi, 20020

Sexual harassment has a very wide scope, various forms, verbal and written, physical and non-physical, starting from verbal expressions (indecent comments, sexual jokes and so on) to physical forms (poking, touching, fondling, hugging and so on), showing pornographic/dirty images, indecent attacks and coercion such as forcing to kiss or hug, threatening to make things difficult for the woman or refusing to provide sexual services, even rape (Sumera, 2013).

The TPKS Law regulates criminal acts of non-physical sexual violence. One act that often occurs but there is no firm follow-up or rules governing this is catcalling. The term catcalling is used in this article because the term catcalling is used globally in various countries. Catcalling or what can be interpreted as verbal harassment is carrying out an act such as saying pornographic/sexual words or flirtatious, itchy or coquettish behavior towards another person which causes discomfort and also in the form of whistling, being called "Hey, beautiful, come here, sit on my brother's lap." , "girls, let's play, how many nights do you have, don't be shy", "where are you going, bro, tease us, come here, bro, accompany you", done by a stranger, unwanted comments, such as "so beautiful, bro, her body it's so awkward", "don't be too aggressive or you'll be kissed!", strangers observe their bodies until they come to an action which results in a form of unwanted touching which creates a feeling of insecurity, which is categorized as *street harassment* . Light sexual violence takes the form of sexual violence verbally, such as verbal comments, jokes, pornography, whistling insults, and non-verbally, such as facial expressions, body movements or other actions that ask for sexual attention that the victim doesn't want, that are harassing and/or insulting to the victim.

Non-physical sexual harassment refers to any action or behavior that does not involve physical touch, but causes discomfort, feelings of offense, feelings of humiliation, and/or has the potential to cause health and safety problems, including the impact of trauma. Examples of these actions include whistling, gestures or movements with sexual elements, comments of a sexual nature, uttering words with sexual nuances, showing pornographic material or sexual desires, as well as catcalling behavior. Catcalling is not just limited to calling or whistling, but also includes certain actions such as sexual comments, observing body shape, attempts at seduction with sweet or sexual words, as well as continuous exhibition of genitals.

Verbal sexual harassment has become a social phenomenon, where this act is included as a crime of morality. A crime of decency is a crime involving genitals or indecent acts that are related to the norms of decency. Morality crimes

have a broad meaning and can vary according to certain norms adopted by a society. The criteria regarding an act that qualifies as a crime of morality depend on the moral standards adopted in a society. This act of catcalling is not only limited to calling, whistling, but there are even limits to the act of catcalling which actually has the potential to be a criminal act and requires special regulations such as making sexual comments, commenting on body shape, trying to tempt women with sweet or sexual words and showing them tools. vital activities carried out on an ongoing basis. This is an act that disturbs a person's human rights, which is a crime of decency that is always considered normal in society. In fact, the act of catcalling makes a person feel afraid to leave the house, does not feel safe or comfortable, the consequences of this act have a huge impact on a person in terms of psychological, mental, and fulfillment of human rights and social realization, so there is a need for follow-up with special regulations. However, in reality, when this happened, only a few responded and law enforcers did not even respond when it was reported that it was clear that it was a crime of morality. The fact is that those who are victims of verbal harassment (*catcalling*) are afraid to report it because there is a lack of response from the public and even law enforcement and there is no legal certainty. Usually the victims of this act of catcalling are women, but it can also be men, as well as gay people who are the objects of catcalling themselves. And also the ones who are most often victims of catcalling are women.

Actions that are classified as violent behavior towards women are sexual street harassment which has become a social problem, according to research conducted by Hollaback.org, 71% of women in the world have experienced street harassment from puberty (11-17 years) to until adulthood, and more than 50% of them include physical abuse and the rest are verbal and visual abuse⁷. According to a survey conducted by CCN Indonesia (2016) of 25,213 respondents from both cities and districts, 58% had experienced verbal harassment. Harassment that occurs in public spaces is usually catcalling to get more attention from the woman and hope that she will respond. Even though it will cause discomfort for women and cause excessive fear. Verbal sexual harassment does not only occur in Indonesia but in other countries. Verbal sexual harassment by several countries, such as France, Argentina, Portugal, Belgium and Peru has been taken seriously because it has a major impact on the social and psychological lives of victims. This country applies not only criminal sanctions but also fines to perpetrators who carry out catcalling or verbal sexual harassment.

Verbal sexual harassment is increasing among women and tends to be tolerated and there is no legal certainty for victims. Catcalling and street harassment itself is a phenomenon that is rarely researched, because this is considered a normal act in society, even though if it is studied further, many victims feel discomfort and even the impact it causes has an impact on the victim. Therefore, this issue is often considered trivial, considered something that is culturally acceptable and even normalized. This is not normal for the object of catcalling, so this is a criminal act and must be held accountable. The impact of catcalling triggers psychological disturbances for women which results in psychological violence. Psychological/emotional violence is an act that results in fear, loss of self-confidence, loss of ability to act, a feeling of helplessness and/or severe psychological suffering in a person. And it also results in trauma for victims who are exposed to catcalling, this act can even continue to happen without getting a response from the public or law enforcement.

This act of catcalling can lead to rape. Even though the woman who was the victim of catcalling had tried not to respond to the actions of the *catcaller* . However, in fact, this rejection makes the catcaller feel curious and repeats other types of catcalling, which then makes women feel harassed and their human rights are disturbed. The danger of catcalling is more likely to trigger the victim's psychological side and affect the victim's emotions, such as feeling afraid within the victim, more likely to feel uncomfortable, not feeling safe when outside the house, feeling embarrassed as a result of catcalling. Thus, the act of catcalling can become a crime of decency that occurs in public spaces. If we focus on the word unwanted action, it can be categorized as a complaint offense, a crime that has the potential to become a criminal act. Criminal action is a process of action that is prohibited because it violates legal regulations and carries the threat of sanctions against people who violate these regulations, prohibitions are imposed on their actions and sanctions are indicated by the person who causes the action.

This act of catcalling can include non-physical sexual violence. The realization of a legal policy against acts of verbal sexual harassment (catcalling) is not easy, it must be based on certain values. According to Bassiouni, the goals to be achieved by criminal law are generally realized by interests that live in society, have social interests and in these social interests there are values that must be protected. According to Bassiouni, these social interests are:

1. Maintaining order in society which includes security and comfort for the surrounding community;
2. There is a form of protection for community members from existing crimes, losses, as well as social problems and dangers that cannot be tolerated any longer;
3. Lawbreakers must be resocialized;
4. Maintaining or maintaining integrity regarding certain fundamentals related to social justice, human dignity and individual justice.

Daniel S. Lev in his book describes the Indonesian legal system since the revolution with the aim of explaining why and how legal functions in the colonies were handled by institutions that had a different pattern from the handling of legal functions in independent countries. In addition, it examines how judicial institutions are generally related to political and economic processes and to cultural values. Daniel S. Lev also developed two concepts that need to be given a simple definition.

The first concept is the legal system, the legal system used here is a procedure. A legal system consists of various formal processes, which give rise to formal institutions, together with the informal processes around them. In a modern state, the central institution of the legal system is the bureaucracy, including the courts. The first source of power of a

legal system is a legal system whose looseness (or lack of language) extends to the substantive rules applied by the legal system and whose organization, tradition and style determine the extent to which certain legal processes are or can be used to carry out social management. and to achieve various common goals. The second concept is legal culture, the legal culture used in discussions which consists of two elements related to procedural *legal values* and substantive legal values. The values of procedural law are related to the means of social ordering and conflict *management*. These values are the cultural foundation of the legal system and they help determine what is most important the "system space" *that* is given to different legal, political, religious, or other institutions at any time in a society's history.

Daniel S. Lev argued that what is most determining in the process of law formation is political conception and power, namely that law is always more or less a political tool and the place of law in a state depends on political balance, the definition of power, the evolution of political, economic, social ideology, and so on. .

Abuse sexual No only arranged in Constitution Act Criminal Violence Sexual , will but there is also regulated in Constitution Child Protection if related with child under age and law about Information and Technology Electronic if the media is used through electronic . Constitution the is form protection law towards victims of harassment sexual .

CONCLUSION

Characteristics crime violence non- physical sexual is form Verbal violence and catcalling are criminal acts that occur in public spaces, such as on roads, markets, public transportation, etc. People who have experienced catcalling feel unsafe, peaceful, and at peace when outside the home. The impact of this act of catcalling causes psychological and mental disorders to a person. According to a criminal law perspective, catcalling is an act of verbal harassment related to criminal acts that violate decency. In non-physical sexual violence as regulated in Article 4 of the Sexual Violence Crime Law, there is a need for an explanation regarding what non-physical sexual violence is.

Currently in Indonesia protection law towards victims of violence non- physical sexual accommodated in Constitution Act Criminal Sexual Violence

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