
Legal Protection of Victims of Verbal Catcalling in the Perspective of the Law on Criminal Acts of Sexual Violence

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ABSTRACT

The purpose of this study is to evaluate the violence that often befalls women who are victims of verbal sexual harassment. Law Number 12 Year 2022 provides legal protection for victims of sexual violence (TPKS Law). The method used in this case study is the normative method. This is based on the fact that bullying is a form of verbal violence that expresses non-physical actions involving the body, sexual desire and inappropriate attractiveness to lower a person's mood. This can degrade human dignity based on their decency. As stipulated in the TPKS Law, victims of verbal sexual harassment have the right to be protected from actions that can degrade dignity. The form of protection is the implementation of duties and instilling a sense of security for victims, provided that it is carried out by LPSK and other institutions authorized by law. Verbal harassment or acts of violence should not be taken lightly, there must be firm action to provide a deterrent effect for the perpetrators. Because it is not only detrimental to the victim, but also a problem from the point of view of the norms that exist in society. In essence, humans are social creatures who live side by side to build community life and create synergy. Most catcalling occurs in community settings directed at women.

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I. INTRODUCTION

Basically any act of violence is an act that is not good and even prohibited, this is because acts of violence can cause various consequences or side effects ranging from trauma, serious injury, inability to carry out daily tasks, fainting, serious injuries, sexual violence, loss of the five the senses get handicapped until death. Protection of children and women has been regulated in Law no. 23 of 2002 concerning Child Protection in conjunction with the RI Constitution article 28 B paragraph 2 and RI Presidential Regulation No. 18 of 2014 concerning the protection and empowerment of women and children in social conflict article 1 paragraph 5.

Sexual harassment occurs not only through physical contact, but can also occur verbally. The forms also vary, ranging from catcalling, such as teasing women by shouting in a teasing context, to whistling at women. As quoted from Komnas Perempuan's 2020 Annual Records, there were 29,911 cases of sexual violence in Indonesia throughout 2020 (Komnas Perempuan, 2021). Survey of Sexual Harassment in Public Spaces in 2019, there were 64% of 38,755 women, and 11% of 28,403 men. From this data, 60 percent admitted that the harassment was verbal or verbal, 24% experienced touch and 15% through visuals such as eye contact or flirting (Farisa, 2019). Cases of verbal sexual harassment (catcalling) are sometimes not recorded at the National Commission on Violence Against Women, this is because there are no norms governing these actions, besides

that there are also no women who report or complain about this, but verbal sexual harassment (catcalling) occurs a lot in the midst of society and is considered normal, even considered normal behavior is not harassment. Even though this is sexual harassment that demeans women's dignity, because it places women in the lowest position below men. This condition ultimately prompted the existence of specific laws that regulate the elimination of sexual violence to protect victims listed in the Bill on Crimes of Sexual Violence (TPKS). The TPKS Bill is needed in two domains. First, how do victims get justice and protection, so that law enforcement officials, especially the police and prosecutors have legal standing in taking action; and second, what needs to be regulated in the TPKS Bill is the matter of separating public affairs from private affairs.

Research related to catcalling has been carried out several times. Hidayat and Setyanto (2020) in their research explained that catcalling contains a form of communication, namely when the perpetrator gives verbal expression to his victim through whistling or comments about the sexual attributes of the victim's body. Their research shows that catcalling is verbal sexual harassment and is a form of rape culture. A sociological concept for a situation where rapists are considered normal and normal due to society's attitudes towards gender and sexuality.

Rahman (2019) in his research said that verbal sexual harassment often occurs in public spaces, and the victims are women and not a few of them are women who wear headscarves. The focus of this research is how female students wearing headscarves in the city of Surabaya interpret verbal sexual harassment based on their experiences. This research explains that female students wearing headscarves interpret verbal sexual harassment differently, according to their interpretation. Differences are due to the interpretation, assessment, and refinement of meaning that is carried out, and this is influenced by the symbols of verbal abuse committed by perpetrators against their victims.

Kurniawan (2016) in his research discusses sexual harassment which continues to increase due to technological developments and globalization as well as discussing how interpersonal communication can shape self-perceptions, both socially, physically and psychologically. The study found that the process of interpersonal communication is very important in the process of forming a negative self-concept into a positive one.

Farmer and Smock Jordan (2017) also conducted research on awareness and concern for sexual harassment in various forms and continues to increase. This research suggests the importance of knowing the efforts to deal with catcalling with different responses from each informant. Handling efforts are returned to each other, but must be accompanied by decisions and knowledge that can be accounted for.

II. RESEARCH PROBLEMS

Write a clear problem statement, what is the focus of your article? At least 2 problem formulations.

From the explanation above, several problems arise, namely:

1. How is law enforcement against perpetrators of verbal violence (catcalling) in Indonesia?
2. How is the legal protection for victims in criminal acts of verbal violence (Catcalling)?

III. RESEARCH METHODS

The type of research used in this research is normative research, namely by conducting research based on legal materials/references by examining the theories and concepts of these legal materials, which are related to the legal principles of statutory regulations. related to writing/this research.

Method The approach used in this study is a conceptual and statutory approach. In this study using secondary data or data obtained indirectly through library research. The secondary data is further divided into several sections, namely, primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal material is data that has legal force such as legislation, while secondary and tertiary legal material is data supporting primary legal material such as previous published studies and related books. The legal material that has been obtained is then analyzed using descriptive-qualitative analysis to obtain conclusions that can be scientifically accounted for (Tampubolon, 2016).

IV. RESULTS AND DISCUSSION

1. Law Enforcement of Criminal Acts of Verbal Violence (Catcalling) in Indonesia

Komnas Perempuan stated that catcalling was a form of sexual harassment in the form of verbal violence or psychological violence. This catcalling behavior is often carried out by men against children and/or women and the thing that underlies this action or behavior is due to sexual urges. Acts of catcalling vary, can be in the form of insulting remarks, comments, whistling, or compliments, sometimes accompanied by eye winks or other movements that tend to make the victim uncomfortable.

Catcalling can be punishable by criminal penalties if it fulfills the criminal elements of Article 281 of the Criminal Code which reads "threatened by a maximum imprisonment of two years and eight months or a maximum fine of four thousand five hundred rupiahs:

- 1) Whoever intentionally and openly violates decency;

2) Whoever intentionally and in front of other people who are there against his will violates decency.

According to Article 281 paragraph (2), if someone commits an immoral act without the consent of that person in front of other people, then the perpetrator can be imprisoned or fined. Besides that, in Law no. 4 of 2008 concerning pornography, there are several articles that can be used as a legal basis in cases of catcalling, namely: Article 1 number 1 "Pornography is pictures, sketches, illustrations, photographs, writing, sounds, sounds, moving pictures, animations, cartoons, conversations, gestures, or other forms of messages through various forms of communication media and/or public performances, which contain obscenity or sexual exploitation that violates the norms of decency in society". Based on this explanation, catcalling can be considered as pornography because it fulfills the elements mentioned above, namely sounds, gestures, voices, and messages that contain obscenity.

Article 9 Law no. 4 of 2008 explains, "Everyone is prohibited from making other people as objects or models that contain pornographic content." In article 9 in Law no. 4 of 2008 clearly states that everyone is prohibited from making another person a pornographic object or model. So, catcalling can be considered as violating the law because catcalling makes other people as objects for the perpetrator.

Article 35 Law no. 4 of 2008 "Every person who makes another person as an object or model that contains pornographic content as referred to in Article 9 shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 12 (twelve) years and/or a fine of at least 500,000,000.00 (five hundred million rupiah) and a maximum of Rp. 6,000,000,000.00 (six billion rupiah)" Article 35 in Law No.4 of 2008 spells out the punishment for those who violate the rules written in Article 9 of the Law -Law No.4. Those who use other people as objects of pornography can be subject to imprisonment for a minimum of 1 (one) year and a maximum of 12 years and/or a fine of Rp. 500,000,000.- (five hundred million rupiah) up to Rp. 6,000,000,000.- (six billion rupiah). Compliments or greetings with sexual nuances have so far been considered normal. In fact, this kind of behavior is a form of harassment. Catcalling is a form of sexual harassment in public spaces, usually carried out on the streets or other public facilities. There is an influence of power relations on catcalling behavior. The perpetrator feels in a superior position so that he has the right to do as he pleases without considering the feelings of others. The culprit can be anyone, both male and female, alone or in a crowd. Catcalling can also be experienced by anyone regardless of gender. However, most victims are women. Although in certain circumstances men may become victims of catcalling, the majority of victims are women.

This was not due to appearance, in several cases of verbal abuse because the victim's clothing or appearance was often used as an excuse. But this kind of view is wrong. In catcalling cases experienced by victims, the majority of whom are women, are seen as sexual objects. The female body is seen as a sexual body which makes men tempted. One example of catcalling that often occurs at night is a woman who is alone waiting for a bus at a bus stop. When catcalling occurs, the victim is actually blamed, harassment occurs not because of the appearance or what the victim is wearing, but indeed based on the intentions of the perpetrator.

¹At a certain level the impact of catcalling can cause lasting trauma to the victim. Victims limit their mobility if they are not accompanied when leaving the house, which ultimately affects their quality of life and hinders their personal development. "All forms of sexual harassment must not be tolerated, especially in the name of a fad, if we want to build a society without violence"

This 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. The country applies not only criminal sanctions but also fines to perpetrators who commit catcalling or verbal sexual harassment. This verbal sexual harassment is increasing day by day because there is a tendency to be ignored and there is no legal certainty for the victim. Catcalling and street harassment itself is a phenomenon that is rarely studied, because this is considered a normal behavior in the community, even though when examined further, many victims feel uncomfortable and even the impact is very influential for the victim.

²Catcalling is not uncommon, it is considered something that is very culturally understandable and even normalized. Even though such action should not be a natural thing for the object of catcalling, so this is a criminal act and must be accounted for. Because the impact of catcalling is very influential on the psychological disturbance of women who are victims, it often even results in psychological violence. Psychological/emotional violence is an act that results in fear, loss of self-confidence, loss of ability to act, feeling of helplessness and/or severe psychological suffering to someone. As well as causing trauma for victims affected by catcalling, this act can even continue to occur and not get a response from the community or law enforcement. Acts of catcalling that are increasingly occurring, will have a negative impact on the victims. This is influenced by several things, one of which is that there are still many victims who do not dare to report and prefer to remain silent. Many people who saw or were in the vicinity of the incident did not dare to provide assistance or defend the victims of catcalling

¹<https://www.kompas.com/tren/read/2021/02/08/060400765/apa-itu-catcalling-danwhy-includes-harassment-sexual>.

²Yuni Kartika, Andi najemi, "Legal Policy on Sexual Harassment (Catcalling) in the Perspective of Criminal Law", Journal Of Criminal Law, Vol. 1 No. 2, 2020, p. 4.

for fear that it would result in commotion. Along with the progress of the times and the development of information technology, problems related to street harassment, especially catcalling, cannot be avoided, it will increase because technological advances will change people's behavior.

2. Legal Protection for Victims in Verbal Violence Crimes (Catcalling)

³The term "criminal law policy" can also be referred to as "criminal law politics". In foreign literature the term "criminal law politics" is often known by various terms, including "penal policy", "criminal law policy" or "strafrechtspolitik". According to Soedarto, legal politics is firstly an attempt to realize good regulations in accordance with the circumstances and situation at a time, and secondly policies from the state through authorized bodies to establish the desired regulations which are thought to be used to express what is contained in society and to achieve what is aspired. ⁴John Kenedi that the notion of criminal policy or criminal politics (criminal policy) is a rational and organized effort from a society to tackle crime.

Implementation of criminal law politics to tackle crime with formulative policies or formulation of protective regulations. The TPKS Law was born to criminalize sexual harassment in order to get legal protection from the state so that women get a sense of justice without discrimination anymore. Protection for women so that they also provide a sense of security from the sexual harassment they experience.

⁵Protection is the provision of guarantees for the security, peace, welfare and peace of the protector against all dangers that threaten the protected party. Legal protection is an act of protecting according to law.

According to Philipus M. Hadjon, protection is a subjective condition which states that there is a necessity for a number of subjects to immediately obtain a number of resources in order to continue the existence of legal subjects guaranteed and protected by law, so that their power is organized in an organized manner in the process of making political and economic decisions, especially in the distribution of resources, both at the individual and structural levels.

⁶Protection of victims of verbal sexual harassment is very important in view of the increasingly widespread acts of harassment that are occurring in Indonesia. This makes it the duty of the state to ensure that every citizen gets security and comfort to a level that is still considered taboo, such as in the sexual context. Of course, awareness is not only focused on the community but also law enforcers. In such circumstances, it is society, law enforcement officials and even the state that should pay more attention to victims of sexual harassment, both physical and non-physical.

In the opening preamble of the TPKS Law, philosophically it provides protection for victims of sexual harassment, that everyone has the right to protection from violence and the right to be free from torture or treatment that degrades human dignity as guaranteed in the 1945 Constitution of the Republic of Indonesia.

The form of protection for victims of verbal sexual harassment (catcalling) is clearly stated in Article 1 number (18) Protection is all efforts to fulfill rights and provide assistance to provide a sense of security to Witnesses and/or Victims which must be carried out by the LPSK or other institutions in accordance with the provisions legislation. Victims' rights are the rights to treatment, protection, and recovery that are obtained, used, and enjoyed by victims.

In Article 28 Victims can be accompanied by assistants at all levels of examination in the judicial process. Victim companion includes: a. LPSK officers; b. UPTD PPA officers; c. health workers; d psychologist; e. social worker; f. social welfare workers; g. psychiatrist; h. Legal assistant, including advocates and paralegals; i. Community-Based Service Provider Institution officers; and other companions.

Victims can report verbal sexual harassment (catcalling) that the victim or person who knows, saw, and/or witnessed an event constituting a crime of sexual violence reports it to the UPTD PPA, the technical implementation unit and the regional technical implementation unit in the social sector, the Institution Community-Based Service Providers, and/or the police, both where the Victim is and where the crime occurred, as stipulated in Article 39 paragraph (1).

Protection for victims in Article 42 Within a period of no later than 24 (one twenty-four) hours from receiving a report on the Crime of Sexual Violence, the police can provide temporary protection to the victim. Temporary protection is given based on a temporary protection order for a maximum period of 14 (fourteen) days from the time the victim is treated. For the purposes of temporary protection, the police have the authority to limit the movement of the perpetrator, both with the aim of keeping the perpetrator away from the victim within a certain distance and time or limiting certain rights of the perpetrator. The restrictions are set forth in a temporary protection order.

³Barda Nawawi Arief. (2005) An Anthology of Criminal Law Policies. Bandung: Bakti Citra, p. 24

⁴g: Bakti image, p. 24 17Soedarto. (2006). Capita Selecta Criminal Law. Bandung: Bandung Alumni, p. 159

⁵Abintoro Prakoso. (2016). Child Protection Law, Yogyakarta: LaksBang PRESSindo, p. 4

⁶Dandi Juliantara, et al, Op.Cit, p. 444

Furthermore, Article 44 in terms of providing temporary protection and protection, the police and LPSK can work together with the UPTD PPA. Furthermore, in Article 45, in the event that a suspect or defendant is not detained and there is concern that the suspect or defendant will commit the crime of sexual violence, intimidation, threats, and/or violence against the victim and based on the request of the victim, family, investigator, public prosecutor or assistant, the judge can issue a stipulation of restrictions on the movement of the perpetrators, both those aimed at keeping the perpetrators away from the victim within a certain distance and time as well as restrictions on certain rights of the perpetrators.

Victims' Rights Article 66 paragraph (1) Victims have the right to Handling, Protection and Recovery since the Crime of Sexual Violence occurred. In Article 67 paragraphs (1) and (2) the rights of victims include: a. the right to Handling; b. the right to Protection; and c. the right to Recovery. Fulfillment of Victims' Rights is a state obligation and is carried out in accordance with the conditions and needs of Victims.

Furthermore, in Article 68 the Victim's Right to Handling as referred to in Article 67 paragraph (1) letter a includes: a. the right to information about the entire process and results of Handling, Protection and Recovery; b. the right to obtain documents on the results of handling; c. the right to legal services; d. the right to psychological reinforcement; e right to health services including examination, action, and medical treatment; f. the right to services and facilities according to the special needs of the Victim; and g. the right to remove sexually charged content for cases of sexual violence with electronic media.

Based on the description above, victims who receive verbal sexual harassment (catcalling) must receive protection and guarantees for their safety, not vice versa, take actions that discredit the victim, moreover, make the victim a perpetrator who spreads false news, insults and/or defamation as referred to in Law Number 19 of 2016 Amendment to RI Law Number 11 of 2008 concerning Information and Electronic Transactions, abbreviated as UU ITE.

⁷Even though victims are the most vulnerable group in the criminal justice system in general, their existence is often forgotten, and it is very difficult for victims to obtain their rights. The government should provide a sense of security for the actions and courage of the victim in conveying the verbal abuse they experienced, given the right channels so they don't take actions that are against the law when they want to report or complain.

Related institutions must pay special attention to women who are victims of verbal sexual harassment (catcalling) so that they have the courage to report what happened to them. In the TPKS Law, the obligations of LPSK officers, UPTD PPA officers, health workers, psychologists, social workers, social welfare workers, psychiatrists, legal assistants, include advocates and paralegals, officers of Community-Based Service Providers; and other companions. The responsible parties made a kind of opening a complaint service for victims of verbal sexual harassment (catcalling).

V. CONCLUSION

Every human being essentially has his own right to live freely and avoid all kinds of threats. However, as time goes by, threats can come from anyone, anywhere, and anytime. Threats can be anything, including sexual harassment. Humans as social beings really need interaction with other people or we are usually familiar with the term social interaction. However, in social interaction deviations often occur which cause disputes between individuals who are interacting, this is in accordance with the Behavioral Perspective Theory which in essence in an interaction arises a response or response that is not always positive, sometimes it turns out to be negative.

This is based on the feelings of someone who is interacting, which sometimes offends or shows behavior that should not be done. In the act of catcalling this can be in the form of a greeting, comment, whistling, or praise, or a wink that makes a person feel uncomfortable and tends to feel threatened. This is common in the community because of the ignorance of the community regarding catcalling who considers things like that to be normal, especially when traveling, in markets and other public places.

In fact, this had a great impact on the victim so that it gave birth to a feeling of fear. Law enforcement efforts in Indonesia regarding catcalling behavior still tend to be low, this is caused by several factors, namely legal factors that do not directly regulate catcalling, factors of law enforcement officials who have different understandings of verbal harassment, societal factors with the term catcalling are still rarely heard of so if harassment occurs, the victim tends not to have the courage to report it.

Legal protection for victims of verbal sexual harassment (catcalling) in the TPKS Law, namely that victims of verbal sexual harassment (catcalling) have the right to receive protection from violence and have the right to be free from treatment that degrades their dignity. The form of protection for victims of verbal sexual harassment (catcalling) is in the form of fulfilling rights and providing assistance to provide a sense of security to victims which must be carried out by the LPSK or other institutions in accordance with statutory provisions. Protection against a sense of security when reporting and complaining about verbal sexual harassment (catcalling).

⁷Juanda, et al, (2021), Legal Protection for Children Victims of Sexual Crime, Jatiswara 36 (3) 250.

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