



Implementation Of Permendikbudristek Number 30 of 2021 and the Law on The Criminal Action of Sexual Violence Towards The Behavior of Sexual Harassment by Educators to Students In The Campus Environment (Case Study of the University of Muhammadiyah Tangerang)

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Abstract

Sexual harassment has recently occurred a lot in the campus environment, the purpose of this study is to find out the application of Regulation of the Minister of Education, Culture, Research and Technology number 30 of 2021 and the law on criminal acts of sexual violence against sexual harassment behavior by educators to students in the University Muhammadiyah Tangerang environment, this research is empirical juridical with primary and secondary data sources, primary data is obtained from interviews with speakers, namely the director of Legal Aid of University Muhammadiyah Tangerang, Taskforce and student selection committee, observations in the University Muhammadiyah Tangerang campus environment and documentation, while the secondary data comes from primary legal materials in the form of laws and regulations, namely Regulation of the Minister of Education, Culture, Research and Technology number 30 of 2021 and Law Number 12 of 2022 concerning sexual violence crimes, which is then analyzed qualitatively so that data is presented in the form of sentences. The result of the discussion was the existence of a

task force selection committee as a form of implementing regulations and protecting victims.

Keywords: Sexual harassment, campus, implement, regulations

Introduction

Indonesia is a developing country with a population of approximately 273 million people, of which 50.5% or around 138 million people are men and 49.5% or around 135 million people are women. With a large population, it needs to be balanced with improving the quality of human resources, one of which is through education, this is also in line with the constitutional mandate, namely at the opening of the 1945 Constitution, paragraph 4 namely "educating the life of the nation", with proper and good education. is expected to improve the quality of human resources in Indonesia. (Nufus et al., 2022)

The importance of education so that the state pays close attention to it and becomes one of the fundamental human rights and a manifestation of state responsibility. Apart from that, elements in the world of education must also be considered carefully, such as educators, educational staff, and students..(Murni, 2019)

Educators as the vanguard are required to meet educational standards, article 20 paragraph 1 of Government Regulation No. 57 of 2021 states that educator standards are a reference for minimum competencies and qualifications possessed by educators to carry out their duties and functions as role models, learning designers, motivators and facilitators for students.(Abi Hamid et al., 2021)

Even though there are standards to create a conducive educational environment, there are still many other problems that have not been resolved, such as the quality of relevance that is still low, and uneven, the effectiveness of education is lacking and one of the crucial problems is the existence of acts of sexual violence. (Marfu'ah et al., 2021; Soejoeti & Susanti, 2020)

Sexual violence is any act that demeans, insults, harasses, and/or attacks a person's body, and/or reproductive function, due to unequal power relations and/or gender, which results in or can result in psychological and/or physical suffering, including those that interfere with a person's reproductive health and lost the opportunity to carry out higher education safely and optimally (Anggraeni & Humaeroh, 2021). One of them is sexual harassment which is defined as the unpleasant behavior of an individual towards another individual that is unwanted and related to sex, where the victim of harassment will feel ashamed, angry, and offended. (Septidiani, 2022)

Recently there have been cases of sexual harassment on campus targeting students, teaching staff, and other campus residents. In Law no. 22 Article 1 of 1961 concerning Higher Education, it is stated that Higher Education as a scientific

institution has the task of organizing education and teaching based on Indonesian national culture and in a scientific way. (Artaria, 2012; Sitorus, 2019)

Based on the law, of course, the campus environment must provide a safe, comfortable place for campus residents. but in reality, there are still many cases of sexual harassment whose phenomena are like an iceberg, where only the top is visible, but many cases underneath evaporate without any reporting (Gadafi, 2019). This is due to the lack of respect and legal protection for victims of sexual harassment.

In 2018 a case emerged at Gajah Mada University, namely the Agni case which later became an incentive for other survivors to have the courage to speak up regarding sexual violence on campus. It continued with cases of sexual harassment which shocked the world of social media in early November 2021 with the posting of a short video about student testimonies regarding acts of sexual harassment committed by Riau University educators to their guidance students which later became a topic of public discussion. (Victory et al., 2020)

Previously, on September 26, 2021, on social media Instagram, Unslifess received an anonymous complaint from a female student stating that there was an educator at the Teaching and Education Faculty of Sriwijaya University who was suspected of sexually harassing several female students. (Utami et al., 2022)

Most recently, there was a case of sexual harassment that befell a female student at the Faculty of Education and Teacher Training, Muhammadiyah University, Tangerang by educators with the initials SB, the incident occurred in a laboratory outside the campus environment, the perpetrator kissed the cheek, forehead and even almost kissed the victim's lips, for this the victim feels shocked and depressed.

In addition, based on the results of a survey in 2020 by the Directorate General of Higher Education, Research and Technology, it was stated that acts of sexual violence were evenly distributed at almost all levels of education and that 27% of complaints came from campuses or tertiary institutions. He also explained that around 2015 around 77% of lecturers said sexual violence occurred on campus and 63% of victims were reluctant to report it to the campus. (Pengelola web kemendikbud, 2021).

The phenomenon of sexual harassment that occurs in education, whether perpetrated by educators on students or other educational staff, of course causes sadness, therefore, in anticipation of the occurrence of similar cases of sexual harassment in both the public and educational settings, the government has established regulations legislation related to sexual violence, namely Law Number 12 of 2022 concerning criminal acts of sexual violence, apart from that it is more narrowly related to cases of violence and harassment in the education zone, the Minister of Education and Culture appeared as a legal umbrella and provides protection and prevents incidents of sexual violence especially in the campus environment. (Syauket et al., 2022)

There are several previous studies that have been carried out, namely research conducted by Nadhira Diva Saraswati with the title "Directions for legal regulation of the prevention and handling of sexual violence on campus according to the regulation of the minister of education, culture, research and technology number 30 of 2021 concerning the prevention and handling of sexual violence in tertiary institutions", this research is normative juridical in nature, and the results of the research are related to the prevention of acts of sexual violence, handling of sexual violence on campus and law enforcement against cases of sexual violence on campus (Nadhira Diva Saraswati, 2022).

Enrica Febrianti's research is entitled "Policy analysis of the Minister of Education and Culture Regulation number 30 of 2021 in efforts to prevent and deal with sexual violence at the Muhammadiyah University of Ponorogo" in which the research discusses an analysis of the efforts of the Minister of Education and Culture in preventing and handling sexual violence at Muhammadiyah University Ponorogo. The results of this research are that in the UMPO environment the form of preventing sexual violence is carried out through outreach and education about sexual violence and needs to be studied regarding these rules and the Muhammadiyah University of Ponorogo has not implemented the Minister of Education and Culture Regulation number 30 of 2021 which then becomes the joint task of the entire UMPO academic community (Febrianti, 2022).

What distinguishes this research from previous research is that in this study the authors focused on the object of research at the University of Muhammadiyah Tangerang related to the application of this ministerial regulation and the Law on Crimes of Sexual Violence and forms of protection for victims. Based on the background that has been described, the author is interested in conducting legal research entitled: Implementation of the Minister of Education and Culture Regulation Number 30 of 2021 and the Law on the Crime of Sexual Violence Against Sexual Harassment Behavior by Educators towards Students in the Campus Environment (Case Study of University Campuses MuhammadiyahTangerang)

Based on the description that has been presented in the background above, the author formulates several problems as follows. First, how is the implementation of Permendikbudristek number 30 of 2021 and the law on the crime of sexual violence against sexual harassment behavior by educators towards students at the University of Muhammadiyah Tangerang? second, how is the legal protection for victims of sexual harassment by educators at the University of Muhammadiyah Tangerang?

Methods

The research conducted by the author is Empirical juridical research, with primary and secondary data, primary data sources obtained through interviews with informants and documentation, and secondary data obtained

through primary legal materials namely Regulation of the Minister of Education, Culture, Research, and Technology Number 30 the year 2021 and the Law on the Crime of Sexual Violence, books, journals and other scientific works and tertiary legal materials in the form of data via internet information, legal dictionaries, and encyclopedias (Darmalaksana, 2020).

Data collection techniques were in the form of observations in the Tangerang Muhammadiyah University campus environment, interviews with members of the task force selection committee, the director of the Legal Aid Institute, University of Muhammadiyah Tangerang, students and documentation, and the authors performed data processing through data reduction, data editing, and data display. As well as the authors perform qualitative data analysis which is in the form of data in the form of sentences.

Discussion and Result

Implementation of the Regulation of the Minister of Education, Culture, Research and Technology Number 30 of 2021 and the Law on the Crime of Sexual Violence against Sexual Harassment Behavior by Educators towards Students at the University of Muhammadiyah Tangerang.

Sexual violence on campus is becoming a hot topic of discussion, namely sexual harassment, catcalling, and other forms. However, it is often found that there is no special attention to incidents of sexual harassment, especially for victims. Campuses often assume that there are no incidents of sexual harassment, this is due to concerns that campuses can tarnish the reputation they have built. Isn't sexual violence, in this case, sexual harassment, also a criminal act, as stated by Pompe that a criminal act or what is termed *strafbaar feit* is a violation of applicable norms and causes a disturbance of law and order whether it is done intentionally or not by someone who whereas an effort to maintain the law, it is necessary to punish the perpetrators (Ilyas Amir, 2012)

There fore the campus needs to take action against all forms of sexual harassment as a guarantor of fulfilling human rights for campus residents, which can be in the form of providing information, educating about sexual harassment, how to protect the law, and providing convenience in the reporting process.

In addition, to provide legal certainty in the handling and prevention of criminal acts of sexual violence, the government has issued the Law on Criminal Acts of Sexual Violence as an effort to minimize the occurrence of sexual violence in society, and the special lex is Regulation of the Minister of Education, Culture, Research, and Technology number 30 2021 as a legal umbrella for the prevention and handling of sexual violence on campus.

The campus is obliged to implicate the contents of these regulations. It is contained in article 10 of the Minister of Education and Culture, which states that higher education institutions are required to handle sexual violence, including through:

1. Accompaniment
Namely it can be by providing counseling guidance, providing health services, providing legal assistance, advocacy, and providing social or spiritual guidance by the campus.
2. Protection
Protection can be in the form of ensuring the continuity of education for students and jobs for educators, protecting the confidentiality of identities, providing information about protection rights and facilities and access to them, providing safe housing, protecting victims from criminal and civil prosecution, freedom of victims or witnesses from all forms of threats.
3. Imposition of administrative sanctions
Punishment for perpetrators who are proven to have committed sexual violence. Sanctions must go through the approval of the campus leadership as directed by the task force which is proportional and fair and does not overrule other regulations. The sanctions are divided into three types, namely in the form of mild, moderate and severe sanctions. After receiving the sanction, through an institution the perpetrator must attend counseling which is then reported to the campus leadership to issue a statement that the sanctions imposed on the perpetrator have been carried out.
4. Victim recovery
There may be a necessity for the involvement of medical personnel, psychologists, religious leaders, and institutions as companions. There should be no reduction in learning rights or employment during the recovery period. The victim's recovery must be based on the victim's consent unless the victim experiences secondary traumatic stress, then it can be based on the witness's agreement (Febrianti, 2022)

The provisions in article 10 mean that since the beginning, the campus has actively played a role in handling victims of sexual violence that occurred in the campus environment, which was carried out optimally. (Riyan Alpian, 2022).

As a follow-up to this ministerial regulation, all campuses in Indonesia are required to form a task force according to a predetermined time. Based on information from various sources, campuses are in an emergency position for sexual violence, so the role of the task force for the Prevention and Handling of Sexual Violence is urgently needed. To recruit task force candidates, a selection committee is needed, so first, form a selection committee that has passed the training on the Ministry portal.

In response to this, the University of Muhammadiyah Tangerang has endeavored to carry out the mandate of laws and ministerial regulations, Based on the Chancellor's Decree Number: 041/KEP/III.3.AU/F/2022 dated 22 December 2022 the selection committee for the Muhammadiyah University of Tangerang task force aimed to carry out the candidate recruitment process the Task Force for the Prevention and Handling of Sexual Violence at the University of Muhammadiyah Tangerang was officially formed as recommended by article 23 of the regulation as the initial form of the birth of the task force for Prevention and Handling of Sexual Violence at the University of Muhammadiyah Tangerang. (Yeni Nuraeni, 2023).

The formation of the task force selection committee itself went through quite long stages, based on interview results it was found that the process of forming the selection committee went through various stages, such as selecting candidates for the selection committee by the chancellor or campus leadership, then the selected candidates would take part in training and re-selection by the Ministry of Education and Culture and if declared passed then it will be announced through the work unit page of the Ministry of Education and Culture and the last stage is to conduct a public test to get input from the public. It is hoped that the selected selection committee will have good integrity.

The task force selection committee has duties and functions, among others, preparing technical guidelines for the selection of members of the Task Force for the Prevention and Handling of Sexual Violence at the University of Muhammadiyah Tangerang, Carrying out the selection of task force members for the Prevention and Handling of Sexual Violence at the University of Muhammadiyah Tangerang and recommending task force members to be determined based on the results of the selection to the leadership of the University MuhammadiyahTangerang.

The Task Force is the mandate of the Minister of Education and Culture which reads; that each campus has a task force that can carry out escorts. Thus, the campus can become a safe, comfortable and non-sexual violence environment. Apart from that, the University of Muhammadiyah Tangerang needs to start a movement against violence and sexual harassment in the campus environment. and along with the existence of the candy, the special role of the Task Force is increasingly needed.

With the election of the task force membership, it is hoped that it will provide fresh air for the academic community to be free from worrying about the dangers of sexual harassment on campus, the Muhammadiyah University of Tangerang task force is currently still in the stage of waiting for a decree from the chancellor to issue a letter, as a form of legitimacy which can then carry out its duties for 2 years and can be extended for 1 period.

Legal Protection for Victims of Sexual Harassment at the University of Muhammadiyah Tangerang

It is appropriate for the rule of law to provide guarantees of security protection for its citizens. The existence of incidents of sexual harassment by educators against students on the Muhammadiyah University Tangerang campus is a serious scourge that must be responded to, apart from imposing severe sanctions on the perpetrators also does not set aside protection for the victims.

If it is related to the legal protection that was sparked by Sudjipto Raharjo, it states that legal protection is a protector of human rights due to losses from other people and this protection is intended for the community so that they can feel their rights as human beings under statutory provisions. (Satjipto Rahardjo, 2007) it is appropriate for the campus as a protector to provide protection for victims of sexual harassment so that they can enjoy their rights as victims which include the right to guarantee the confidentiality of their identity, the right to obtain assistance, protection and recovery from the campus through the task force to obtain information.

Legal protection for victims of sexual harassment itself has been regulated in the Sexual Violence Act, namely article 42 which states several ways of protection such as, in paragraph 1 it contains the time for reporting incidents of harassment so that the police can carry out temporary protection for 14 days accompanied by a protection order. temporarily, and the police have the right to limit the movement of the perpetrator so that he cannot approach the victim.

Legal protection as stated in the article, of course, must be accompanied by reporting from the victim to the police, at Muhammadiyah Tangerang University there is already a Legal Aid Institute that is willing to provide assistance to victims of sexual harassment, if the victim feels the need to continue the case to the investigation process, but through the mechanism of prior reporting by the victim to the Legal Aid Institute, University of Muhammadiyah Tangerang (Gufroni, 2023)

Meanwhile, the Permendikbud focuses on the protection and rights of victims. According to Nadiem Makarim, this regulation serves as a place to protect victims and prevent cases of violence from continuing. To carry out the prevention and handling of sexual violence as described in article 3, which is carried out with the principles of, among other things, the best interests of victims, justice and gender equality, equal rights and accessibility for persons with disabilities, accountability, independence, prudence, consistency and guarantees of non-recurrence.

The description of protection for victims is contained in article 12 paragraph 2 of this regulation, one of which is a guarantee of continuity to complete education for students, and the Muhammadiyah Tangerang University campus provides guarantees for the continuity of education for victims, so that victims remain in college and other protections such as protection of identity confidentiality; Protection from criminal charges and civil lawsuits; Protection from threats regarding the testimony given.

The form of protection for victims of sexual harassment can also be by imposing sanctions on the perpetrators, by imposing sanctions it is hoped that it will foster a sense of security and minimize feelings of trauma and obtain a sense of justice for the events they have experienced. According to Article 14, the imposition of administrative sanctions is grouped into mild, moderate, and severe administrative sanctions, of course, if the perpetrator is proven to have committed an act of sexual harassment, they are described as follows:

1. Mild sanctions, which can be in the form of a written warning or an apology stated in writing which is then published internally on campus or in the mass media.
2. Moderate sanctions, namely in the form of temporary dismissal from office or reduction of rights as a student
3. Severe sanctions in the form of permanent dismissal as students or teaching staff, education.

Talking about cases of sexual harassment that befell students at the University of Muhammadiyah Tangerang, even though the incident or incidents of harassment occurred outside the campus environment, due to the absence of a task force for the Prevention and Handling of Sexual Violence when the victim experienced this sexual harassment incident, the victim asked for protection from an anti-violence student alliance organization sex, who then entered into dialogue with the chancellor to handle the case. The student alliance guides the campus to resolve cases of sexual harassment and provide protection for victims (Yuli Eka Safitri, 2023).

In response to this, the rectorate gave strict sanctions in the form of a permanent dishonorable dismissal of the perpetrators of harassment. This is in line with the regulations of the minister of education, and it is hoped that by imposing strict sanctions and forming a new task force, the campus will be safe and comfortable from sexual predators. And will facilitate when victims need counseling and legal assistance (Khairul Ma'arif, 2022).

In addition to the form of handling victims of sexual harassment, it is necessary to have a form of prevention in anticipation of recurring incidents, in the Permendikbud it is stated that the form of prevention carried out by campuses as stated in article 6 is in the form of learning, strengthening governance and strengthening the culture of the community of students, educators, and education staff, apart from that prevention can be done by educators, education and students by making efforts to limit meetings with students if there is no interest, both outside the campus and outside of their operating hours, without the approval of the head of the study program.

Conclusion

Based on the results of the discussion, it can be concluded that the University of Muhammadiyah Tangerang has attempted to implement the Minister of Education and Culture Regulation number 30 of 2021 and the Law on Sexual Violence Crimes to prevent sexual violence in the University of Muhammadiyah Tangerang campus environment, this application has been in the form of a task force selection committee based on the Chancellor's Decree Number: 041/KEP/III.3.AU/F/2022 dated 22 December 2022 as recommended by article 23 which then carried out its duties by forming a task force. The form of legal protection for victims of sexual harassment can be in the form of guarantees for continuing education at the University of Muhammadiyah Tangerang, protection from physical/non-physical threats from perpetrators or other parties, protection for the confidentiality of the identity, protection from criminal charges and civil lawsuits, protection from threats regarding the testimony given and the existence of the Muhammadiyah University of Tangerang Legal Aid Institute which is ready to assist the victim if they are going to bring them to justice.

As for the advice in writing this article, the campus should be expected to immediately issue a decision letter on the appointment of selected task force members based on the results of the election carried out by the selection committee, provide counseling and health service facilities on the Muhammadiyah Tangerang University campus, provide socialization and education to the related academic community. with the impact of sexual violence, gender equality education, disability equality, sexual and reproductive health education, and the Prevention and Handling of Sexual Violence on campus. And it is hoped that the task force will be able to carry out their duties with trust and following the mandate from the Minister of Education and Culture Regulation number 30 of 2021.

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