

CIVIL SOCIETY, PUBLIC SPHERE AND THE REGULATION OF MINISTRY OF EDUCATION AND CULTURE NUMBER 30 OF 2021

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Abstract

The origins of civil society's involvement in policies aimed at preventing and handling the sexual harassment cases which occur in college are caused by many sexual harassments, so civil society perceives that regulation which concerns on sexual harassment is needed as one of the steps to improve procedures for respecting the women's dignity as stipulated in the Regulation of Ministry of Education and Culture Number 30 of 2021. This study uses qualitative approach, with the data collection method in the form of interviews with stakeholders representing country and civil society.

Keywords: *Permendikbud* 30/21, Sexual Harassment, Civil Society, Public sphere.

Introduction

The Ministry of Education, Culture, Research and Technology issued a ministerial regulation regarding Prevention and Handling Sexual Harassment in College Number 30 of 2021 which is strategic policy and an important step to regulate the violence and sexual harassment problems at college in Indonesia. This ministerial regulation was announced by Ministry of Education and Culture as a policy product in September 2021 and widely disseminated to public in October 2021. The ministerial regulation regarding Prevention and Handling Sexual Harassment in College environment, as a whole, formulates rules and unifies perspectives victims in efforts to protect, prevent, and handle sexual harassment which took place in colleges or universities.

The enacted of Prevention and Handling Sexual Harassment Regulation is inseparable from the contribution of civil society groups in advocating issues of sexual harassment and encouraging the institutionalization of violence in the form of policies. The struggle of civil society in advocating and amplifying sexual harassment issue has been going on for a long time and consistent. It consists of women activist, labour unions, and academics.

Civil society uses public sphere as a formation basis of public opinion in intervening and encouraging policy formation efforts. Public sphere which becomes a space for conversation, Simon de Beauvoir (2003), regarding the "women situation", is

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not only filled with women involvement, but also men role. There are not only organizations gathered fight for justice and gender equality, but also organizations which were not directly connected with the issue.

National Commission on Violence Against Women (*Komnas Perempuan*) (2019) conducted a survey which showed that of the 16 universities in Indonesia involved, there are 1,011 cases of sexual harassment (Violence Against Women, 2019). In the same year *Tirto.id* and Jakarta Post and Vice Indonesia (2021) conducted investigative research on various indications of violence and harassment cases occurred at universities in Indonesia with the output, there are 174 cases of sexual harassment at 79 universities in 29 cities in Indonesia. The report shows that sexual harassment perpetrators are the academic community, consisting of teaching staff and fellow students. These violent incidents occurred not only within the university, but also takes place in activities outside the campus.

On November 15th 2021, Tempo (2021) published a report for public that based on the survey data from Director General of Ministry of Education and Culture, it was found that 77% of sexual harassment cases happened in college, but 60% of them did not report the cases. The HopeHelps Institution, which is an initiative of students and academics at *Universitas Indonesia* that works to provide fast response services and functions to prevent sexual harassment in campus, released data that in period of 2020-2021 there are 31 reports of violence and harassment in *Universitas Indonesia*. 31 reports consist of rape, attempted rape, sexual slavery, physical and verbal sexual harassment, and online-based sexual harassment (HopeHelps, 2021).

In 2016, Lentera Sintas Indonesia in collaboration with *Magdalene.co* reported that 90% of sexual harassment victims refused and never filed a complaint against law enforcement (Magdalene, 2016). The Central Bureau of Statistics in 2017 published the results of national survey which described that 1 in 3 Indonesian Women had been sexual harassment victims (Central Bureau of Statistics, 2017). Throughout 2018, National Commission on Violence Against Women released the amount of violence against women is 406,178, in 2019 and 2020, National Commission on Violence Against Women reported back annual records of sexual harassment of 299,911 cases throughout 2020 (National Commission on Violence Against Women, 2018;2019;2020), whereas the annual record report published on March 5th 2021 (Violence Against Women, 2021) shows that there have been 1,309 cases of violence in dating relationship. Domestic Violence (DV) occupies the first position with 6,480 cases (Triguswinri, 2022)). According to WHO (World Health Organization), at global level from 2000 to 2018, at least 852 million women aged of 15 years and over had experienced physical violence and sexual harassment perpetrated by a partner or non-partner (WHO, 2021).

Table 1
The Number of Sexual Harassment Cases From 2018 – 2021
Based on National Commission on Violence Against Women

The Realm of sexual harassment	Number of sexual harassment cases per year							
	2018		2019		2020		2021	
Personal Realm	2,988 cases	(31%)- second highest after physical violence (41%)	2,807 cases	(25%)- second highest after physical violence (43%)	1,938 cases	(30%)- second highest after physical violence is 2,025 cases (31%)	6,480 cases,	second highest after physical violence
Public/Community Realm	The highest type of violence, with 2,521 cases	The highest type of violence, with 2,070 cases	The highest type of violence, with 962 cases	The highest type of violence, with 1,309 cases				

Source: maintained by researrchers

In constitutional law of Indonesia, there are several legal regulations which regulate criminal acts of sexual harassment. First, Indonesian Criminal Code. Second, Law Number 23 of 2002 concerning on Child Protection. Third, Law Number 23 of 2004 concerning on Elimination of Domestic Violence. Fourth, Law Number 21 of 2007 concerning on Eradicating the Crime of Trafficking Persons. Based on advocacy and research conducted by the Service Providers Forum (Sigiro & Takwin, 2021), these regulations are relatively weak in terms of prevention and protection aspects for survivors of sexual harassment and are insignificant in responding to the massive problem of sexual harassment occurring against women. The regulations above only concentrate on general aspects of criminal cases, such as rape and obscenity. Implicitly, sexual harassment has various complexities, such as physical, psychological and symbolic violence, as well as economic and social based violence (Triguswinri, 2021).

Based on various sexual harassment cases by national commission on violence against women (*Komnas Perempuan*), there are a lot of gender-based violence without law. These sexual harassments included: sexual exploitation, sexual harassment, forced abortion and contraception, forced marriage and prostitution, forced sexual slavery and sexual torture (Violence against Women, 2021).

The law above is not accommodative in serving the needs of sexual harassment victims, so the new regulations are needed to accommodate the sexual harassment case in a comprehensive sense. This is imprinted in Ministerial Regulation of Prevention and Handling Sexual Harassment - not only giving sanctions to the violence and harassment perpetrators – The Ministerial Regulation of Prevention and Handling Sexual Harassment

also prioritizes the fulfilment of survivors' rights and how the harassment victims are healed and regain their primary rights as part of academic community and as citizens.

In previous research, several researchers argued that public sphere as a space for community participation can be a very influential approach in policy decision-making process (Nanz & Steffek, 2004; Mintroom, 2004; Rondinella, 2015; Han, 2014), while the other researchers argue that public sphere is important informal space which connects people's democratic rights with the process of making policies regarding to public wants (Clemens, 2010; Dale, 2015; Levasseur & Diana B, 2001).

Research Methods

Research approach in this paper uses qualitative approach, with data collection technique in the form of interviews. Object of the interviews in this study included the National Commission on Violence against Women, the Republic of Indonesia House of Representatives (*DPR RI*), the Republic of Indonesia Service Providers Forum, HopeHelps at Universitas Diponegoro, and the task force of Prevention and Handling Sexual Harassment at Universitas Indonesia. The informants in this study are integrally correlated with the process of establishing a Policy on Prevention and Handling Sexual Harassment in colleges both formally represent the government and informally represent the society's aspiration.

Results and Discussion

The Regulation of Ministry of Education and Culture Number 30 of 2021

The new regulation made by the government which regulates the Prevention and Handling Sexual Harassment in College has been stipulated in Ministry of Education and Culture Regulation Number 30 of 2021. Efforts to strengthen the prevention of sexual harassment in college or university in handling sexual harassment by using assistance, victim recovery, protection, and sanctions administration is the purpose of issuing this regulation (Virgitasari & Irawan, 2022). There are factors which underlined the identification by the victim and the acceptance of sexual harassment act received, such as shaming, confusion, blaming the victim by others, and victim being placed as the "guilty one" such as the clothes worn, different personal life and life style, instead of investigating the harassment act, self-blaming, having sense of guilt about what happened, shaming, denial, minimizing or defence mechanisms (Ratih et al, 2018).

All of those action taken by against women as well as self-disturbance of harassment victims causes psychological fear which then attacks them physically is a simple understanding of sexual harassment perpetrated on women (Sari, 2017). Sexual harassment is a sexual act through physical touch or non-physical touch with the target of victim's sexuality or sexual organs, according to National Commission on Violence against Women (*Komnas Perempuan*) through an academic text on Draft law concerning on the Elimination of Sexual Harassment.

Sexual Harassment Acts are kinds of whistling, words contain sexual elements, flirting, sexual desire, showing something pornographic, sexually suggestive gestures or actions, touching or poking a part of body where it makes feel uncomfortable, humiliated dignity, offended, which can lead to health and safety problems. Sexual harassment usually occurs in area which look “safe” such as campus, student dormitories, schools, workplaces, where the harassment is carried out by friends, teachers/lecturers, co-workers, or company leaders and some of sexual harassments often occur in public area. This is based on research which has been conducted in various countries (Rusyidi et al, 2019).

In Article 281 of Criminal Code – Article 295 of Criminal Code contained in Criminal Code Chapter XVI Book II “Crimes against Decency” there are criminal offenses related to sexual harassment in Indonesian Criminal Law. One of them is Article 289 of Criminal Code which explains: “Whoever by force or threat of forcing person to commit or allow to be carried out obscene acts, is threatened with committing an act which attacks the honour of decency, with maximum imprisonment of nine years.”

In short, the meaning of decency crime is a form of violation/crime regarding moral values. This sexual crime is only seen as a form of moral values violation rather than being seen as a crime against humanity (Sumera, 2013). The use of these values is based on reflection the salient group values or norms (male interest) in which these groups often discriminate against women as subordinated group. It can be seen there are several factors that sexual violence experienced by women become high, such as privileges exist for men which cause sexual harassment against women, besides that other underlying points such as physical and reproductive characteristics exist in women make sexual harassment such as rape easily occurs (Prianto, 2022).

In Artaria’s research (2012) explained that sexual harassment was experienced by students, they acknowledged that there was anxiety when they had to take the courses supervised. Because of uncomfortable feeling, if it is possible, student would not take these courses unless it is mandatory. Therefore, the latest Regulation of Ministry of Education and Culture Number 30 of 2021 concerning the prevention and handling sexual harassment in college. The purpose of enacting these regulations becomes a strong foundation for defending victims and survivors who do not dare to disclose what happened. Victims have right to receive treatment for sexual harassment in CHAPTER III Handling Article 10 is to use assistance, protection, imposition of administrative sanctions, recovery for victims, this is as contained in Ministry of Education and Culture Regulation. In article 10, the meaning of assistance is given to victims or witnesses who are students, educators, education staff and campus residents.

In article 11, assistance in the form of counselling, legal assistance, health services, advocacy, and/or guidance in social and spiritual. Administrative sanctions will be given to colleges which do not apply the rules of Prevention and Handling the Sexual harassment contained in Ministry of Education and Culture Regulation Number 30 of 2021, the sanction is a decrease the college accreditation level and/or assistance with

facilities and infrastructure of financial assistance provided to university will be terminated.

Articles 13-19 regulate the imposition of administrative sanctions. The imposition of administrative sanctions contained in Article 14 Paragraph 1 consists of: written warning and a statement of written apology which are disseminated in internal campus area or mass media are referred to mild administrative sanctions (Article 14 Paragraph 2), temporarily dismissed positions without getting office rights or reduced rights as students of referred to moderate administrative sanctions, and students who are permanently dismissed or positions as dismissed students, or campus residents are equivalent to statutory regulations determined by the university or college.

National Commission on Violence Against Women through Academic Text of Draft Law on Elimination the Sexual Harassment states that sexual harassment causes sexual trauma, changes the victim's attitude, disrupts reproductive function, impacts on personal and social life, impacts on psychology, suffers from sexually transmitted diseases, experiences physical injury. The occurrences of harassment in closed area such as campus, can happen if the arrangement of room is not arranged in such a way to keep it under people's supervision. Harassment in the form of touching can be a representation that originates from a sense of superiority exists in perpetrator (in case men) to women, it can also be a representation that originates from perpetrator's interest in which the perpetrator also does not care about the feelings exist in victims (Virgistasari & Irawan, 2022).

In dealing with sexual harassment cases in campus area, the new Regulation of Ministry of Education and Culture Number 30 of 2021 which can become an adequate legal basis, can be used, although there are still pros and cons in understanding the regulations. Most of harassment cases occurred in educational settings where the perpetrators are lecturers, not because of the victims' position and who the victim was dealing with, so what should have been a good and dignified example was sexual harassment.

Civil Society and Public sphere

Public sphere is stage for political participation by people in democratic country (Habermas, 2015). It relates to human activities in social space and formed through social interaction and communication. The form of communication established in public area is public opinion regarding a matter.

Communities can provide a positive response in the sense of supporting or providing input on programs or policies taken by the government, such as the ideal of Juergen Habermas who wants the community be able to carry out consensus of deliberations, so joint decisions can be made. It can be said as the first step towards deliberative democracy. Because deliberative democracy basically has an implied meaning, namely practical discourse, formation of political opinions and aspirations, and popular sovereignty as the main procedure in democracy (Hardiman, 2009).

Procedural public sphere discourse, especially in a democratic rule of law state, is used as a facility to gain political legitimacy. He also encouraged various elements of society to play a participatory role in this public sphere (Menoh, 2015). Habermas, in this case, proposes a distinction between the more formal and informal public spheres. It defines formal public sphere in the parliament, judiciary, and executive. While public sphere is more informal, he defines it as activities which take place outside parliament, the judiciary and also the executive branch. This informal public sphere is location where the interests of various diverse communities meet to learn from each other in order to contribute to collective life as a society (Menoh, 2015).

In formulating policies to prevent and handle sexual harassment in college or university, people's aspirations also must be considered. The democratic aspect needs to consider cultural diversity, perspectives, and various inputs from several community leaders in Indonesia. It is intended to the policies formed can represent all the interests of community related to prevention and handling sexual harassment in college.

In public sphere which conducts discourse, it is not permissible to identify problems only, but also must thematize these problems, offer solutions, and strive so public opinion circulating in informal public spheres can be heard by the government. The decision-making process in government is expected to be influenced by public opinion. Supervision of state power is carried out by public opinion. The laws created by the country will be stronger and people will also be more sovereign, if the discourse results in informal public sphere have relationship with country.

One of civil society's supports for the policy of prevention and handling acts of sexual harassment in campus environment is participating in formulating policies in the Regulation of Ministry of Education and Culture Number 30 of 2021. National Commission on Violence Against Women describes:

"Yea, so formulation of this policy from civil society is very strong. Because in making process, I really remember even the WA group still exists. Right from the beginning, the scenario would be a cooperative agreement between National Commission on Violence Against Women (Komnas Perempuan), Ministry of Education and Culture (Kemdikbud), and civil society who are members of anti-sexual harassment organizations."

The Republic of Indonesia Service Procurers Forum also conveyed the same thing as follows:

"Well, actually it also departs from civil society's support to encourage internal regulations in education. Actually, when it is seen from internal side of education, it is not only in college, but also for elementary, middle, and high schools."

Apart from providing support through planning policies in the Regulation of Ministry of Education and Culture Number 30 of 2021, civil society also provides support by educating the wider community about sexual harassment. This is reinforced by Trisna's statement as the Director of HopeHelps of Universitas Diponegoro as follows:

"So, the society has begun to be literate, even though they have not contributed by directly campaigning for violence issue. But in my personal opinion, with

several people attending webinars, seminars on sexual violence, then being aware in handling sexual harassment, in my opinion, it can be said that they have contributed. So, if we already have insight, we can also provide insight to people around us.”

This is similar to Prevention and Handling Sexual harassment Task Force at Universitas Indonesia as follows:

“In my opinion, civil society can fill all these voids. It means that civil society can be part of the front line in conducting discussions on various women’s issues, civil society can also give its voice. Because right now the process of formulating laws and regulations must include elements of public aspirations, right?”

Therefore, it can be concluded that support given by community towards policies which are oriented on prevention and handling sexual harassment in college is through participation in the formulation of Ministry of Education and Culture Regulation Number 30 of 2021, providing education about sexual harassment to other communities, and establishing communities which speak out human rights and gender issues. Incidents of violence against women acts in Indonesia have caused various groups of civil society with concern for human rights give attention to encourage and support this policy.

Simply, intervention is a systematic and specifically organized effort to influence and exert pressure to change policies that do not yet exist on community through the use of public sphere. Intervention always positions its main subject as the victim of policy, in this way, public interest will be used as main agenda in determining the direction of a policy. In addition, the meaning of intervention can also be understood as an approach for someone who is considered to have an influence on the success of a program. It is conveyed by Commission X of Republic Indonesia of House of Representative as follows:

“Many youths who are active on social media try to explain this regulation or sexual harassment in their language. So, if we communicate in languages which are same age and any kinds of languages, in our opinion, it is easier to be understood than using formal language.”

Based on this presentation, it can be concluded that youths are currently active in social media, so they can explain the Regulation of Ministry of Education and Culture Number 30 of 2021. This is in line with the use of virtual public spheres as one of the agendas of civil society in intervening policy. The communication process will be easier when it is carried out in the same language as all modern grammar today, therefore, social media is used as an appropriate advocacy tool in urging policy changes related to efforts in prevention and handling sexual harassment in college or university through the Ministry of Education and Culture Regulation Number 30 of 2021. It is also supported by the statement of Prevention and Handling Sexual Harassment Task Force at Universitas Indonesia:

“So, social media can be a possible way out that justice seekers may end up taking because perhaps when they want to report their cases to police, they are not being taken seriously. Finally, they released their stories through social media. How

then do they, in their struggle for justice, take advantage from their social media of public spheres, especially on Instagram? Yes, at the time there are many cases which go viral when they are on social media, then they are handled by police. So, actually the police work under public pressure, sometimes it's also ironic if there's no constant pressure like that, it's as if the case isn't going to be handled."

Based on this opinion, it can be concluded that social media is way out for justice seekers. People who take advantage of public spheres such as social media to reveal sexual harassment cases that go viral will force the police to act more decisively. Therefore, social media is considered as an appropriate public sphere to force the government in forming policies regarding the prevention and handling the sexual harassment in college or university.

Conclusion

In order to guarantee a sense of security in community, including in campus area, it is necessary to deal with the problem of sexual harassment (Rusyidi et al, 2019). The form of social regulation in gender roles is believed to be a nature which results in social inequality and the position of women in various social communities both in education, politics, socio-culture, and economically is disadvantaged.

Gender roles do not stand individually but have a relationship with identity and various characteristics which society expects for men and women, more than just physiological differences but spread throughout all socio-cultural values live in society values in contributed society (Sulistiyowati, 2021). Different sexes make differences in gender and various kinds of injustice arise from these various genders. Gender equality can also be known as sex equality, sexual equality, leading to view that men and women must receive equal treatment, and there should be no discrimination of the gender basis, except for biological reasons used for other purposes.

The research findings reveal that there is a need to understand gender equality in college. There is an instruction from President of the Republic of Indonesia Number 9 of 2000, of course apart from the Regulation of Ministry of Education and Culture Number 30 of 2021, regarding "Gender Mainstreaming in National Development" makes concern for the existence of women. The goal of Gender Mainstreaming Strategy is to strive for justice and gender equality, by using policies and programs which pay attention to experiences, needs, aspirations, and problems of men and women in all policies across various cultural and life spheres.

The society's role in gender is to participate in striving for gender equality in college. The role played by a person is influenced by his status of position in community. In their roleplay, women are confronted with the values that society attaches to them, values which are sometimes discriminatory simply because of different gender from men.

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