

Developing standard guidelines for legal decisions to ensure justice for victims of sexual violence crimes

On May 9, 2024, the Law on Sexual Violence Crimes (UU TPKS) has been implemented, for a two-year period. After the Law was passed, the Indonesian Government prepared four drafts of presidential regulations and three drafts of government regulations. Two of the presidential regulation drafts have also been ratified.

The above presidential regulations include Presidential Regulation 9/2024 concerning the Implementation of Education and Training for the Prevention and Handling of Sexual Violence Crimes, ratified on January 23, 2024, and the latest was Presidential Regulation 55/2024 concerning Regional Technical Implementation Units for the Protection of Women and Children (UPTD PPA). The ratification of these two regulations demonstrates significant progress in building a mechanism for implementing the prevention and handling of sexual violence cases in Indonesia. However, this is still considered inadequate, considering that other implementing regulations must be ratified immediately. Therefore, it is a shared responsibility to oversee the entire administrative process, because government transitions and political dynamics can more or less influence sustainability in the implementation of UU TPKS.

On the other hand, law enforcement on perpetrators of sexual violence seems to be problematic, because there are disparities in punishment in courts, among courts,

among regions of the courts and even among the judges. Disparity in punishment shows that different legal decisions are made in two or more cases with the same characteristics. Disparity is not always a bad thing. In fact, differences in the provision of criminal sanctions are actually needed in certain cases, such as cases whose victims are persons with disabilities.

Disparity in punishment in the cases of sexual violence crimes is a phenomenon that has long been known to the public. Interestingly, although the public could obtain information regarding the articles that would be imposed on the perpetrator, it is the legal verdict that creates confusion in society. Public confusion is caused by judges' inconsistencies in sentencing, even though the impact experienced by women and children who become victims of sexual violence remains consistent. The impact is stored in the victims' memories and causes a trauma.

In addition, sexual crime cases are one of many criminal acts where judges should be able to ascertain and measure (estimate) the appropriate type of punishment to be imposed for such crimes. Therefore, judges must ensure that correct articles are imposed, and the proper punishment is carried out through standard guidelines for legal decision. Creating standard guidelines for legal decisions has become imperative, because a judge's biased judgments

and assessments also influence the disparities in decisions.

Moreover, the public seems to think that the legal decisions ruled by judges in various criminal cases will refer to a certain standard legal guideline. However, they seem to forget that in the process of ruling a sentence in criminal cases, judges are required to act professionally, fairly and wisely, in confirming whether or not there are standard guidelines for legal decisions that serve as a reference in making a decision. The principles judges use in deciding a case are stated in the Code of Ethics and Code of Conduct for Judges.

The Codes form a basic standard for judges to demonstrate a neutral attitude towards both parties in a conflict, including in making legal decisions. The ethics of professionalism and reference standards for legal decisions are indeed two different matters. The ethics of professionalism for judges is a standard in how judges must behave. Meanwhile, the reference standard for legal decisions is a guide for judges in determining a measurable form of punishment, based on objective principles and principles of justice. Therefore, establishing reference standards for legal decisions has become crucial. Hopefully, this can help judges decide cases without involving their personal assessments, which can result in judges' subjectivity in considering a case.



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