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The Urgency of Protection for Women Workers Against Sexual Violence in the Company Environment

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Abstract. This paper examines the inclusion of verbally displaying sexual acts (commonly known as catcalling) within the framework of criminal law in Indonesia. It also analyzes the legal protections afforded to victims of such actions under Law No 12 of 2022 concerning Crimes of Sexual Violence (TPKS Law). Verbal sexual concealment, or catcalling, involves the non-physical expression of sexual acts directed at an individual's body, sexual desires, and/or reproductive organs. This undermines the person's dignity based on their sexuality and/or modesty. Under the TPKS Law, victims of verbal sexual harassment, or catcalling, are granted specific legal protections. These include the right to be shielded from acts of violence and the right to be free from any treatment that undermines their dignity. These protective measures encompass the fulfilment of ownership and the provision of assistance to ensure the victims' sense of security. The LPSK or other relevant institutions are responsible for carrying out these protective measures by the requirements outlined in the law.

Keywords: Catcalling; Legal Protection; Sexual harassment; Victim.

INTRODUCTION

Essentially, man was created by God to the same degree. No factor causes a higher status of humans over one another. Therefore, both men and women can respect each other and are expected to be able to create relationships without gaps. Both men and women should have equal opportunities in various matters and an equal distribution of work. Although the two have many differences, some interchangeable and some noninterchangeable, biologically, both males and females have many differences. Understanding sex is a trait or division of two biologically determined human sexes inherent in a particular sex. For example, a male type of human is a human being who has or behaves like the following: a man is a man who has a penis and produces sperm.

On the other hand, women have reproductive organs such as the uterus and ducts for child-birth, produce eggs, have a vagina, and possess breastfeeding capabilities. This means that biologically, these characteristics are not interchangeable between the tools inherent in male and female humans. They are permanently un-

changed and represent a biological provision, often referred to as a natural provision [1].

Crimes against decency or moral offenses and sexual harassment are two forms of violations of decency that extend beyond national laws to become global issues [1]. Today, harassment takes on various forms, not limited to physical interactions, with one prominent form being verbal sexual abuse. In Indonesia, women are particularly prone to being victims of verbal sexual abuse. Women face a range of sensitive issues, including sexual violence and harassment, though it is rare but not impossible for men to also be victims [2]. Female victims often find themselves powerless in the face of justifiable individual, cultural, and structural brutality [3]. Moral values that should be held sacred are being torn apart and tainted by the animalistic instincts of individuals devoid of moral and ethical values.

Based on a survey conducted by a coalition consisting of Hollaback Jakarta, EMPUan, Lentera Sintas Indonesia, Perkumpulan Lintas Feminis Jakarta (JFDG), and Change.org Indonesia, it was found that the majority of victims of sexual harassment in public spaces do not wear revealing

clothes. Instead, they wear pants or long skirts (18%), hijab (17%), and long sleeves (16%). The survey results also demonstrated that most harassment incidents occurred during the day (35%) and evening (25%). Typical forms of harassment experienced by victims include verbal abuse (60%), such as comments on the body, whistling, honking, kissing sounds, racist or sexist statements, sexual remarks, and continuous unwanted approaches; physical abuse (24%), encompassing touching, confrontation, peeping, photography, swiping, and stalking; and visual abuse (15%), involving flirting, indecent gestures, public masturbation, and genital exposure [4].

Verbal sexual harassment, often called catcalling, is commonly used across various countries, including Indonesia. The absence of specific regulations addressing catcalling in the current Indonesian law has led some to perceive it as commonplace, with particular individuals arguing that the actions of catcalling perpetrators are influenced by factors such as the victim's attire and body language. A reasonable assessment of sexual harassment emerges when the behaviour culminates in feelings of offence, shame, and fear. While harassment that is considered commonplace in society may seem innocuous, it can yield profoundly negative consequences for victims. Verbal sexual harassment, exemplified by catcalling, not only causes discomfort, disturbance, and fear but may also lead to trauma or mental disorders for the victim.

Contrary to the belief held by some that catcalling is unremarkable, it is, in fact, a crime. According to Kartono, sociological crimes encompass all verbal and behavioural actions that hold severe economic, political, and sociological detriments for society, thereby violating moral norms and compromising the safety of citizens (as delineated in criminal law). A victim of verbal sexual abuse is an individual who suffers mental and psychological harm due to catcalling, resulting in feelings of shame, distress, and fear [5].

Victims should receive protection from society, law enforcement authorities, and the government. However, prevailing stereotypes within the community often unfairly stigmatize victims, attributing all forms of sexual harassment to their behaviour. In light of the escalating instances of harassment in Indonesia, it becomes imperative for the state to guarantee every citizen a secure and comfortable environment, even in areas that

remain culturally sensitive, such as those related to sexuality. This responsibility extends not only to raising awareness within the community but also to law enforcement agencies. In such a context, the community, law enforcement personnel, and the state must collectively prioritize the well-being of victims of sexual harassment, encompassing both physical and non-physical forms [6].

Problem Statement. What is the Urgency of Protection for Women Workers Against Sexual Violence in the Corporate Environment?

METHODS

This research employs a normative legal approach to explore the pressing issue of protection for women workers against sexual violence in the corporate environment. The normative legal research method is chosen as it primarily focuses on analyzing and interpreting legal principles, doctrines, and norms to provide a comprehensive understanding of the legal framework surrounding the subject matter [7].

Data for this study was collected through a comprehensive review of relevant legal documents, including statutes, regulations, and case law, at both national and international levels. Additionally, scholarly articles, reports, and academic literature addressing issues of sexual violence and harassment in the workplace will be examined to provide a holistic understanding of the topic.

RESULTS AND DISCUSSION

The position of women in social life has not been on par with men despite ongoing efforts in that direction. The prevalence of social, cultural, and institutional factors that place women in subordinate positions to men remains a significant concern. Gender analysis consistently reveals instances of subordination, marginalization, domination, and violence experienced by some women. Research conducted in four provinces indicated that approximately 90 % of women had encountered violence in public areas. Disturbingly, even within the confines of their own homes, women are not immune to violence. One form of violence against women is sexual violence, which, according to available data, appears to be as prevalent as non-sexual violence. Sexual violence is often used interchangeably with sexual harassment. From the perspective of women as victims, these two terms are indistinguishable.

Therefore, in this paper, the term "sexual harassment" is primarily used. In incidents of sexual harassment, the majority of victims are women, and the perpetrators are overwhelmingly men. This does not imply that no instances of sexual assault against men occur, but such cases are relatively rare [8].

Labour issues encompass a broad spectrum of complex dimensions. Given Indonesia's sizable population and the higher percentage of females than males, these factors significantly impact the labour landscape. Additionally, unfavourable economic conditions can influence educational attainment. Acts of harassment cause disturbance and pose significant harm to the harassed individuals. Creating comfortable working environments necessitates a focus on eliminating sexual harassment from the workplace. Sexual harassment can affect anyone and harm all parties involved. It encompasses unwanted sexual acts, solicitations for sexual acts, verbal or physical behaviour of a sexual nature, or any other actions that lead to feelings of offence, humiliation, and intimidation within reasonable circumstances. Such conduct interferes with work, creates an intimidating atmosphere, or fosters a hostile work environment. Forms of workplace harassment include [9]:

- 1. Physical abuse involving unwanted touching may escalate to sexual acts such as kissing, patting, pinching, lingering glances, and leering.
- 2. Verbal harassment includes unwelcome comments about personal lives, body parts, and appearance.
- 3. Harassment through gestures, including sexually suggestive body language or repeated gestures involving fingers and lip-licking.
- 4. Written or graphic harassment involves sending or displaying pornographic materials, sexual images, screensavers, posters, or harassment through email and electronic communication.
- 5. Psychological (emotional) abuse, encompassing persistent and unwanted requests for dates, insults or reproaches of a sexual nature.

Research suggests that individuals who experience sexual harassment in the workplace are more likely to intend to leave their jobs than those who have not experienced such harassment. Specifically, the results showed that employees who were sexually harassed had 1.63 times greater odds of intending to leave

their jobs than those who had not experienced sexual harassment.

An essential aspect of sexual harassment involves the unwillingness or rejection of any form of sexual attention. If the recipient does not desire an action and falls within the purview of sexual acts, it can be categorized as sexual harassment, as stipulated in the fornication article. The Criminal Code (KUHP) in general (Lex Generalis) can also serve as a basis for imposing penalties, as specified in Articles 289-299. Regarding indecent acts in the workplace, particularly if committed by superiors, provisions can be found in Article 294, paragraph 2, number 1 of the Criminal Code. This article prescribes imprisonment for a maximum of 7 (seven) years for officials who engage in inappropriate behaviour with individuals who, due to their position, are subordinates or with those whose care has been entrusted or delegated to them [10].

To gain a deeper understanding of sexual harassment, its prevention, and appropriate handling, it is essential to grasp certain concepts related to workplace sexual harassment [11]. Harassment often takes advantage of power dynamics, leaving victims struggling to defend themselves. Workplace harassment encompasses any unwanted, repetitive, and unreasonable actions directed at a worker or group of workers, resulting in difficulties in carrying out assigned duties or creating an atmosphere of disharmony within the corporate environment that can pose health and safety risks.

The health risk primarily involves psychological threats to the victim of the abuse, while the safety risk entails potential intimidation by the harasser. The term "workplace" extends beyond a physical room where work activities such as offices or factories are conducted eight hours a day. It also encompasses locations related to work responsibilities within the employment relationship, including work-related social events, seminars and training sessions, business trips, lunches, business dinners, or promotional campaigns organized to establish official business connections with clients and potential partners. Additionally, it encompasses telephone conversations and communication via electronic media. Therefore, the notion of the workplace contains physical spaces and all working hours outside the parameters outlined in Law No 13/2003 concerning Manpower [12].

In the Criminal Code, "sexual harassment" is not recognized; it only acknowledges the concept of "obscene acts" as outlined in Articles 289-290. Additionally, the Criminal Code does not explicitly prescribe punishments for perpetrators of sexual harassment. However, the law prohibits all inappropriate acts, violence, or threats related to engaging in sexual relations. This legal provision forms the foundation for addressing the criminal offence of sexual harassment in the workplace. The victim or someone with knowledge of the incident must file an official report to initiate proceedings. The Penal Code stipulates penalties of up to two years and eight months of imprisonment and fines for these offences. In instances involving sexual violence, the penalty escalates to 12 years in prison [13].

Within the context of certain crimes, a functional relationship often exists between the victim and the perpetrator, implying that the victim may bear some responsibility for the occurrence of these crimes. Take, for example, the case of rape, where the victim's role can be both conscious and unconscious in committing the crime. The victim's actions and circumstances can sometimes serve as stimuli that encourage or prompt the perpetrator to commit the offence. It is important to note that attributing a role to the victim in cases of rape does not shift blame onto the victim; instead, the perpetrator remains accountable for their actions.

According to Arif Gosita's perspective, these stimuli can manifest as specific situations and conditions [14]. "The victim's role is rooted in particular situations and conditions that can prompt the perpetrator to commit a crime against them. These situations and conditions often relate to the victim's physical and mental vulnerabilities. The victim's role can be enacted consciously or unconsciously, through active or passive engagement, either independently or jointly, and may be motivated by positive or negative factors" [15].

A relationship exists in specific criminal scenarios involving victims and perpetrators due to factors such as introduction, shared interests, cohabitation, or engagement in similar activities. This relationship need not be continuous or direct. Within this dynamic, the victim's situation and circumstances become intertwined with the perpetrator's, enabling the latter to exploit the victim to fulfil their interests and desires. This exploitation is driven by specific motivations and

rationalizations that sometimes seek to justify the perpetrator's wrongful actions based on these motivations and rationalizations [16].

The Oxford Dictionary defines catcalling as translated through whistles, calls, and comments of a sexual nature. More broadly, catcalling refers to whistles, rings, and statements of a sexual nature [9]. Verbal abuse involves uttering demeaning words in a satirical tone, publicly or directly highlighting a person's sexual behaviour with the intention of humiliation, insult, and ridicule. Verbal sexual harassment or catcalling is perceived as deviant behaviour, as it places the act within a sexual context, designating someone as an object of unwanted attention.

Verbal sexual harassment comprises acts with sexual undertones, including using sexually suggestive language towards an individual, whistling at strangers, and engaging in flirtatious and coquettish behaviour in public spaces. This form of verbal abuse can escalate to sexual violence, including rape. Women, often objectified, tend not to respond to such treatment. However, the reality is that refusals frequently provoke perpetrators of verbal sexual harassment, triggering their curiosity and potentially leading to the perpetration of other forms of sexual violence. This can leave victims feeling harassed, disturbed, and violated regarding their human rights [17].

Various types of verbal messages are employed by catcalling perpetrators when targeting their victims. These messages often take the form of tones, such as kissing sounds from a distance or whistling. Additionally, comments are frequently used – these may involve remarks on body shape or seemingly harmless greetings that, in context, serve a harassing purpose. Some individuals go as far as openly expressing lewd comments about their victims. Furthermore, intense and lingering eye contact can also be considered harassment, as it creates discomfort for the person being stared at. For instance, when someone scrutinizes another individual from head to toe.

In light of the definition of unwanted or inappropriate actions constituting various forms of sexual attention, acts of verbal sexual harassment can be classified as criminal offenses, warranting legal action due to their potential to cause verbal sexual harassment. The understanding of verbal abuse (catcalling) is primarily derived from the perspective of victims who suffer psychological distress and losses from such crimes. This interpretation aligns with Article 1, point 3 of Law

Number 31 of 2014, which pertains to Amendments to Law No 13 of 2006 concerning the Protection of Witnesses and Victims.

The emotional turmoil experienced by victims—feelings of shame, distress, unacceptability, and depression — due to verbal sexual abuse categorizes those subjected to catcalling as direct victims. These victims exhibit traits of both individual and collective persons, undergoing mental and emotional suffering while having their human rights violated by actions perceived as criminal offences. Such requests are entitled to protection and fulfilment under Article 5 of Law No 31 of 2014, which amends Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, commonly known as the "Law on Sex Workers" (UU PSK) [18].

Within the Criminal Code, regulations on punishing those responsible for verbal sexual abuse have not yet been established. This absence is evident in both Chapter XIV of Book II, Crimes, and Chapter VI of Book III, Types of Offenses (spanning from Article 281 to Article 283). Although moral crimes are addressed generally, the existing regulations do not sufficiently encompass the issue. Specialized legal provisions have also not adequately addressed the crime of sexual harassment, specifically in the context of verbal sexual harassment.

In the framework of Law No 44 of 2008 concerning Pornography, an indirect level of protection is offered to victims of verbal abuse (catcalling) based on the actions undertaken. Article 4 stipulates, "Everyone is prohibited from producing, making, reproducing, duplicating, disseminating, broadcasting, importing, exporting, offering, trading, renting, or providing Pornography that explicitly contains: a) explicit acts, including those of a divergent nature; b) instances of sexual violence; c) acts of masturbation; d) nudity or explicit displays of nudity; e) depiction of genitalia; f) child pornography." Moreover, Article 6 states, "Everyone is prohibited from listening to, displaying, utilizing, possessing, or storing pornographic materials as referred to in Article 4, § 1, except when authorized by laws and regulations." Article 8 emphasizes that "everyone shall not knowingly or with consent be a subject or model containing pornographic content." Lastly, Article 10 establishes that "everyone shall not publicly exhibit themselves or others in any performance or public display depicting nudity, sexual exploitation, sexual intercourse, or other pornographic content" [19].

Similarly, the ITE Law does not provide direct protection for victims of verbal harassment (catcalling). However, due to its prohibition, it indirectly safeguards victims of verbal sexual harassment (catcalling), as outlined in Article 27, § 1: "Anyone who intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content violating decency." These two laws collectively form the foundation for regulating verbal harassment (catcalling) under Indonesian criminal law. While the existence of this regulation is implicit, it has not been expressly detailed. Furthermore, in the context of the TPKS Law, the legal framework surrounding sexual violence lacks optimal provisions for prevention, protection, access to justice, and recovery. It has yet to meet the comprehensive needs of victims of Sexual Violence Crimes and has not thoroughly addressed procedural aspects. The TPKS Law presents a comprehensive definition of non-physical or verbal harassment in Article 1. point 1: "Sexual Violence Crime encompasses all acts that fulfil the elements of a criminal offence as stipulated in this Law and other acts of sexual violence as specified in this Law to the extent outlined within this Law."

Additionally, Article 4, § 1 of the Criminal Act of Sexual Violence encompasses the following: a) non-physical sexual harassment; b) physical, sexual abuse; c) forced contraception; d) forced sterilization; e) forced marriage; f) sexual torture; g) sexual exploitation; h) sexual slavery; i) electronic-based sexual violence [14].

Article 5 of the TPKS Law states, "Any individual who engages in non-physical sexual acts directed towards the body, sexual desires, and/or reproductive organs, to degrade a person's dignity and respect based on their sexuality and/or decency, shall be deemed guilty of non-physical sexual harassment. This offence carries a maximum sentence of 9 months imprisonment and/or a maximum fine of Rp10.000.000,00 (ten million rupiah)." The explanation provided for Article 5 clarifies that "non-physical sexual acts" refer to statements, gestures, or actions that are inappropriate and have a sexual connotation, aimed at degrading or humiliating individuals. Verbal harassment (catcalling) constitutes an act that involves the use of indecent language, verbal expressions, and non-verbal behaviours [20]. Such actions can take various forms, including tones like kissing sounds or whistling, as well as comments on body shape or seemingly harmless sentences like greetings or compliments. Some individuals even explicitly utter vulgar remarks about their victims. Extended periods of intense eye contact can also contribute to discomfort for the observed person.

CONCLUSIONS

Sexual harassment targeting female workers is a subject of significant interest across various fields of knowledge and has been extensively discussed worldwide from diverse perspectives. This study aims to systematically review the scientific body of work concerning on-site sexual harassment within the workplace. Leaders who demonstrate respect towards female employees within the corporate environment yield a notably positive outcome, as evidenced by a substantial

reduction in the occurrences of sexual harassment. Such conducive working conditions foster a heightened psychological safety among female workers. Proactive measures are recommended to address and prevent such issues. The employee recruitment department should display the resolve to screen out prospective employees who exhibit traits that could potentially contribute to the development of sexual harassment cases. Alternatively, informing all female employees to opt for modest attire can be a preventive measure against unwanted incidents. Promoting awareness and fostering a culture of respect for the dignity of women within the workplace through training programs is another commendable strategy. Lastly, implementing stringent regulations backed by comprehensive sanctions and protective measures against sexual harassment is pivotal in curtailing these undesirable occurrences.

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