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Law Enforcement in Handling Cases of Sexual Harassment on Social Media

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Abstract. *This research investigates strategies and challenges in handling cases of sexual harassment violations on social media. In an increasingly complex context and widespread use of social media, the protection of victims of sexual harassment becomes an increasingly urgent priority. This research highlights the importance of awareness and education among social media users to identify, report, and prevent sexual harassment online. This research uses a qualitative literature study method by exploring relevant theories, concepts and legal regulations. The aim of this research is to understand the obstacles faced by law enforcement in handling cases of sexual harassment on social media and to find solutions to increase the effectiveness of law enforcement in this case. The findings show that despite platform policies and algorithms, limitations in identifying and removing infringing content remain an obstacle. Effective collaboration between the government, law enforcement agencies and social media platforms is crucial in handling these cases. Victim protection is also a major focus, with an emphasis on improving support systems and psychological recovery. Comprehensive socialization regarding laws related to sexual harassment and sanctions for violators is expected to increase public awareness and encourage cooperation in eradicating sexual crimes, both in the surrounding environment and on social media.*

Keywords: *Enforcement; Harassment; Law; Sexual.*

1. Introduction

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The digital era we are currently experiencing has brought profound changes in the way humans communicate and interact. One of the most striking aspects of this transformation is the change in communication technology, especially through the use of social media. Although it provides great benefits in expanding social networks and facilitating the exchange of information, this change is also not without serious negative impacts. Social media, as one of the main products of this progress, has become the main platform for millions of people to share experiences, communicate and engage in social activities.¹ The implications for forms of sexual violence on social media highlight the psychological impact of sexual violence that often occurs through social media. Social media users often engage in acts of sexual harassment, including sending disturbing messages, inappropriate comments, filtering unwanted photos, to serious acts such as virtual sexual blackmail.

What is worrying is that the perpetrator of harassment does not know the age limit, background or condition of the victim, and may even occur without any personal relationship in the real world. School children, as a vulnerable group,

often become victims of sexual harassment in cyberspace. They experience serious impacts such as shame, fear, and a decrease in positive existence which can directly kill their potential and talents due to destructive comments and immoral actions.²

Basically, sexual violence is *gender -based violence* which is defined as action that causes harm or suffering physical, sexual or psychological; including threats with certain actions, coercion, and various deprivations of liberty. Sexual violence can not only be violent direct or physical, but can also take the form of indirect or non-physical violence. By therefore sexual violence is considered one of the most systematic and widespread human rights violations. One form Sexual violence that often occurs is sexual harassment. Sexual harassment is verbal comments, body movements or physical contact of a sexual nature, which someone does intentionally and is not wanted or expected by the victim.³

Social media has become an important element of life today, for everyone generally have social media accounts. From the 2023 Reportal Data in January 2023 shows 167.0 million social media users in Indonesia. This amount is equivalent to 60.4 percent of the total population in

²Cika Suci Dewi Utama, Nur Kholis Majid, *Sexual Harassment in Cyberspace: Case Study of the Use of Social Media*, Journal of Contemporary Law Studies Volume: 2, Number 1, 2024, Matter: 55-63, p. 56.

³Shapitri Stretch, *Legal Protection Against Victims of Child Sexual Abuse in Manado City*, Lex Crimen. Vol. VII, No. 7. 2018, p. 77

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Indonesia. Additionally, there was an increase of 10 million (+5.2 percent) between years 2022-2023 which shows significant growth of the internet in Indonesia.⁴ Acts of sexual harassment that often occur on social media can take the form of seduction, teasing, or other unpleasant acts which can be carried out by *chatting*, commenting, *Direct Messages*, sending photos, videos with sexual content or pornography via social media, such as *WhatsApp*, *Instagram*, *Twitter*, *YouTube*, *Facebook* and so on. Actions that are categorized as acts of sexual harassment, namely making jokes that have a sexual nature, a statement that denigrates a person's sexual orientation, a request to carry out an act of a sexual nature, a statement or action that has a sexual connotation in it, up to being forced to carry out an activity of a sexual nature. both directly and indirectly. Behaviors that fall into the category of sexual harassment on social media include the following:

- 1) *Cyber Stalking*
- 2) *Cyber Harassment*
- 3) Sending sexual messages or emails
- 4) Offensive behavior carried out by the perpetrator by sending indecent messages
- 5) Words that insult someone's physical or mental deficiencies.⁵

According to the National Commission on Violence Against Women (2021) in its 2020 Annual Notes on Violence against Women, it was found that cyber crimes with female victims are often related to women's bodies being used as objects of pornography. One form of cybercrime that is often reported is distribution personal photos/videos on social media and/or pornographic websites. Cases like this are common scandalize the public thereby increasing the psychological burden on the victim. These crimes include in the classification of illegal content as unethical data or information, it may violate law, and disrupt public order. In the revision of the ITE Law No. 19 of 2016, content information like this is considered to violate article 45 paragraph 1

⁴Lisa Julianti, Raisah Maharani Siregar, and Pasha Aulia, *The Phenomenon of Sexual Harassment of Women on Instagram Social Media*, Proceedings of the National Seminar pp. 166-175, 2023, p. 2.

⁵ Fauqa Shafa Qurbani, Nadhira Shanda AS, Wifika Sintari. "*Sexual Harassment Through Social Media: What Legal Remedies Can Be Taken?*". Sriwijaya University Local Chapter. Available on the site: <https://www.alsalcunsri.org/post/pelecehan-sexual-via-media-social-how-usaha-legal-yang-dapat-dijangan>. Accessed 26 April 2024.

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(spreading immoral content) and perpetrators can be threatened with criminal penalties or pay a fine.⁶

Acts of sexual harassment in the media social media gives feelings of discomfort, disturbance, to feelings of trauma that can disrupt health victim's psychology. This act has indirectly disturbed the victim's human rights because the victim has lost the right to experience a peaceful life, so the existence of this act must be eliminated. The occurrence of this action is a negative consequence of the development of information that is not accompanied by sex education and lack of morality.⁷ Legally, sexual harassment via social media is regulated in the ITE Law, the Pornography Law and the Criminal Code.⁸ Legal regulations regarding sexual violence, both physical and non-physical, are actually not yet comprehensive and effective enough, therefore the Sexual Violence Crime Law (UU TPKS) was initiated which has been officially promulgated, after being ratified at the Plenary Session on April 12 2022. Minister PPPA affirms its efforts Government to break the chain of violence sexual relations through the enactment of the law Number 12 of 2022 concerning Criminal Acts Sexual Violence. One of the acts of sexual violence In Indonesia, what is in the spotlight is violence electronic-based sexual activity or often called violence digital sexual. The actions included electronic-based sexual violence crimes has been regulated in Article 14 paragraph 1 of the Law Number 12 of 2022 concerning Violent Crimes Sexual.⁹

This research aims to identify and analyze legal challenges that arise in handling cases of human rights violations, especially in the context of sexual harassment that occurs on social media platforms. Through case studies, this research will explore various legal issues related to handling cases of sexual harassment in the digital environment, including the obstacles faced in collecting evidence, enforcing the law, and providing protection to victims. Thus, this research aims to provide a deeper understanding of the complexity of legal issues related to handling cases of sexual harassment on social media platforms. Based on the problems above, the researcher will examine the problem formulation as follows: how is the legal protection for

⁶Natasya Yadila, Garneta Rizka Camilla, Anissa Nabilla, Nabila Putri Adelita, Rara Siti Sandiah, *Legal Challenges in Enforcing UU Ite Against Revenge Porn in the Digital Era*, Legal Studies Program, Veterans National Development University Jakarta, p. 4.

⁷ Euggelia CP Rumetor, Rony Sepang, Nurhikmah Nachrawy, *Legal Protection for Victims of Electronic-Based Sexual Violence According to Law Number 12 of 2022 concerning Crimes of Sexual Violence*, Lex Privatum Vol.XI/No.5/jun/2023, p. 1.

⁸Deasifa Aqmarina, Nawiroh Vera, *Transjakarta and Sexual Harassment: Netnographic Study on Twitter Social Media*, Mutakallimin Journal Journal of Communication Sciences, Vol 06 No 02 of 2023, p. 119.

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victims of sexual harassment in the context of social media? and how can law enforcement be implemented to overcome cases of sexual harassment on social media platforms?

2. Research Methods

This research uses a qualitative literature study method by exploring relevant theories, concepts and legal regulations. Data collection was carried out by looking for sources from various media, such as books, journals and existing research. This research instrument focuses on document analysis and research results related to the phenomenon of sexual harassment on social media. By applying in-depth analytical steps, the aim of this research is to produce findings that can be accounted for.¹⁰ By detailing and evaluating various relevant theories and laws, this research aims to make an important contribution to the understanding of this issue. Analysis of documents and related data helps construct a comprehensive picture, enabling researchers to identify patterns, trends, and impacts of sexual harassment in the context of social media.¹¹

3. Results and Discussion

3.1. Legal Protection for Victims of Sexual Harassment in the Context of Social Media

There are no specific laws in Indonesia yet regulates online sexual crimes, however there are new provisions regulating non-physical sexual crimes and electronic-based sexual crimes. The new provisions are regulated in Law Number 12 of 2022 concerning Actions Criminal Sexual Violence. About online sexual crimes, first in the general provisions of Law Number 12 2022 Concerning Crimes of Sexual Violence no found the definition of online sexual crime, sexual violence non-physical, and electronic-based sexual violence. Further in Article 5 explains criminal sanctions for non-physical sexual crimes. Associated with online sexual crimes, it can be linked with Article 4 which explains criminal acts sexual violence.¹²

¹⁰Cika Suci Dewi Utama, Nur Kholis Maji d, *Sexual Harassment in Cyberspace: Case Study of the Use of Social Media*, Journal of Contemporary Law Studies Volumes:2, Number,2024, Page:55-63, p. 56.

¹¹Cika Suci Dewi Utama, Nur Kholis Maji d, *Sexual Harassment in Cyberspace: Case Study of the Use of Social Media*, Journal of Contemporary Law Studies Volumes:2, Number,2024, Page:55-63, p. 57.

¹²Monika, *Legal Protection of Women Against Cyber Crime*, UNJA Journal of Legal Studies Volume 01 Number 01, 2023 (327-338), p. 239.

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Further revisions are needed to perfect it Law Number 12 of 2022 concerning Criminal Offenses Sexual Violence to contain and regulate offenses online sexual crimes and the development of sexual crimes online by keeping up with IT developments (*Information Technology*) today.¹³

Second, in Law Number Book of Laws Criminal Law Number 1 of 1946 does not recognize the term sexual harassment. Online sexual harassment is one of them a form of *cybercrime* in terms of pornography. The Criminal Code also does not recognize the crime of pornography, however there is an article in the Criminal Code that can be applied for this act, namely article 282 of the Criminal Code concerning crimes against decency.

Third, in Law Number 1 of 2023 concerning The Criminal Code, which will be next called the new Criminal Code, does not regulate sexual crimes on line. As for matters related to online sexual crimes This new Criminal Code includes, among other things, the distribution of content pornography as mentioned in Article 172.¹⁴

For other online sexual crimes, it is supported by the meaning of "in public" in Article 158 of the new Criminal Code. In the explanation, it is explained what is meant by Violating morality is committing an act shows nudity, genitals, and activities sexual relations that conflict with the values that live within the community at the place and time the act was committed. The definition in public also means that it is done indirectly directly via electronic media related to sexual offenses *on line*. This means that this article can be used to ensnare the perpetrator criminal acts of *online* sexual violence for perpetrators who utilizing technology to carry out *online harassment* to victims on the internet.

However, there are no general provisions that mention or regulates the details of online sexual crime offenses as well criminal regulations. Because this is a statutory book Criminal law that applies generally or *lex generalis*, There should be at least one definition in it about *online* sexual crimes so that they can be reduced its regulation in other special laws as *lex specialist*. Fourth, in Law Number 19 of the Year 2016 concerning Amendments to Law Number 11 of the Year 2008 Concerning Electronic Information and Transactions also regulates about the technical use of technology for disseminating information sexual content *online*, not about the types of offenses online sexual crimes.

¹³ Monika, *Legal Protection of Women Against Cyber Crime*, UNJA Journal of Legal Studies Volume 01 Number 01, 2023 (327-338), p. 240.

¹⁴ Monika, *Legal Protection of Women Against Cyber Crime*, UNJA Journal of Legal Studies Volume 01 Number 01, 2023 (327-338), p. 240.

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In Article 27 of Law Number 19 of 2016 it is explained that:

“Everyone intentionally and without right distributes and/or transmit and/or create can Access to Electronic Information and/or Electronic Documents which has content that violates decency.”

Against violations of Article 27 paragraph (1) of the Information Law and Electronic Transactions. This is punishable by imprisonment a maximum of 6 years and/or a maximum fine of IDR 1 billion. The criminal threat is quite high for disseminating information electronic, higher than Law Number 12 of 2022 Regarding the criminal act of sexual violence that brought down criminal threat of 4 (four) years imprisonment. However Both of them have not regulated the types of criminal offenses *online sex*.

Fifth, Law Number 44 of 2008 concerning Pornography One form of criminal act of online sexual harassment can be arranged in Article 4 paragraph (1). However, if you look at the provisions Legal Protection for Women in Article 34 of the Pornography Law: a person who participates in pornographic content or carries out pornographic acts can be targeted for criminal punishment.¹⁵In positive law in Indonesia, the rules used to handle cases of *online sexual harassment* currently only refer to several regulations, namely the Criminal Code (KUHP), Pornography Law and Information Law Transactions and Electronics.

However, when cases of online sexual harassment occur, existing regulations are still unable to protect victims and provide the rights that victims of online sexual harassment must fulfill. The Information and Electronic Transactions Law and the Pornography Law still focus on resolving cases by giving punishment or sanctions to the perpetrators and forgetting the concept of protection for victims which is really needed.¹⁶ In Indonesia there is already an institution that guarantees protection for women. This institution is the Commission National Women's Protection, or yang known as the National Commission on Violence Against Women. National Commission Women are a state institution independent to uphold human rights Indonesian women, who were formed through Presidential Decree No. 181 of 1998, on dated 9 October 1998, which was strengthened by Presidential Regulation no. 65 of 2005. Komnas Perempuan

¹⁵Fadillah A., Fatma RZ., and Zihan TMF. “Construction of Violence Arrangements Gender Based Online in Indonesia”. Lex Renaissance Journal, Volume 6 No. 4 (2021). matter. P. 786.

¹⁶ Monika, *Legal Protection of Women Against Cyber Crime*, UNJA Journal of Legal Studies Volume 01 Number 01, 2023 (327-338), p. 242.

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was born from demands from civil society, especially women, for the government to realize the state's responsibility in responding to and dealing with issues of violence against women.¹⁷

In this law, one of the provisions is the obligation for provincial and district/city governments to form a Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) which is responsible for handling, protecting and recovering victims, victims' families and/or witnesses. Article 68 of the TPKS Law outlines 7 forms of victims' rights in handling sexual violence, namely: the right to information regarding the entire process and results of treatment, protection and recovery; rights to documents resulting from handling; the right to legal services; the right to psychological empowerment; the right to health services, including medical examinations, procedures and treatment; the right to services and facilities appropriate to the specific needs of victims; and the right to remove sexually charged content for cases of sexual violence via electronic media. Furthermore, Article 69 of the TPKS Law outlines 7 things that are included in the victim's right to protection, such as: providing information regarding protection rights and facilities; access to information on the implementation of protection; protection from threats or violence by perpetrators and other parties as well as repeated violence; protection of identity confidentiality; protection from attitudes and behavior of law enforcement officers that demean victims; protection from loss of employment, job transfer, education, or political access; and protection of victims and/or reporters from criminal charges or civil suits for criminal acts of sexual violence that have been reported. Furthermore, Article 70 Paragraph (1) of the TPKS Law outlines victims' rights to recovery, such as medical rehabilitation, mental and social rehabilitation, social empowerment, restitution and/or compensation, and social reintegration. Paragraph (2) of the same article regulates the recovery of victims before and during the judicial process, including the provision of health services, psychological strengthening, information about victims' rights and the judicial process, recovery services for victims, legal assistance, accessibility and appropriate accommodation for victims with disabilities, assistance with transportation, food, temporary living expenses, and adequate and safe temporary residence, spiritual and spiritual guidance, educational facilities, population documents and other supporting documents required by victims, the right to information about prisoners who have finished serving their sentences, and the right to the removal of sexually charged content in cases of sexual violence via electronic means. Article 70 Paragraph (3) regulates the recovery of victims after the judicial process, including regular and continuous monitoring, examination, and services for victims' physical and

¹⁷Kathryn Kirsten Voges, Toar Neman Palilingan, Tommy F. Sumaku, *Law Enforcement Against Perpetrators of Sexual Harassment Against Women Perpetrated Online*, p. 6.

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psychological health, community support for victims' recovery, assistance with the use of restitution and/or compensation, population documents and other supporting documents.¹⁸

3.2. Law Enforcement That Can Be Applied to Overcome Cases of Sexual Harassment on Social Media Platforms

Currently, the implementation of laws/legislative regulations regarding sexual harassment is still very minimal because the basis for proving it is still very difficult and can be said to be abstract/unclear. The same thing happened with the PKS (Elimination of Sexual Violence) Bill which was being widely discussed several months ago, the PKS Bill was formed on the basis of the increasing number of victims of sexual harassment who do not or have not received justice before the law. However, it is very unfortunate that the PKS Bill has not been passed until now due to the reason that proving victims who experienced sexual harassment is still difficult and difficult, because the evidence of sexual harassment is classified as vague and easily lost/removed by the perpetrator.

Electronic-based sexual violence is a form of criminal sexual violence with a maximum penalty of 4 (four) years in prison and/or a maximum fine of 200 million rupiah if the perpetrator is proven to have recorded or taken pictures, transmitted electronic documents, or carried out stalking with a sexual content. As well as a maximum criminal threat of 6 (six) years in prison and/or a fine of up to 300 million rupiah if the perpetrator is proven to have recorded or taken pictures, transmitted electronic documents, carried out stalking with a sexual content accompanied by blackmail, threats, or misleading and deceiving the victim.¹⁹

Law No.12/2022 is a law that was just passed by President Joko Widodo on May 9 2022, which regulates all criminal acts of sexual violence, including criminal acts of *online* sexual harassment. Article 4 paragraph (1) of this Law explains that criminal acts of sexual violence consist of:

- a). Non-physical sexual harassment,
- b). physical sexual harassment,
- c). Contraceptive coercion,

¹⁸Debbie Aldama, Kiara Anemadya Jaelani, Viki Kosasih, *Protection of Victims of Sexual Harassment Through Education and Legal Action*, Deposition: Legal Science Publication Journal Vol.1, No.1 March 2023, p. 39.

¹⁹Helena Refa Nugraha, Annisa Rahma Anggraieda, Salsabila, Asmak UI, Hosnah, *Legal Protection for Victims of Crime in Cyberspace on Online Dating Applications*, Pages 3983-3989 Volume 8 Number 1 of 2024, p. 3986.

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- d). forced sterilization,
- e). forced marriage,
- f). sexual torture,
- g). sexual exploitation,
- h). sexual slavery,
- i). Electronic-based sexual violence.²⁰

Verbal sexual harassment is regulated in the provisions of Article 5 Paragraphs 1 and 2 The ITE Law explains: "(1) Electronic Information and/or Electronic Documents and/or the printout is valid legal evidence. (2) Electronic Information and/or Electronic Documents and/or printouts as intended in paragraph (1) are an extension of valid evidence in accordance with the Procedural Laws in force in Indonesia."²¹

Electronic information is included and is one of the elements in Article 27 Paragraph 1 of the ITE Law which states "Electronic Information and/or Electronic Documents that have content that violates decency". What is meant by violating decency is electronic information containing words in the form of invitations, requests, ridicule and negative opinions and/or content in the form of images or videos that are intended to harass and degrade a person's self, leading to that person's physical/sexual nature. The article also states that "any person who intentionally and without authority distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents which have content that violates decency". The word "distribute" according to the Big Dictionary in Indonesian, it is defined as channeling (sharing, sending) to other party/person ²², while the word transmit comes from the word transmission yang According to the Big Indonesian Dictionary, the delivery is in the form of forward messages and any documents from someone to another party. so share every person who with full awareness and deliberately sends a message or electronic information to others and can be understood by others as If the recipient of the message contains elements that harass or demean someone and

²⁰Dian Erika Nugraheny, Kriandi. "Jokowi Ratifies the TPKS Law Forced Marriage Now Includes the Crime of Sexual Violence". 05/11/2022. available on the site: <https://nasional.kompas.com/read/2022/05/11/15554041/jokowi-sahkan-uu-tpks-pemaksaan-perkawinan-kini-besar-pidana> . On April 26, 2024.

²¹Anisha Widi Tomo, *Legal Protection for Victims of Verbal Sexual Harassment on Social Media*, JUSTITIA: Journal of Legal Sciences and Humanities, Vol. 9 No. 5 of 2022, p. 2645.

²²Department Education and culture. 2015 " *Big Indonesian Dictionary, Edition Second* ". Library Hall. Jakarta. Matter. 238.

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is understood by the person mentioned, the person who sent the electronic information can be punished.²³

4. Conclusion

A case study of handling cases of sexual harassment violations on social media is the importance of quick response from authorities and social media platforms, protection of victims, as well as public education and awareness about the dangers of *online sexual harassment*. Collaboration between authorities, social media platforms and society is necessary to create a safer *online environment for all users*. Protection of victims of sexual harassment via social media requires special attention because there are still many cases that occur, indicating a lack of deterrent effect on the perpetrators. Comprehensive education regarding related laws is needed, considering that these laws are still new and the public may not fully understand the various forms of sexual violence and harassment. Comprehensive outreach needs to be carried out, including explanations regarding sanctions for violators, especially in the context of using social media that contains sexual harassment content. The hope is that this activity can increase public awareness and encourage cooperation in eradicating sexual crimes both in the surrounding environment and in the use of social media.

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²³Anisha Widi Tomo, *Legal Protection for Victims of Verbal Sexual Harassment on Social Media*, JUSTITIA: Journal of Legal Sciences and Humanities, Vol. 9 No. 5 of 2022, p. 2646.

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