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Criminal Sentencing of Doctors as Perpetrators of Sexual Violence Against Patients from the Perspective of the Objectives of Punishment

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Abstract: Sexual violence committed by doctors against patients constitutes a serious criminal offense that not only violates criminal law provisions but also undermines human values, professional ethics, and public trust in healthcare services. The unequal power relations between doctors and patients place victims in a vulnerable position, thus requiring a fair, firm, and victim-oriented sentencing system. This research aims to analyze the legal regulation and application of criminal sentences for sexual violence committed by doctors against patients within the Indonesian criminal law system, as well as to formulate ideal sentencing policies for the future. The research problems are formulated as follows: (1) how are the legal regulations and implementation of sentences for sexual violence committed by doctors against patients within the Indonesian criminal law system; and (2) how should future sentencing policies for such crimes be developed from the perspective of Indonesian criminal law. This study employs normative legal research methods using statutory, conceptual, and case approaches, particularly through the analysis of Decision of the Palembang District Court Number 919/Pid.B/2024/PN Plg. The data are analyzed qualitatively using descriptive-analytical methods. The results of this study indicate that, normatively, the legal framework governing sentencing for sexual violence has been established in the Criminal Code (KUHP), Law Number 12 of 2022 concerning Sexual Violence Crimes, and other relevant regulations. However, in practice, the implementation of sentencing still faces various obstacles, particularly in terms of evidentiary challenges, unequal power relations between doctors and patients, and victims' reluctance to report due to social stigma and psychological pressure. Furthermore, the sentence imposed in court decisions has not fully reflected substantive justice, as it has not thoroughly considered the psychological impact and long-term trauma experienced by victims. Based on these findings, it is recommended that legal regulations be strengthened, particularly regarding sentencing enhancements for perpetrators from certain professions, improvement of evidentiary mechanisms, and integration of criminal sanctions with administrative and professional ethical sanctions. Accordingly, the sentencing system is expected to provide maximum protection for victims, create a deterrent.

Keywords: Criminalization, Doctor, Sexual Violence Crimes, Patient

INTRODUCTION

Sexual violence has long been a problem in Indonesia, but it is often underestimated and underrepresented. In the reform era, legal reform and efforts to update the national legal system have become a top government priority, given that the legal system in Indonesia still requires significant improvement. "Furthermore, law enforcement still faces various challenges, particularly in handling cases of sexual violence" (Nurdiana, 2015). In Indonesia, cases of sexual violence are often overlooked and taken seriously only after they go viral. In the context of legal protection, specific regulations are needed for victims of sexual violence, including "preventive and repressive measures undertaken by the community, government, and law enforcement officials to provide protection/supervision for victims, and to provide adequate medical and legal assistance" (Amrullah, 2020).

Sexual violence is a highly damaging crime and has devastating consequences for its victims. Sexual violence can occur due to the perpetrator's lust for the victim. Sexual violence can occur anywhere and to anyone, regardless of gender; both men and women can be victims.

The crime of sexual violence as stipulated in Law Number 12 of 2022 concerning the Crime of Sexual Violence, explains that sexual violence is not only centered on rape, but its scope is quite broad, namely in the form of verbal harassment. Article 1 Paragraph (1) of Law Number 12 of 2022 concerning Sexual Violence explains that the crime of sexual violence is any act that fulfills the elements of a criminal act as regulated in this Law and other acts of sexual violence as regulated in the Law as long as they are determined in this Law.

The medical profession is generally viewed as an honorable and noble profession, one that carries significant social and humanitarian responsibilities. A doctor is not only required to possess high technical and scientific skills, but also to uphold ethical, moral, and integrity values in all their professional actions. In the interaction between doctor and patient, trust is a crucial element. "Patients tend to be in a vulnerable position, both physically and psychologically, and place complete trust in their treating physicians" (Matippanna, 2022). Therefore, "any violation committed by a doctor, especially of a sexual nature, not only violates the victim's personal integrity but also undermines public trust in the healthcare system" (Yuliani, 2024).

"Recently, public and academic attention has focused on the increasing number of cases of sexual violence perpetrated by medical personnel, particularly doctors, in the practice of healthcare" (Faruq, 2025). A number of cases have surfaced, such as alleged sexual violence by a doctor in Malang. In addition, there was a similar case involving an inpatient and a rape case perpetrated by a resident doctor at the Faculty of Medicine, Padjadjaran University, at Hasan Sadikin Hospital, Bandung. In these cases, the sexual violence was carried out with a modus operandi that blurred the line between medical procedures and criminal acts. This is further exacerbated by the unequal power relationship between doctors and patients, where patients are not in an equal position to give free and informed consent to medical procedures (Rizki, 2025).

In the case at Hasan Sadikin Hospital, the perpetrator has been named a suspect. The Indonesian Medical Association (KKI) has revoked his Registration Certificate (STR). Meanwhile, the West Java Provincial Health Office has also revoked the doctor's Practice License (SIP). In addition to internal supervision and collaboration with the Ministry of Health, KKI also encourages the public, both patients and their families, to report any form of harassment or ethical violations by medical or health personnel.

Although similar incidents have occurred repeatedly in various hospitals, the number of victims who come forward remains very low. Fear of the perpetrator's threats, shame, perceived exposure, and fear of criminalization are the main factors preventing reporting.

Based on the 2024 Violence Against Women Report from the National Commission on Violence Against Women (Komnas Perempuan), there was an increase in reported cases of

violence, from 401,975 cases in 2023 to 445,502 cases in 2024. Of these reported cases, 7.09 percent of the perpetrators were actually people who were expected to be protectors, role models, and representatives of the state such as teachers, lecturers, law enforcement officers, government, police, TNI, medical/health workers, public officials, and religious leaders. Meanwhile, based on data from the Women and Children Protection Symphony (PPA), there were 6,187 cases of violence since January 2025, 2,598 of which were cases of sexual violence.

Sexual violence in the public sphere was a high number, reaching 1,830 cases, with three of them occurring in healthcare facilities. The National Commission on Violence Against Women (Komnas Perempuan) deplors this fact, considering that healthcare facilities should be safe spaces for all users, especially when the perpetrators are doctors bound by oaths and professional ethics.

The National Commission on Violence Against Women will continue to monitor the legal process and ensure that victims receive their rights as mandated by the TPKS Law, including the right to treatment, protection, recovery, restitution, compensation, the right to be accompanied, and the right not to be blamed or stigmatized.

A similar incident occurred in case number 919//Pid.B/2024/Pn.Plg. This case involved an orthopedic and traumatology specialist at Bunda Medika Jakabaring Hospital in Palembang, who was charged with sexual assault against a pregnant woman named Tria Adelia Fatmawati, the wife of his own patient.

The incident occurred on December 20, 2023, in VIP room A306 of the hospital. At the time, the defendant was treating patient Teguh Wibowo (the victim's husband) with a simulated post-hand surgery procedure. After injecting the patient with the anesthetics Midazolam and Tranexamic Acid, rendering him unconscious, the defendant then ordered the nurse to leave the room, claiming he was going to continue the procedure.

The defendant then offered the victim an injection of the remaining "vitamin" medication, which he claimed was safe for pregnancy. After the injection, the victim felt weak and helpless. Under these circumstances, the defendant engaged in physical sexual acts, including squeezing and sucking the victim's breasts and pressing his face against her body. As a result of these actions, the victim suffered abrasions on her left breast and an injection mark on her right elbow, as documented in the post-mortem examination.

Forensic laboratory evidence showed that the blood on the syringe and cotton swab found at the scene matched the victim's DNA. The defendant was charged with violating Article 6 letter b in conjunction with Article 15 paragraph (1) letters b, i, and j of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence. During the trial, the victim and defendant had reconciled, and the victim requested that the defendant be given the lightest possible sentence. The panel of judges ultimately sentenced the defendant to 5 months in prison with an order that the defendant serve house arrest.

In the context of criminal punishment, the imposition of criminal sanctions on doctors who commit sexual violence should not only be understood as a form of retribution for the act, but also as an instrument to achieve the objectives of punishment, namely to provide a deterrent effect, protect the public, improve the perpetrator's behavior, and restore justice for the victim. Sentences that are too light have the potential to fail to create a deterrent effect and actually weaken public trust in the criminal justice system. Furthermore, decisions that do not reflect a sense of justice can cause further trauma for the victim and open the way for similar crimes to occur in the future. Therefore, it is important to examine in depth how the objectives of punishment are implemented in imposing sanctions on doctors who commit sexual violence.

The guarantee of a judicial institution for every justice seeker is absolute, as stated in the adage *Fiat Justicia Ruat Caelum*, which means that justice must be upheld even if the heavens fall. This adage is not directed at a particular person or group, but rather at everyone. Academically, research on the criminalization of doctors who commit sexual violence against

patients is still relatively limited, especially in the context of Indonesian criminal law. However, this study is crucial for affirming and ensuring effective legal protection for patients as vulnerable parties. Based on the above description, it can be concluded that the issue of sexual violence by doctors against patients is a serious problem that not only harms the victim but also tarnishes the medical profession and undermines public trust in health institutions. Therefore, the author considers it necessary to conduct research in the form of a thesis entitled "The Criminalization of Doctors Who Perpetrate Sexual Violence Against Patients: A Perspective of the Purpose of Criminalization."

LITERATURE REVIEW

Theory of Punishment

"Punishment or what can also be called punishment comes from the word law which can be interpreted as establishing the law or deciding on the punishment (berechten)." (Suhartoyo, 2019) According to Jan Rammelin "punishment is the conscious and mature imposition of punishment by an authorized authority to an offender who is guilty of violating a legal rule". In general, the theory of punishment is grouped into 3 groups, namely:

a. Absolute Theory/Revenge Theory (Vergeldings Theorieen)

"This theory views that punishment is solely to inflict suffering on those who commit crimes" (Setiady, 2010). "The theory of retribution, also known as Retribution Theory, according to Hebert L. Packer, consists of revenge theory and expiation theory." Revenge theory or revenge theory considers that punishment is considered solely as retribution.

Karl. O. Christian, explains the characteristics of retribution theory, namely:

- 1) The purpose of punishment is solely for retribution;
- 2) Revenge is the main goal in it does not contain means for other goals for example for the welfare of society;
- 3) Guilt is the only condition for the existence of a crime;
- 4) The punishment must be adjusted to the offender's guilt;
- 5) Criminal law looks backwards, it is pure condemnation and its purpose is not to reform, educate or resocialize the offender.

b. Relative Theory/Objective Theory (Relatieve Theorieen)

"According to this theory, punishment is not to take revenge on the perpetrator of the crime, but rather has certain useful goals." (Setiady, 2010) Adherents of this theory are Franz Von List, Van Hamel, Simons, etc. According to this theory, punishment is not imposed quia peccatum (because people commit crimes) but ne peccatum (so that people do not commit crimes). Hebert L. Packer explains that utilitarian prevention theory consists of utilitarian prevention deterrence which assumes that punishment that results in pain is not justified unless it can be shown that by giving punishment will get better results than if not given punishment. While special deterrence or intimidation assumes that if someone undergoes punishment then he cannot commit crimes. Therefore, punishment functions to reduce or eliminate evil actions that can be done by that person (Effendi, 2011).

c. Combined Theory (Verenigings Theorieen)

One of the proponents of this theory, Pompe, emphasizes punishment on retribution, but the crime must also be intended to maintain public order so that the public interest can be protected. According to Thomas Aquinas, the basis of punishment is the public welfare. The nature of punishment is the general nature of punishment, but not its purpose, because the purpose of punishment is essentially the defense and protection of public order. This combined theory prioritizes attention on the perpetrator of the crime, not the crime itself.

The Theory of Criminal Proportionality

The theory of proportionality in criminal law originates from Lex Tallionis, which is closely related to Hammurabi's law in ancient Middle Eastern history. The principle of Lex Tallionis in Hammurabi's law has a basic principle that criminal sanctions must be proportional to the crime. The theory of criminal proportionality refers a lot to the thoughts of Andrew Von Hirsch (Ali, 2012). Andrew Von Hirsch emphasized that criminal acts must be proportional to the severity of the crime as well as the danger and guilt of the perpetrator. Hirsch's thinking is influenced by modern retributive theory (new retributive movements) with the teaching of doing justice which brings back the basic idea of justice (the back to justice movement) which states that fair punishment must reflect the crime committed, and the determination of the threat of criminal sanctions in the formulation of the offense must be proportional to the level of despicableness of the act and the guilt of the perpetrator (Aditya, 2015).

Law Enforcement Theory

Law enforcement theory is a concept that explains how the law is implemented concretely by authorized state officials to create order, justice, and legal certainty in society. In practice, law enforcement encompasses two main approaches: preventive action to prevent violations of the law and repressive action to impose sanctions for violations that have already occurred (Soekanto, 2008).

Law enforcement involves three interrelated elements: legal structure, legal substance, and legal culture. Legal structure refers to law enforcement institutions such as the police, prosecutors, courts, and correctional institutions. Legal substance is the norms or regulations that form the basis for action, while legal culture reflects public attitudes and awareness of the law. All three determine the success or failure of law enforcement within a system.

In practice, various challenges often hamper the law enforcement process, such as weak human resources among law enforcement officers, low integrity, overlapping regulations, and intervention from political and economic forces. Laws are also often implemented procedurally and formally without considering the values of substantive justice, thus creating an imbalance between normative law and social reality. Therefore, a progressive and responsive approach is essential to ensure that the law truly favors justice (Rahardjo, 2009).

METHOD

This research is a normative juridical research that focuses on the study of positive law through description, systematics, interpretation, analysis, and assessment of applicable norms, with a conceptual approach, statute approach, and case approach. The research was conducted through a literature study in 2025 with the object of study being laws and court decisions in Indonesia, specifically related to Decision Number 919/Pid.B/2024/PN Plg. The research population consists of all relevant regulations and legal documents, with samples of legal materials selected purposively including the Criminal Code, the Criminal Procedure Code, Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, Law Number 29 of 2004 concerning Medical Practice, and related court decisions. The research instruments are in the form of legal document analysis guidelines and legal material recording techniques. The data collection technique was carried out through literature studies by collecting primary, secondary and tertiary legal materials, while the data analysis technique used a qualitative method with an inductive mindset, namely describing and evaluating legal norms and drawing specific conclusions based on general provisions and legal facts found.

RESULTS AND DISCUSSION

Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence

The Sexual Violence Crimes Law (UU TPKS) is a new legal instrument passed on Tuesday, April 12, 2022, after a lengthy process and approval from various parties since 2016. This ratification demonstrates the state's commitment and support for protecting victims of violence. Thus, Indonesians now have a legal basis that can meet their needs, particularly in addressing sexual violence (Manaputty, 2023).

The Sexual Violence Crimes Act (UU TPKS) is intended to address public pressure regarding the increasing number of sexual violence cases in various regions of Indonesia. A new and perhaps less well-known case is sexual violence perpetrated by healthcare workers. Therefore, the effective implementation of the TPKS Law is essential to protect victims. Clear legal regulations and strong witness protection are expected to reduce violence in the medical field. The government has formulated and enacted various regulations to prevent and minimize sexual violence and to create a deterrent effect for perpetrators.

In the academic text of the TPKS Bill, it is clearly stated that the formation of the TPKS Law is an effort to reform the law which aims, among other things:

1. Preventing incidents of sexual violence
2. Developing and implementing prevention mechanisms, handling, protection and recovery involving the community and from the victim's perspective, so that victims can overcome the violence they experience and become survivors.
3. Providing justice for victims of sexual violence, through rehabilitation, criminal sanctions, and firm action against perpetrators of sexual violence.
4. Ensuring the implementation of state obligations, the role of the family, community participation, and corporate responsibility in creating an environment free from sexual violence.

The TPKS Law also introduces a new system that provides greater protection for victims in terms of law enforcement and encourages the state to be more responsible in efforts to restore victims and prevent future sexual violence. The TPKS Law also aims to complement existing legal regulations related to sexual violence, including the Criminal Code (KUHP) and Law Number 35 of 2014, which amends Law Number 23 of 2002 concerning Child Protection (the Child Protection Law) (Rahmawati et al., 2023).

Article 4 of the TPKS Law emphasizes the scope of sexual violence, which consists of 9 forms:

1. Non-physical sexual harassment: actions that disturb someone's honor without involving physical contact or actions that insult someone without involving physical contact, such as comments or expressions of a sexual nature.
2. Physical sexual harassment: sexual acts involving physical contact without consent. These include inappropriate groping or touching of a person's body, hugging, kissing, or making sexual gestures without permission, touching or squeezing sensitive parts of the victim's body, and physical coercion that constitutes sexual harassment.
3. Coercive contraception: if someone forces another person to use contraception with violence or threats of violence.
4. Forced sterilization: the act of forcing someone to undergo sterilization. For example, a doctor forcing a patient to undergo sterilization without their express permission.
5. Forced marriage: the act of forcing someone to marry without their consent. Such as when parents force their children to marry someone they don't want.
6. Sexual torture: an act that causes physical or mental suffering due to sexual violence.
7. Sexual exploitation: the use of someone's body for sexual gain, often to the detriment of the victim.

8. Sexual slavery: forcing someone to engage in sexual activity without consent. As in the context of human trafficking.
9. Electronic-based sexual violence: acts of sexual violence carried out via electronic media.

Regarding the crime of sexual violence, Articles 4 to 14 of the TPKS Law encompass all provisions in other laws relating to sexual violence in Indonesia, which are the subject of this law. Prior to this law, regulations regarding sexual violence were divided into several laws, such as the Criminal Code, the Child Protection Law, the Domestic Violence Law, Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, and Law Number 44 of 2008 concerning Pornography. These regulations govern procedural law and victims' rights, but depend on the articles used in the law. Furthermore, some regulations do not accommodate victims' rights and procedural law focuses on victims, such as the definitions of rape and indecent acts in the Criminal Code, which complicate the evidentiary process. The TPKS Law integrates all forms of sexual violence, guarantees victims' rights, and provides comprehensive legal procedures in one law (Bahagijo et al., 2022).

The TPKS Law is expected to provide special protection for victims of sexual harassment and reduce the number of victims of sexual harassment. As explained, this law covers various forms of sexual violence and provides a clearer definition of what constitutes sexual violence. This law also provides harsher penalties than those under the Criminal Code, aiming to deter perpetrators.

Physical sexual harassment consists of three forms, namely:

1. Physical sexual acts directed against the body, sexual desire, and/or reproductive organs with the intent to degrade a person's dignity and worth based on their sexuality and/or morality. According to Article 6a of the TPKS Law, those who commit these acts can be punished with a maximum prison sentence of 4 years and/or a maximum fine of Rp. 50 million.
2. Physical sexual acts directed against the body, sexual desire, and/or reproductive organs with the intent to unlawfully place someone under their control, whether within or outside of marriage. Those who commit this act are subject to a maximum prison sentence of 12 years and/or a maximum fine of Rp. 30 million, as stipulated in Article 6b of the TPKS Law.
3. Abuse of position, authority, trust, or carrier arising from deception or relationships or taking advantage of a person's vulnerability, inequality or dependency, forcing or by misleading that person to commit or allow sexual intercourse or indecent acts to be committed with him or another person. According to Article 6c of the TPKS Law, this act can be punished with a maximum of 12 years in prison and/or a maximum fine of Rp. 300 million.

Criminal Code (KUHP)

The Indonesian Criminal Code (KUHP), originally known as the Dutch Criminal Code for the Indies (WvSNI), is a Dutch product that was applied to Indonesia. It was only later, with Law Number 1 of 1946 concerning Criminal Law Regulations, that the Criminal Code for the Indies was renamed the Criminal Code (WvS), and can be referred to as the Criminal Code. This name change was accompanied by changes in terminology, the addition of several criminal offenses, and patchwork changes in the penalties to make it appear more Indonesian.

The Criminal Code, which has long served as the legal basis in Indonesia, has apparently not fully addressed existing social problems. Simply implementing its articles is insufficient to address complex issues, as numerous sociological factors contribute to its detrimental effects. Furthermore, rapid technological advancements have made the Criminal Code increasingly outdated. Cases of sexual harassment are a clear example of the discrepancy between the

definition and understanding of sexual harassment in the Criminal Code and prevailing social values (Bahiej, 2003).

Basically, in Indonesian criminal law, the term sexual harassment is not recognized, but rather the terms indecent acts and crimes against morality or moral crimes. These indecent acts refer to actions that violate moral norms or heinous acts related to lust, such as kissing and touching. Scientifically, indecent acts in Dutch (*ontuchtige handelingen*) can be defined as any form of action, whether committed against oneself or another person, related to the genitals or other body parts and can arouse sexual arousal (Chazawi, 2013). Therefore, perpetrators of sexual violence can be charged using the indecent act as regulated in Articles 281 to 296 while still paying attention to the provisions of the elements of each criminal act. If the evidence is deemed sufficient, the public prosecutor will file an indictment against the perpetrator of sexual violence before the court.

Regulations regarding sexual violence are regulated in the Criminal Code (KUHP). The old KUHP did not provide sufficient legal guarantees for victims, especially regarding sexual violence in educational settings. However, in the new KUHP, Article 418 paragraph (2) states that criminal acts of sexual violence committed by doctors, teachers, employees, administrators, or officers in correctional institutions, educational homes, and the like can be subject to a maximum prison sentence of 12 years (Stephanie and ADS Surbakti, 2024).

The crime of sexual harassment is regulated in the Criminal Code starting from Article 281 to Article 296. This Criminal Code regulates prohibited acts which include forcing indecent acts, committing indecent acts with subordinates, facilitating indecent acts and prostitution.

Article 289 of the Criminal Code was formulated by R. Soesilo as follows: Anyone who by violence or threat of violence forces someone to commit or allow an obscene act to be committed, shall be punished for committing an act that attacks the honor of decency with a maximum imprisonment of nine years.

The Criminal Code in cases of sexual harassment committed by health workers involves several relevant articles. If a health worker commits an indecent act with violence, they can be charged with Article 289. Indecent acts are punishable by a maximum of 12 years in prison. This means that if someone commits an unwanted sexual act using physical violence or threatening to commit violence, then the act can be subject to legal sanctions. This crime regulated in Article 289 of the Criminal Code is different from rape which is formulated in Article 285 of the Criminal Code. Based on Article 289 of the Criminal Code, the crime of sexual harassment can be indecent acts committed by:

1. Violence is any act that uses force against a person that can cause harm or shock the person being used.
2. Threats of violence. Obscene acts are defined as any act that violates decency or decency, or a vile act that falls within the realm of sexual sexual desire. Examples include: Kissing, touching genitals, touching breasts and forcing someone to commit or allow obscene acts to be committed.

Because sexual harassment doesn't yet include non-verbal acts not explicitly regulated in the Criminal Code, such as insulting comments, lewd jokes, or images degrading a gender, this article specifically addresses physical sexual harassment, which involves unwanted physical contact or unwanted touching.

Therefore, Article 289 of the Criminal Code defines it as an indecent act. Whereas Article 285 of the Criminal Code stipulates that rape must involve sexual intercourse, indecent acts do not (Adi et al., 2022). Articles 289 and 285 of the Criminal Code differ. Article 285 stipulates that rape can only be committed by men. Meanwhile, indecent acts in Article 289 can be committed by both men and women against men. Furthermore, the relevant article states that

if a health worker commits an indecent act with an incapacitated individual, they can be charged under Article 290.

Article 290 states, "Anyone who commits an indecent act against a helpless person shall be punished with a maximum imprisonment of 12 years." This means that the term "helpless person" includes children, individuals with mental disorders, or people who are unable to give consent. Fainting means that someone loses consciousness due to impaired brain function or memory loss and is unaware of themselves. For example, someone who consumes poison or certain drugs. In a state of fainting, a person no longer knows what is happening to them. This article aims to protect vulnerable groups from sexually suggestive acts, and perpetrators can be sentenced to a maximum of 12 years in prison. This shows that the law recognizes certain vulnerabilities and provides additional protection for them.

Article 290 of the Criminal Code carries a maximum prison sentence of seven years. The application of this article is as follows: Anyone who commits an indecent act with someone, knowing that the person is unconscious and helpless.

Fainting means loss of memory. Powerless means having no strength or, so that he is unable to make any resistance. Whoever commits an indecent act with someone, while he knows or should suspect, that the person is not yet 15 years old or if it is not clear how old, that the person is not yet ready to be married. Elements of Article 290 sub 1 e: The objective element is Whoever: Commits indecent acts with someone. The punishment for indecent acts in Article 290 of the Criminal Code is with the threat of imprisonment for 7 years.

If a health worker abuses his authority by committing indecent acts, he can be charged with Article 294. Article 294 reads paragraph (1)63 "Anyone who commits indecent acts with his child, stepchild, adopted child, child under his supervision who is not yet an adult, or with a minor whose care, education or protection he is under, is threatened with a maximum prison sentence of seven years."

Article 294 of the Criminal Code regulates indecent acts committed by certain people who have authority or a special relationship with the victim. Article 294 paragraph (1) regulates indecent acts committed by a person against his biological child, stepchild, adopted child, or child under his supervision who is not yet an adult.

And verse (2) reads "Threatened with the same punishment:

1. an official who commits obscene acts with a person who by virtue of his position is his subordinate, or with a person whose care is entrusted or handed over to him,
2. administrators, doctors, teachers, employees, supervisors or orderlies in prisons, state work places, places of education, orphanages, hospitals, mental hospitals or social institutions, who commit obscene acts with people who are put there.

This situation includes where an individual in a position of power or authority (such as a superior, teacher, or healthcare professional) commits an indecent act against someone under their influence. In the context of healthcare professionals, if a doctor or nurse commits an indecent act against a patient under their supervision in a hospital, they can be charged under Article 294 paragraph (2). This article does not question whether the indecent act was committed by force or not, and does not consider whether the victim is an adult or not. This differs from the crime under Article 294 paragraph (1) of the Criminal Code, which mentions victims who are "minors." This article stipulates sanctions for perpetrators who abuse their position to engage in sexual reflection, with a maximum prison sentence of 7 years. This is crucial to maintaining the integrity of professional relationships and protecting individuals who may feel pressured to refuse unwanted acts.

The Criminal Code (KUHP) does not specifically regulate sexual harassment. However, several articles in the KUHP can still be used to ensnare perpetrators, such as Articles 281, 289, and 290. These articles regulate indecent acts, lewd behavior, and physical harassment. Although the KUHP regulates provisions related to handling sexual harassment cases, its

implementation still faces significant obstacles, such as low levels of legal awareness, strong social stigma, and limited evidence. The effectiveness of criminal law enforcement in handling sexual harassment cases depends heavily on the capacity of law enforcement officials to identify and prove the elements of the crime as stipulated in the KUHP.

These articles provide the legal basis for punishing perpetrators and protecting victims of sexual harassment. These articles are also relevant to cases of harassment perpetrated by healthcare workers. However, the sanctions or punishments stipulated in the Criminal Code are often deemed insufficiently severe to deter perpetrators. Furthermore, cases of sexual harassment perpetrated by healthcare workers present a challenge because they occur in private settings and there are no witnesses. Therefore, it can be difficult to prove whether the perpetrator actually committed sexual harassment.

The new Criminal Code (KUHP), enacted on January 2, 2023, aims to replace the old, colonial-era Criminal Code (KUHP), and is expected to create a more modern and responsive legal system. The old Criminal Code separated crimes and violations, which could affect how harassment was handled. The new Criminal Code eliminates the distinction between crimes and violations, uniting them under the term "criminal act." This aims to simplify the legal process and provide greater clarity in law enforcement. The old Criminal Code's approach was more repressive, often focusing on punishment without considering the rehabilitation of perpetrators or reparations for victims. The new Criminal Code prioritizes a restorative approach that places greater emphasis on the rehabilitation of perpetrators and the restoration of relationships between perpetrators, victims, and the community. This is expected to provide more humane justice for all parties involved. The new Criminal Code cannot yet be used because it officially came into effect on January 2, 2026. This is because there is a three-year transition period after enactment to prepare for implementation and socialization of this new law to the public and law enforcement officials.

Thus, the Sexual Violence Crimes Law was enacted to address the shortcomings of the Criminal Code. The Sexual Violence Crimes Law is the latest regulation specifically addressing various forms of sexual violence, including physical and non-physical sexual harassment. The Sexual Violence Law provides further protection for victims of sexual harassment and provides a mechanism for more effective case management. Therefore, to comprehensively address sexual harassment cases, strengthening criminal law, increasing legal awareness, and implementing the Sexual Violence Crimes Law are necessary.

Code of Medical Ethics

The Indonesian Code of Medical Ethics has a comprehensive substance to realize the professionalism of doctors. The Indonesian Code of Medical Ethics (KODEKI) emphasizes the obligations of doctors in various dimensions, both internal and external, to create a solid building in the form of medical professionalism (Andrianto, 2026). What is meant by internal dimensions is that KODEKI requires doctors to maintain personal integrity, continuously improve medical competence and act in accordance with the principles of medical ethics. And doctors are expected to have a high level of self-awareness to always behave professionally, both in medical procedures and in their personal lives. Meanwhile, what is meant by the external dimension is that KODEKI regulates the relationship between doctors and patients by respecting patients, maintaining medical patient confidentiality, and providing the best service.

As explained in the previous chapter, KODEKI is a collection of morals and principles designed to regulate the moral and professional behavior of healthcare workers in carrying out their duties or profession. Therefore, KODEKI serves as a reference for healthcare workers in interacting with patients, colleagues, and the public. In Indonesia, there are two codes of ethics: the Medical Code of Ethics (KODEKI) and the Indonesian National Code of Ethics for Nurses (Rachmayani, 2015).

The Code of Ethics stipulates that a physician must practice medicine with the patient's best interests at heart and maintain professionalism. In cases of sexual harassment, a physician may violate several key principles of the code of ethics, such as:

1. Article 2 of the CODE: Doctors must always prioritize the health of patients.
2. Article 4 of the CODE of Conduct: Doctors must maintain the honor of the profession in every medical action.
3. Article 9 of the CODE: Doctors are prohibited from committing immoral acts or sexual harassment against patients.

The basic principles of KODEKI are: First, Professionalism, namely that doctors must always act professionally in carrying out their profession, have knowledge, skills and attitudes that are in accordance with the standards of the medical profession.

Second, Humanity means that doctors must always uphold humanitarian values, placing patient interests above personal interests or other interests.

Third, freedom and independence, namely doctors must always maintain freedom and independence in making professional decisions, and must not be influenced by other parties in carrying out their profession.

However, in the case of the doctor who committed sexual assault at Bunda Medika Hospital in Jakabaring, the doctor should have prioritized the health and safety of the patient, but the doctor injected the pregnant woman without clear consent. According to the KODEKI principle, doctors should act professionally according to medical professional standards. Sexual violence committed by a doctor constitutes a violation of the KODEKI principle of professionalism.

CONCLUSION

1. Legal regulations and application of criminal penalties for acts of sexual violence committed by doctors against patients in the Indonesian criminal law system, it can be concluded that the legal framework governing the punishment for such acts is normatively available, both in the provisions of the Criminal Code (KUHP), Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence, and other related laws and regulations. These regulations have provided a legal basis for law enforcement officials to charge perpetrators with strict criminal penalties and provide legal protection for victims. However, in law enforcement practice, the application of criminal penalties still faces various obstacles. Furthermore, the absence of specific regulations that explicitly emphasize increased punishment for perpetrators from certain professions means that criminal penalties do not fully reflect a sense of justice, legal certainty, and benefit. Therefore, although normatively the legal regulations are adequate, the implementation of criminal penalties for doctors who commit sexual violence still requires strengthening in terms of regulations, law enforcement officials, and the victim protection system.
2. Based on an analysis of Palembang District Court Decision Number 919/Pid.B/2024/PN Plg, the author assesses that the sentencing imposed does not fully reflect a sense of substantive justice, given the unequal power relations between the perpetrator as a medical professional and the victim as a vulnerable patient. Furthermore, the decision demonstrates that the judge's considerations still focus on normative-formal aspects, without optimally exploring the psychological, social, and long-term trauma impacts experienced by the victim. In fact, in the context of sexual violence crimes, particularly those committed by medical professionals, the humanitarian dimension and victim protection should be the primary considerations in sentencing. Therefore, future sentencing policies need to emphasize the aggravation of criminal penalties for perpetrators from certain professions, strengthening the evidentiary aspect, and

integrating criminal sanctions, administrative sanctions, and professional ethical sanctions. Thus, the ideal criminal policy is not only oriented towards punishing the perpetrator, but also aims to provide a deterrent effect, ensure the recovery of the victim, maintain public trust in the medical profession, and prevent the recurrence of similar crimes in the future, so as to create a criminal justice system that is just, humane, and responsive to the development of community needs.

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