



Critical Notes on the "Tangled Threads" of Norms for Preventing and Handling Sexual Violence in the Higher Education Environment

Muammar^{1*}, Iqbal Taufik²

^{1,2} Faculty of Law, Universitas Pattimura, Ambon, Indonesia.

@ : valdanitolaw@gmail.com

Corresponding Author*



Abstract

This paper aims to analyze, examine and criticize the norms of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence which in substance still leaves a number of "tangled threads" to be resolved. The approach methods used in this paper are the statute approach, the conceptual approach, and the analytical approach. The Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, which was passed in 2022, actually aims to prevent and handle sexual violence in the university environment. However, the existence of these norms still leaves various problems that should be resolved so that the mission of the norm can be carried out effectively. These problems include, first, the nuances of contadictio in terminis between the norm numbering and the substance that is the object of the norm. Second, the extension of terms in the norm is excessive and not in line with the true meaning of sexual violence. Third, objects (acts) that are categorized as sexual violence deviate from the proper legal concept. Fourth, it still opens gaps and opportunities for sexual violence to occur with the phrase "without the consent of the victim". Fifth, it raises the potential for a conflict of derogation principles between the lex superior derogate legi inferiori and the lex specialis derogate legi generali. Therefore, in the future, it is necessary to make revisions for the sake of improvement, so that the problem in question can be solved properly.

Keywords: Sexual Violence; College; Norm; Prevention; Handling.

INTRODUCTION

This article was inspired by the follow-up to the implementation of the Regulation of the Minister of Education, Culture, Research and Technology Number 30 of 2021 concerning the Prevention and Handling of Sexual Violence in the Higher Education Environment (hereinafter referred to as the Regulation of the Minister of Education and Culture concerning the Prevention and Handling of Sexual Violence). Since the beginning of its ratification, the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence has given rise to various crises and debates, especially some provisions in the norm which are considered quite controversial.¹ For example, some provisions in the norm contain the phrase "without the consent of the victim".² The existence of a number of such phrases is considered that the norm still opens up "opportunities" for sexual violence crimes in the university environment.³

¹ Maunatul Musayadah, "Tijauan Yuridis Peraturan Menteri Pendidikan Dan Kebudayaan Nomor 30 Tahun 2021 Tentang Pencegahan Dan Penanganan Kekerasan Seksual (PPKS) Di Perguruan Tinggi Dan Dilihat Dari Undang-Undang Dasar Republik Indonesia Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia," *Prosiding Seminar Nasional Hukum* 1, no. 1 (2021): 1885-86.

² Rizkia Rahmasari, "Analisa Makna 'Persetujuan' Dalam Pemendikbud Ristek No. 30 Tahun 2021 Terhadap Fenomena Kekerasan Seksual Di Lingkungan Pendidikan Yang Dianggap Sebagai Upaya Legitimasi Terhadap Perzinaan," *Jurnal Penegakan Hukum Dan Keadilan* 3, no. 1 (2022): 79, <https://doi.org/10.18196/jphk.v3i1.13484>.

³ Musayadah, "Op.Cit," 1886.

The phrase mentioned above is seen as an "entrance" that will still legalize the crime of sexual violence in the university environment.⁴ As long as it is done with the consent of the victim who is the object of the action. Recently, since the issuance of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, there have been demands for universities throughout Indonesia to establish a Task Force for the Prevention and Handling of Sexual Violence in each university environment.⁵ This is evidenced by the number of universities that have responded to the demands of the Minister of Education and Culture with the existence of the Task Force for the Prevention and Handling of Sexual Violence as a forum to serve the interests of the campus academic community who are victims.⁶

From various data obtained, currently the number of campuses that have formed the Task Force for the Prevention and Handling of Sexual Violence in universities is approximately 125 state universities. Around 109 private universities are also in the process of forming a Task Force on the Prevention and Handling of Sexual Violence. In fact, there are 20 private universities that have formed a Task Force for the Prevention and Handling of Sexual Violence.⁷ The data at least shows that issues related to the Prevention and Handling of Sexual Violence are indeed an urgent thing to be implemented as a manifestation of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence which views the many phenomena of sexual violence occurring in the university environment.

Apart from these good intentions, the existence of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence that has been passed is not just able to be accepted by common sense in the academic stage⁸, Especially if it is used as an object of academic discourse for theoretical law practitioners (legal academics, legal theorists, and legal philosophers). How could it not, if at first glance we read the norms of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence as mentioned above, for people who are in the field of law, then it will disrupt the upright position of the normal logic of their thinkers. Because in some of the provisions contained in the norm, there are several things that should indeed be used as critical notes as a form of our "intellectual anxiety".⁹ Starting from the phrases that regulate the issue of sexual violence, the scope of sexual violence itself, the expansion of the terminology of the concept used, the issue of free interpretation of regulated criminal acts, to issues related to potential clashes of norms when associated with Law Number 12 of 2022 concerning the Crime of Sexual Violence (hereinafter referred to as the Sexual Violence Crime Law).¹⁰ Practically, the problems mentioned above will be interesting issues to be

⁴ Fitri Elfiani, "Analisis Pembentukan Permendikbud Nomor 30 Tahun 2021 Di Tinjau Dari Sudut Pandang Ilmu Perundang-Undangan," *Journal of Juridische Analyse* 1, no. 01 (2022): 7, <https://doi.org/10.30606/joja.v1i01.1241>.

⁵ Puput M dan Prima, "100 Persen PTN Bentuk Satgas PPKS, Bukti Komitmen Kampus Merdeka Dari Kekerasan Seksual," Kementerian Pendidikan, Kebudayaan, Riset, dan Teknologi, 2 Februari 2023, <https://www.kemdikbud.go.id/main/blog/2023/02/100-persen-ptn-bentuk-satgas-ppks-bukti-komitmen-kampus-merdeka-dari-kekerasan-seksual>.

⁶ Erinca Febrianti dkk., "Analisis Kebijakan Permendikbud Ristek Nomor 30 Tahun 2021 Dalam Upaya Pencegahan Dan Penanganan Kekerasan Seksual Di Universitas Muhammadiyah Ponorogo," *Jurnal Ilmu Pemerintahan Suara Khatulistiwa* 7, no. 1 (2022): 58, <https://doi.org/10.33701/jipsk.v7i1.2529>.

⁷ M dan Prima, "Op.Cit."

⁸ lihat Irfawandi Irfawandi dkk., "Analisis Jenis Jenis Dan Penyebab Kekerasan Seksual Di Lingkungan Kampus," *Jurnal Pendidikan Indonesia* 4, no. 04 (2023): 388, <https://doi.org/10.59141/japendi.v4i04.1747>.

⁹ Yesy Afrillia dkk., "Analisis Sentimen Ciutan Twitter Terkait Penerapan Permendikbudristek Nomor 30 Tahun 2021 Menggunakan TextBlob dan Support Vector Machine," *G-Tech: Jurnal Teknologi Terapan* 6, no. 2 (2022): 388, <https://doi.org/10.33379/gtech.v6i2.1778>.

¹⁰ Cindy, "Isi Permendikbud No 30 Tahun 2021 yang Tuai Kontroversi," *medcom.id*, 11 November 2021, <https://www.medcom.id/pendidikan/news-pendidikan/JKRWm6yN-isi-permendikbud-no-30-tahun-2021-yang-tuai-kontroversi>.

adjusted as material for the study of the development of legal science, especially in the realm of criminal law. At least the issues in question will be evaluated in the future for stakeholders in order to improve the quality of the laws and regulations that will be made, especially if the issue concerns technical matters, such as the issue of prevention and handling of sexual violence in the university environment.¹¹

Some of the problems that have been mentioned above if not handled properly will give birth to problems in terms of the implementation of the prevention and handling of sexual violence in the university environment, of course,¹² and if that happens, the norms of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence will ultimately be considered counter-productive because they are not able to provide an ideal solution to the problems they are facing.¹³ In addition, the position of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence in the hierarchy of laws and regulations is very far graded when compared to the law itself. Especially now, the issue of sexual violence has also been regulated in the Sexual Violence Crime Law which was passed in 2022.

Finally, the problem of the clash of norms as mentioned earlier is inevitable. If referring to the principle of derogation *lex superior derogat legi inferiori*¹⁴, so it is certain that the "winner" is the Sexual Violence Crime Law. However, the problem is that the Sexual Violence Crime Law was promulgated and passed later. Meanwhile, the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is a norm that was first passed in 2021. Thus, the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence regulates things that are much more general and broad, while the Law on Sexual Violence Crimes regulates things that are much more rigid and specific. How is it possible that a law with a nomenclature as the Minister of Education and Culture regulates matters that are general and broad when compared to a law that has a higher position in the hierarchy of laws and regulations.

Therefore, this paper aims to analyze, examine and criticize the norms of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence that currently exists and colors the life of education in the university environment. This paper will provide and present a few critical notes that are expected to be evaluation materials in order to improve (revise) the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence in the future, or at least it can be used as study material to be adjusted to the Sexual Violence Crime Law which is also currently in force in our midst.

METHODS OF THE RESEARCH

This paper uses a type of normative legal research. That is a type of research based on literature studies by focusing on secondary data. Secondary data is taken from legal

¹¹ Anggi Yus Susilowati, "Kampus Ramah Mahasiswa Dari Kekerasan Seksual: Analisis Tingkat Pengetahuan Mahasiswa Terkait Pencegahan Dan Penanganan Kekerasan Seksual," *Empower: Jurnal Pengembangan Masyarakat Islam* 7, no. 2 (2022): 245, <https://doi.org/10.24235/empower.v7i2.11516>.

¹² Sumintak Sumintak dan Abdullah Idi, "Analisis Relasi Kuasa Michel Foucault: Studi Kasus Fenomena Kekerasan Seksual Di Perguruan Tinggi," *Jurnal Intelektualita: Keislaman, Sosial Dan Sains* 11, no. 1 (2022): 60-61, <https://doi.org/10.19109/intelektualita.v11i1.11117>.

¹³ Elfiani, "Op. Cit," 2-3.

¹⁴ Shidarta Shidarta dan Petrus Lakonawa, "Lex Specialis Derogat Legi Generali: Makna dan Penggunaannya," 2018, 5, <https://doi.org/10.13140/RG.2.2.15629.05602>.

materials, which consist of primary legal materials, secondary legal materials, and tertiary legal materials. These legal materials include laws, court decisions (jurisprudence), results of previous research, legal literature that contains various legal principles, theories, values and concepts. This paper uses qualitative descriptive analysis, in order to obtain a comprehensive overview of the issues being raised. Meanwhile, the approaches used in this paper are the statute approach, the conceptual approach, and the analytical approach.

RESULTS AND DISCUSSION

If referring to the consideration section b of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, the reason that is considered in the formation and ratification of the above norm is the increasing increase in sexual violence that occurs in the realm of the community, including universities, which directly or indirectly has an impact on the less optimal implementation of the tridharma of higher education and lowers the quality of higher education. This is confirmed by a number of cases of sexual violence in the university environment that have occurred to date.¹⁵

In fact, universities are recorded as the third place where sexual violence occurs after the streets and public transportation with a percentage of 15% in the university environment, 33% on the streets and 19% in public transportation.¹⁶ Meanwhile, in 2020, based on the results of a survey conducted by the Directorate General of Higher Education of the Ministry of Education and Culture, 77% of lecturers admitted that there was sexual violence that occurred on campus¹⁷. Based on the release by Komnas Perempuan, that throughout 2015-2021, there were 67 cases of violence that occurred in the world of education, 35 of which occurred in the university environment.¹⁸ The issue of sexual violence in the university environment is also seen as one of the 3 (three) "big sins" in the world of education in addition to bullying and intolerance.¹⁹ Shifting in 2023, based on the results of a survey conducted by the Ministry of Education, Culture, Research and Technology as of July 2023, there were 65 cases of sexual violence that occurred in the university environment. The results of the survey also still show that sexual violence is the most common case that occurs within the Ministry of Education and Culture, for bullying itself there are 61 cases that occur both at the elementary, secondary and university levels. Meanwhile, for cases of intolerance, there are 22 cases at all levels of education.²⁰

The data presented above can at least be an illustration that the university environment is indeed a "favorite" place for sexual violence cases. This is understandable, because

¹⁵ Heri Tahir, Ririn Nurfaathirany Heri, dan St Junaeda, "Analisis Peraturan Mendikbud Ristek (Permendikbud) Nomor 30 Tahun 2021 Tentang Pencegahan dan Penanganan Kekerasan Seksual di Lingkungan Perguruan Tinggi di Universitas Negeri Makassar," *Seminar Nasional LP2M UNM*, no. 0 (4 Desember 2022): 1204, <https://ojs.unm.ac.id/semnaslemlit/article/view/40152>; dan Ariani Hasanah Soejoeti dan Vinita Susanti, "Diskusi Keadilan Restoratif dalam Konteks Kekerasan Seksual di Kampus," *Deviance Jurnal Kriminologi* 4, no. 1 (2020): 77-78, <https://doi.org/10.36080/djk.1311>.

¹⁶ Mulya Achdani, "Januari-Juli 2021 Terjadi 2500 Kasus, Nadiem: Kekerasan Seksual di Perguruan Tinggi Meningkat," *Pikiran Rakyat* Jakut, Desember 2021, <https://jakarta.tribuna.com/nasional/pr-1763207132/januari-juli-2021-terjadi-2500-kasus-nadiem-kekerasan-seksual-di-perguruan-tinggi-meningkat>.

¹⁷ *Ibid.*

¹⁸ M dan Prima, "Op. Cit"; Anugrah Andriansyah, "Komnas Perempuan: Kasus Kekerasan Seksual di Lingkungan Pendidikan, Paling Tinggi di Universitas," *VOA Indonesia*, 12 April 2022, <https://www.voaindonesia.com/a/komnas-perempuan-kasus-kekerasan-seksual-di-lingkungan-pendidikan-paling-tinggi-di-universitas/6525659.html>.

¹⁹ Fitrya Anugrah Kusumah, "Kemendikbud: Kasus Kekerasan Seksual Paling Banyak di Perguruan Tinggi," *detiknews*, Oktober 2023, <https://news.detik.com/berita/d-7000253/kemendikbud-kasus-kekerasan-seksual-paling-banyak-di-perguruan-tinggi>.

²⁰ Fitratun Komariah, "Survei Kemendikbudristek: Kekerasan Seksual Terbanyak Di Perguruan Tinggi," *rri.co.id - Portal berita terpercaya*, Oktober 2023, <https://www.rri.co.id/pusat-pemberitaan/nasional/413884/survei-kemendikbudristek-kekerasan-seksual-terbanyak-di-perguruan-tinggi>.

universities are a place where the process of inter-group interaction occurs. Interaction between lecturers and students, between lecturers and supervisors/employees, between supervisors/employees and students, and between students and students.²¹ This means that by looking at such conditions, the potential for sexual violence with its various variants will always open opportunities to occur.

Therefore, one way to overcome this problem is the issuance of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence which was officially promulgated on September 3, 2021 as a response to overcome the problem in question. One of the concrete efforts for the issuance of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is the establishment of the Task Force for the Prevention and Handling of Sexual Violence, which currently almost all campuses throughout Indonesia already have a Task Force for the Prevention and Handling of Sexual Violence.²² Even campuses that currently do not have a task force at all, are given the obligation to form a task force no later than 1 (one) year since the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence was promulgated, as stipulated in the transitional provisions in Article 57 letter b. Further discussion about the Task Force for the Prevention and Handling of Sexual Violence will not be mentioned much in this paper because it will only focus on a number of issues that are the "tangled thread" of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence.

A. Contradiction in Terminology

There is an expression that states that legal language must be subject to the law of Language,²³ Because our laws or norms use Indonesian, the legal language must be subject to the provisions of the Indonesian language. The importance of the position of a language in legal science is so important because the language can give birth to various interpretations, and the more unclear the legal language used, the more "wild" the interpretation will become. The first problem that can be seen from the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is the nuances that are *contradictio in terminis*.²⁴ This can be observed from the various terms used in the rule. First, if you look at the nomenclature of the norms, the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence has the nomenclature "Prevention and Handling of Sexual Violence in the Higher Education Environment". The word violence in the phrase sexual violence must be read in accordance with the rules of the Indonesian language (language law) and its grammatical context. The word violence itself

²¹ Ayu Diasti Rahmawati dkk., *Panduan, Pelaporan, Penanganan dan Pencegahan Kekerasan Seksual di Kampus FISIPOL-UGM* (Yogyakarta: Fisipol Crisi Center, 2019), 58, <https://hpu.ugm.ac.id/wp-content/uploads/sites/1261/2021/02/Buku-Panduan-Pelaporan-Penanganan-dan-Pencegahan-Kekerasan-Seksual-di-Kampus-FISIPOL-UGM.pdf>.

²² Agus Susanto dkk., "Membangun Kesadaran Anti Kekerasan Seksual Untuk Mahasiswa Baru Di Lingkungan Kampus," *Journal of Social Empowerment* 8, no. 2 (2023): 87, <https://doi.org/10.21137/jse.2023.8.2.3>.

²³ Shidarta, *Hukum Penalaran dan Penalaran Hukum* (Buku 1: *Akar Filosofis*) (Yogyakarta: Genta Publishing, 2013), 32; Shidarta, "Bahasa Hukum dan Hukum Bahasa," ResearchGate, 2015, https://www.researchgate.net/publication/354693183_Bahasa_Hukum_dan_Hukum_Bahasa?enrichId=rgreq-b8751759a68b651766d038555d6ddf96-XXX&enrichSource=Y292ZXJQYWdlOzM1NDY5MzE4MzBUzoxMDY5OTIyNDk0OTc2MDAxQDE2MzIxMDA4MDk5MjQ%3D&el=1_x_2&_esc=publicationCoverPdf; dan Shidarta, "Bahasa Hukum: Definisi 'Menteri Adalah Menteri...'" ResearchGate (Unpublished, 2015), https://www.researchgate.net/publication/354693292_Bahasa_Hukum_Definisi_Menteri_adalah_Menteri?enrichId=rgreq-d103bda597fe177f91cba245937467f4-XXX&enrichSource=Y292ZXJQYWdlOzM1NDY5MzI5MjBUzoxMDY5OTIyODgzMjk4ODE2QDE2MzIxMDExNDA4NjY%3D&el=1_x_2&_esc=publicationCoverPdf.

²⁴ Peter Mahmud Marzuki, *Pengantar Ilmu Hukum* (Jakarta: Kencana, 2008), 155.

in the Great Dictionary of the Indonesian Language has the meaning of "about (which is characteristic, characteristic) hard; the acts of a person or group of persons that cause injury or death to another person or cause physical damage or property to another person; coercion".²⁵

From the meaning of the word violence above, it can be seen that violence will always be synonymous with actions/deeds that concern the physical. This means that a person's actions that can be said to be violent, must be read that the victim of violence has an impact on his or her physical, either directly or indirectly. Even from the above understanding, the act of violence can result in injury or even death of a person. In addition, the word violence is also attached to coercion, in the sense that people who experience violence will feel pressure that comes externally to them.²⁶

If referring back to the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, in article 1 number 1 sexual violence is defined connotatively as "Any act of degrading, insulting, harassing, and/or attacking a person's body, and/or reproductive function, due to inequality in power and/or gender relations, which results or can result in psychological and/or physical suffering, including those that interfere with health reproduction of a person and the opportunity to carry out higher education safely and optimally". If elaborated further, based on the terms used in the article, then the phrase that represents the true meaning of violence as discussed earlier, is only "attacking the body", "reproductive function of a person", "physical suffering" that interferes with a person's reproductive health. While phrases beyond that, such as "degrading", "insulting", "harassing" that result in psychological suffering are not violence in the true sense.

In addition, the nuances of *contradictio in terminis* can also be seen in Article 5 paragraph (1) which regulates "sexual violence includes actions carried out verbally, nonphysically, physically and/or through information and communication technology". Then it is detailed again in paragraph (2) by mentioning 21 (twenty-one) types of acts that are categorized as sexual violence. Of the 21 (twenty-one) types of acts as stipulated in paragraph (2), at least the act that truly reflects the true meaning of violence is in the provisions stipulated in Article 5 paragraph (2) letter below: 1) letter l which reads "touching, rubbing, touching, holding, hugging, kissing and/or rubbing his body parts on the Victim's body without the Victim's consent"; 2) The letter m "undressing the Victim's clothes without the Victim's consent"; 3) Letter n "force the victim to carry out sexual transactions or activities"; 4) Letter o "practicing the community culture of Students, Educators, and Education Personnel with nuances of Sexual Violence"; 5) The letter p "attempted rape, but penetration did not occur"; 6) The letter q "commits rape including penetration with objects or body parts other than the genitals"; 7) The letter r "coerces or deceives the Victim to perform an abortion"; 8) The letter s "coerces or deceives the victim to get pregnant"; 9) The letter u "commits other acts of Sexual Violence". For comparison, several provisions stipulated in article 5 paragraph (2) that are not mentioned above will also be mentioned, including in the letter: 1) Letter a "conveys speech that discriminates or harasses the physical appearance, body condition, and/or gender identity of the Victim"; 2) Letter b "shows his genitals deliberately without the

²⁵ "Arti kata keras - Kamus Besar Bahasa Indonesia (KBBI) Online," <https://kbbi.web.id/keras>.

²⁶ Sylvani Sylvani dan Winsherry Tan, "Tinjauan Hukum Atas Frasa 'Tanpa Persetujuan' Pada Permendikbudristek Nomor 30 Tahun 2021 Terkait Tindak Seksual Di Lingkungan Perguruan Tinggi," *Jurnal Hukum Sasana* 8, no. 2 (2022): 444, <https://doi.org/10.31599/sasana.v8i2.1133>.

consent of the Victim"; 3) Letter c "conveys a speech containing seduction, jokes, and/or whistling with sexual nuances to the Victim"; 4) Letter d "staring at the Victim with sexual nuances and/or uncomfortable"; 5) Letter e "sending messages, jokes, pictures, photos, audio, and/or videos with sexual nuances to the Victim even though the Victim has been prohibited"; 6) Letter f "taking, recording, and/or distributing photos and/or audio and/or visual recordings of the Victim that are of a sexual nuance without the Victim's consent"; 7) Letter g "uploading photos of the victim's body and/or personal information that are sexually nuanced without the victim's consent"; 8) Letter h "disseminating information related to the Victim's body and/or personal nuances without the Victim's consent"; 9) Letter i "peeking or deliberately seeing the Victim who is doing activities privately and/or in a private space"; 10) The letter j "persuades, promises, offers something, or threatens the Victim to engage in sexual transactions or activities that the Victim does not approve of"; 11) Letter k "to give punishment or punishment of sexual nuance".

The eleven points mentioned above are a unit of provisions as mentioned in the previous 9 (nine) points which are all regulated in Article 5 paragraph (2) of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, but the last 11 (eleven) points mentioned in terms of the grammatical language used to represent the word violence, are inappropriate and *contradictio in terminis*. Even further, these provisions feel strange and awkward in terms of the meaning of the terms used. In short, the eleven points of the provisions of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, if read carefully above, are not in line with or contrary to the true meaning of the term violence itself. This provision is mentioned in Article 5 paragraph (1) previously as an act of sexual violence that is verbal or non-physical.

B. Extensification of the "Excessive" Term, A Wild Interpretation

Still related to the nuances of *contradictio in terminis* regulated in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, the second problem of articles that are categorized as acts of sexual violence in the university environment is the existence of conditions where these provisions use term exceptionalization. The extensification of the term intended in this paper is that the term sexual violence has expanded its meaning²⁷ which goes beyond the true meaning of the term sexual violence itself as discussed in the previous section. Practically, the meaning of the term sexual violence must be read and interpreted in accordance with the provisions of the text contained in article 5 paragraph (2) mentioned above.

This resulted in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence experiencing a deviation from norms because it deviated from the previously existing legal concepts. For example, in the provisions "conveying speech that discriminates or harasses physical appearance, etc., showing their genitals, etc., conveying remarks that contain seduction, jokes and/or whistling, etc., staring at victims with sexual nuances, etc., sending messages, jokes, pictures, photos, videos with sexual nuances, etc." and similar provisions that do not reflect actual acts of sexual violence. This means that the provisions stipulated in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence have been overdone in terms of

²⁷ lihat Andi Sofyan dan Nur Azisa, *Buku Ajar Hukum Pidana* (Makassar: Pustaka Pena Press, 2016), 25.

meaning. Ironically, this meaning has actually found its own place in legal concepts, so if the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence still wants to regulate such a thing, then what must be done is to redefine the meaning of sexual violence so that it is in line with the proper legal concept.

A further question regarding the extensification of the term sexual violence is, how can the act of conveying speech that discriminates or harasses physical appearance be said to be sexual violence? Likewise, the act of conveying seductive speeches, jokes, and/or whistling is translated as sexual violence? Likewise, the act of sending messages, jokes, pictures, photos and videos with nuances of sexual violence is interpreted as sexual violence? These questions are a form of criticism of how the term sexual violence has deviated far from its true meaning. Even if it is still answered that the acts in question can be considered sexual violence, the resulting answer will be strange and strange.

The extensification of the term will not only confuse the true meaning of sexual violence as stipulated in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, but will also have an impact on the pattern of social interaction within the scope of the academic community in the university environment. As is generally known, the academic community in the university environment consists of lecturers, students, education staff, employees and even up to the *level of cleaning services*. The interaction that exists among the academic community is of course not only limited to academic interactions, but also includes interactions that are non-academic in nature and even related to personal life,²⁸ And in the campus world, the activities of the academic community are not always seriously and rigidly intertwined. Sometimes the relationship is colored by a family atmosphere that is relaxed, not serious and even interspersed with elements of humor that are full of laughter.

For example, a lecturer because he is so close to other lecturers, even their relationship is like a family, so their relationship is established casually and is often colored with laughter. Then the lecturer sent messages, photos and videos via social media using a WhatsApp platform that contained things that were full of joke nuances and often sexually charged, so can the lecturer who received the message be said to have experienced sexual violence, because it meets the elements of sexual violence in the Regulation of the Minister of Education and Culture concerning the Prevention and Handling of Sexual Violence? of course it is illogical and contrary to normal common sense, it feels strange and even strange. Likewise with similar activities carried out by fellow students and fellow education staff. This means that the act will be seen as excessive and such things should not be used as a basis to say that the person who received the message mentioned above is a victim of sexual violence. Then, how is it possible that a lecturer who is teaching students in class, then the lecturer makes one of the students an example that is raised in a story that still concerns the course being taught, throws a joke that contains a little sexual content with the aim of making students feel entertained and the atmosphere of the lecture fresher. The goal is so that the lecture atmosphere is not boring.

This means that habits that are common and have become daily normal in the academic world practiced by all academics, both lecturers, students, education staff and campus employees are "shackled" and try to reduce their existence. This makes social interaction in

²⁸ lihat Asy'ari Asy'ari, "Membaca Relasi Kuasa Dan Tantangan Kekerasan Terhadap Perempuan Di Perguruan Tinggi Islam," *FENOMENA: Jurnal Penelitian* 14, no. 1 (2022): 30, <https://doi.org/10.21093/fj.v14i1.5035>.

the academic atmosphere in the university environment limited due to the excessive regulation of activities and exceeding the limits by the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence. Not only that, the existence of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence which regulates a number of acts that are categorized as sexual violence will also eradicate the atmosphere of familiarity and family relations that have been established so far in the university environment. So that the arrangement can be said to be an arrangement that is excessive, exceeds the limits, and produces wild interpretations. The reason is because the norm has the potential to be used in any circumstance as long as it can be seen as sexual violence that is in line with what has been regulated in the norm. Just imagine how the phrase "sexual violence" is translated as any form of act that goes beyond the true meaning of the term violence itself. Even for things that are considered trivial, it is interpreted as sexual violence, for example conveying/sending jokes and whistling.

C. Deviation of Legal Concepts: A Grounded Error

As mentioned in the previous section, the third "tangled thread" of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is a deviation from the ideal legal concept. As is known, legal science is a science that cannot be separated from various legal concepts²⁹, This includes criminal law. Therefore, any rule should not necessarily create a legal concept.³⁰ Criminal law is very closely related to various legal concepts that are familiar in the academic world. For example, the concept of criminal acts, the concept of violations, the concept of unlawful acts, the concept of error, the concept of forgetfulness and various other criminal law concepts. The discourse on the prevention and handling of sexual violence is a discourse that is the domain of criminal law.

This section still has a correlation with the previous 2 (two) sections. If we refer back to the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, we will find several legal concepts contained in it. Sexual violence itself is one of the legal concepts contained in the norm. But of course, the ideal legal concept of sexual violence must be read and interpreted in line with the actual terminology of the concept of sexual violence itself. It should not be read and interpreted haphazardly and play "clean broom" just like that as reviewed in the previous section. In fact, some of the acts regulated in the articles of sexual violence of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, can be based on legal concepts that are commonly known in the legal academic world. For example, in criminal law, the legal concepts of "unpleasant acts", "sexual harassment", "insults", "immoral acts", "pornography", "pornoaction", "threats", and even the concept of "rape" are commonly known. These concepts are legal concepts that are very identical to the acts regulated in the Regulation of the Minister of Education and Culture on the Prevention and Handling of

²⁹ Shidarta, "Konsep dan Definisi Dalam Hukum," ResearchGate, 22 Maret 2022, https://www.researchgate.net/publication/359399815_Konsep_dan_Definisi_dalam_Hukum?enrichId=rgreq-2d2d369b3ef2e5b18ee011904a97b753-XXX&enrichSource=Y292ZXJQYWdlOzM1OTM5OTgxNTtBUzoxMTM2NDU2NDk2MDk5MzI4QDE2NDc5NjM3NTEyNTk%3D&el=1_x_2&_esc=publicationCoverPdf.

³⁰ Shidarta, "Generalisasi Konsep Hukum dan Skandal bagi Filsafat," ResearchGate, 17 Desember 2023, https://www.researchgate.net/publication/376797804_Generalisasi_Konsep_Hukum_dan_Skandal_bagi_Filsafat?enrichId=rgreq-aace84f6b7a11c2215ce2917712ab69f-XXX&enrichSource=Y292ZXJQYWdlOzM3Njc5Nzg5NDtBUzoxMTQzMtI4MTIxNDM0MzQzOUAxNzAzNDY0MTg5NjMw&el=1_x_2&_esc=publicationCoverPdf.

Sexual Violence, which is categorized as sexual violence. For example, what is regulated in Article 5 paragraph (2) letter a "conveys speech that discriminates or harasses the physical appearance, body condition, and/or gender identity of the Victim". Based on the construction of the article, a more appropriate legal concept that is based on it is "contempt".³¹ Another thing is the norm regulated in Article 5 paragraph (2) letter b, "showing his genitals deliberately without the consent of the Victim". If you pay close attention to the construction of these norms, the act as stipulated in Article 5 paragraph (2) b is more appropriate based on the legal concept of "sexual harassment" or "immoral act".³² It is different if you refer to Article 5 paragraph (2) letter c which regulates "conveying remarks that contain seduction, jokes, and/or whistling with sexual nuances to the Victim". Judging from the construction of the norm, this provision is more appropriately based on the legal concept of "unpleasant acts".

Likewise with other acts that are categorized as sexual violence based on the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, each act has its own legal concept that can be different from other acts. So that the term extensification model as applied to the term "sexual violence" which equalizes the meaning of sexual violence is inappropriate and even wrong. Therefore, the use of the term "sexual violence" used for all types of acts regulated in Article 5 paragraph (2) is a misguided error, because it is not based on a clear legal concept as has often been applied in legal science, especially criminal law.

D. "Without the Consent of the Victim", the Intersection Between Closing Opportunities and Opening Gaps

Originally, the existence of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence presented in the "academic stage" was to close all spaces and opportunities that have the potential to cause all forms of sexual violence in the university environment.³³ This can be seen from the use of the term "sexual violence" which is extended to its true meaning, starting from actions that are completely unacceptable to common sense as sexual violence, to acts that truly represent the act of sexual violence itself. So that all forms of attitudes and actions that are seen as "small" and "trivial" can be reached as acts of sexual violence.

This means that the framers of the Law that drafted the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence wanted the norm to be effectively applied by closing all spaces that could become loopholes for sexual violence in the campus environment. However, what is quite disturbing is that there is the phrase "without the consent of the victim" which is listed in a number of norms regulated in Article 5 paragraph (2) of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence. The phrases in question are regulated in article 5 paragraph (2) b, f, g, h, l, and m.

³¹ Siti Nurbaya dan Sri Wahyuni, *Victim Blaming in Rape Culture (Narasi Pemakluman Kekerasan Seksual di Lingkungan Kampus)* (Malang: Unisma Press, 2023), p. 4.

³² *Ibid.*, 6–7.

³³ Brayen Sinyo Mangindaan, Debby T. Antow, dan Max Sondakh, "Pertanggungjawaban Tindak Pidana Kekerasan Seksual Aparatur Sipil Negara Di Lingkup Perguruan Tinggi," *Lex Privatum* 11, no. 3 (2023): 2, <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/46934>; Riyan Alpian, "Perlindungan hukum pidana terhadap tindak kekerasan seksual di dalam institusi perguruan tinggi," *Lex Renaissance* 7, no. 1 (2022): 71, <https://doi.org/10.20885/JLR.vol7.iss1.art6>; dan Separen Separen, "Bentuk Pelindungan Terhadap Korban, Pendamping Korban, dan Saksi Kekerasan Seksual di Lingkungan Perguruan Tinggi," *Petita* 5, no. 1 (2023): 18, <https://doi.org/10.33373/pta.v5i1.5525>.

The existence of the phrase "without the consent of the victim" as referred to in the provision creates ambiguity in terms of the application of norms³⁴. Not only that, the phrase actually gives birth to a contradictory impression as an effort by the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence in preventing sexual violence in the university environment which is considered not to show seriousness. In addition, the phrase "without the consent of the victim" will be a loophole and it actually opens up opportunities for sexual violence in the university environment.

I don't know what is the basis for consideration so that the phrase is included in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, because the inclusion of such a phrase does not have any meaning. In fact, the inclusion of such a phrase gives birth to the assumption that the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence opens a gap for the occurrence of sexual violence itself.³⁵ In addition, the most extreme thing is that the existence of the phrase "without the consent of the victim" can also give birth to the assumption that committing certain acts that are seen as sexual violence in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence can still be done in a university environment, as long as it is approved by the party (victim) who experienced the act.³⁶

The existence of such an assumption as above, will ultimately give birth to a stigma among the academic community who read and understand textually the norms contained in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence that the acts as mentioned in article 5 paragraph (2) letter b, letter f, letter g, letter h, letter l, and the letter m is still doable and possible as long as it is done on the basis of "consensual". Such assumptions actually pollute the noble values and good intentions that are knotted in the inner atmosphere of the formation of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence. Because how can a norm that regulates actions that should not be done, but it is precisely the norm itself that opens a gap to be saved. This is of course very ironic and even leaves a number of problems in the mind. Just imagine how an act that is considered "obscene", such as showing the perpetrator's genitals to the victim can be given space and opportunity to happen in the university environment. Likewise, taking, recording, circulating, uploading photos of the victim, disseminating information about the victim's body/person, making physical contact with a sexual charge, and opening the victim's clothes can be given space and opportunity in these norms. This means that the condition of such norms is contradictory, because on the one hand it wants to close the opportunity by prohibiting the acts in question, but on the other hand it opens a gap for the occurrence of the acts in question.

E. Basic Conflict of Derogation: *Lex Superior Derogat Legi Inferiori* vs *Lex Specialis Derogat Legi Generali*

One of the issues that is quite interesting regarding the existence of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is regarding the scope of regulated acts. Especially when it is connected to the Sexual Violence

³⁴ Musayadah, "Op. Cit," 1886.

³⁵ Bakhrul Amal, "Tinjauan Hukum Terhadap Frasa 'Tanpa Persetujuan Korban' Dalam Permendikbud Nomor 30 Tahun 2021 Tentang Pencegahan dan Penanganan Kekerasan Seksual," *CREPIDO* 3, no. 2 (2021): 87, <https://doi.org/10.14710/crepido.3.2.86-95>.

³⁶ Sylvani dan Tan, "Op. Cit," 440-41.

Crime Law which has currently been passed. The Law on the Crime of Sexual Violence itself, which is numbered Law in the hierarchy of laws and regulations, is in third place under the Constitution and the Tap of the Consultative Assembly R. While the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is not mentioned at all in the hierarchy of laws and regulations in Indonesia, but the Regulation of the Minister of Education and Culture on Prevention and Handling of Sexual Violence is still qualified as part of laws and regulations because it is an official legal product of the state.

From the side of the principle of derogation³⁷, The Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence can be qualified as a special rule (*lex specialis*), both because of its position and in terms of the substance of the norms it regulates. Meanwhile, the Law on the Crime of Sexual Violence can be said to be a general rule (*lex generalis*) in terms of its position and nomenclature of norms. The problem is that there is a very deep inequality between the norms numbered by the Law and the norms with the nomenclature of the Ministerial Regulation. This problem is the focal point in the regulation of acts of sexual violence regulated in the two norms. For the Law on the Crime of Sexual Violence, the principle of *lex superior derogat legi inferiori* applies to the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence. Meanwhile, for the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence itself, it can be said that the principle of *lex specialis derogat legi generali* applies to the Law on Sexual Violence. The following table is presented to make it easier to see the comparison between the two norms:

Table 1. Comparison of the Definition of Sexual Violence of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence with the Law on the Crime of Sexual Violence

	Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence	Sexual Violence Crime Law
Definition of sexual violence	Any act of degrading, insulting, harassing, and/or attacking a person's body, and/or reproductive function, due to inequality in power and/or gender relations, which results or can result in psychological and/or physical suffering, including that interferes with a person's reproductive health and loses the opportunity to carry out higher education safely and optimally	All acts that meet the elements of criminal acts as regulated in this Law and other acts of sexual violence as regulated in the Law as long as they are specified in this Law.

³⁷ Shidarta, *Positivisme Hukum* (Jakarta: UPT Penerbitan Universitas Tarumanagara, 2020), p. 53.

Source: Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence and the Law on Sexual Violence

In terms of definition, there is a significant difference between the definition of sexual violence regulated in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence and the Law on Sexual Violence. The model of defining sexual violence as regulated in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is known as a connotative definition³⁸. The connotative definition itself can be identified from the defining style that descriptively describes clearly and in detail a defined phrase or terminology. Meanwhile, the definition of sexual violence regulated in the Sexual Violence Crime Law uses a denotative definition style.³⁹ The denotative definition style itself can be seen from the definition pattern that is "just pointing". That is, the denotative definition style generalizes a defined phrase or terminology. This kind of definition still needs more detailed explanation and arrangement in the later chapters.⁴⁰ These articles explain the meaning and meaning of a defined phrase or terminology. Therefore, to find out the elements of the Crime of Sexual Violence, one must refer again to the articles that contain a description of the criminal act as stipulated in Articles 5 to 17 of the Sexual Violence Crime Law. As for the scope of acts that are seen as sexual violence, both the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence and the Law on Sexual Violence both describe sexual violence with a slightly different scope, but still related to each other. Nevertheless, the problem of scope is what becomes a "polemic" when it is connected to the principle of derogation, both *lex superior derogat legi inferiori* and *lex specialis derogat legi generali*.

Before discussing further, the most fundamental thing that must be adjusted is the understanding of the nomenclature of laws and regulations. Because often the understanding of the two is understood haphazardly and is considered the same. In fact, there are differences between the two. A norm, it is said to be a law, if its nomenclature is formally indeed a law when it is formed and ratified. For example, the Sexual Violence Crime Law, the Marriage Law, the Corruption Eradication Law, the Terrorism Law, the Human Rights Law and other laws. Meanwhile, laws and regulations are a collection of all regulations outside the Law as mentioned in the Law on the Formation of Laws and Regulations and their derivatives. For example, Government Regulations, Presidential Regulations, Regional Regulations, and other regulations outside the Law, so the term laws and regulations is a general term, because it includes all formal forms of a norm. However, a norm can only be said to be a law because formally it is indeed a law.⁴¹ If taken in the context that is being discussed in this paper, then it is clear that the Law on the Crime of

³⁸ Shidarta, "Kegunaan Pohon Porphyrius dalam Pembuatan Definisi Hukum," ResearchGate, 2018, https://www.researchgate.net/publication/354877048_Kegunaan_Pohon_Porphyrius_dalam_Pembuatan_Definisi_Hukum?enrichId=rgreq-7d7dac05f6e76f30c7a3b7cdc18aec2a-XXX&enrichSource=Y292ZXJQYWdlOzM1NDg3NzA0ODtBUzoxMDcyODM5MDkyMzM4Njg4QDE2MzI3OTYxODAxMDM%3D&el=1_x_2&_esc=publicationCoverPdf.

³⁹ *Ibid.*

⁴⁰ mengenai definisi denotatif pada contoh Shidarta, "Kolom Agama pada Dokumen Identitas Kependudukan," ResearchGate, 2017, https://www.researchgate.net/publication/354938408_Kolom_Agama_pada_Dokumen_Identitas_Kependudukan?enrichId=rgreq-12a7b93ea39a4640c7d384f6cb993835-XXX&enrichSource=Y292ZXJQYWdlOzM1NDkzODQwODtBUzoxMDczNTUxNTI4NDM1NzEzQDE2MzI5NjYwMzg2MjI%3D&el=1_x_2&_esc=publicationCoverPdf.

⁴¹ selengkapnyanya pada Ilman Hadi, "Perbedaan Undang-Undang dengan Peraturan Perundang-Undangan," hukumonline.com, 7 Juli 2018, <https://www.hukumonline.com/klinik/a/perbedaan-undang-undang-dengan-peraturan-perundang-undangan-lt5094bd4fc0c40/>.

Sexual Violence is a formal law. The Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is seen as a type of legislation outside the law. This means that in a formalistic legalistic way, the position of the Law on Sexual Violence has much stronger legal force when compared to the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence which is not formally a law. In addition, if the two norms are "confronted" with each other with the scope of the regulated object is not the same, then the main reference for the regulation of sexual violence must be the Sexual Violence Crime Law. However, the two norms in terms of enforceability space have differences. The Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is specifically intended for the university environment where the subjects it regulates are only limited to the campus community (academic community). Meanwhile, the Sexual Violence Crime Law applies in general in any space, time and scope, without any restrictions on the place and legal subject it regulates.

If examined in depth, both the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence and the Law on the Crime of Sexual Violence apparently regulates matters of sexual violence more or less the same. It's just that both of them use a style of describing acts that are seen as sexual violence in different ways. The Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence tends to describe sexual violence clearly and directly focus on the object it regulates. Meanwhile, the Sexual Violence Crime Law only mentions the types of sexual violence and the description of the criminal act is explained more fully in certain articles after that. Unfortunately, some acts that are regulated as sexual violence in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence are not regulated and do not have an equivalent to sexual violence regulated in the Sexual Violence Crime Law. In addition, there are several acts of sexual violence "version" of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence where it is not regulated in the Sexual Violence Crime Law. Among others, they are: 1) Giving punishments or sanctions that are sexual in nature; 2) practicing the community culture of Students, Educators, and Education Personnel with nuances of Sexual Violence; 3) coerce or deceive the Victim to perform an abortion; 4) forcing or deceiving the Victim to become pregnant; 5) allowing Sexual Violence to occur deliberately; and/or 6) commit other acts of Sexual Violence.

As for the Sexual Violence Crime Law, the scope of sexual violence acts that it regulates is much clearer, rigid and almost entirely in line with the context of sexual violence itself. Although the norm also regulates sexual violence that is physical and non-physical and is grouped into types of sexual harassment acts. However, in the regulation of sexual violence in addition to the 2 (two) acts mentioned earlier, the act of sexual violence is in accordance with the context of sexual violence itself.

The problem is, the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence regulates too much of a general nature where it is not regulated in the Law on Sexual Violence. Even the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence regulates things that are considered too "trivial" and "trivial", for example telling jokes, whistling, staring, sending messages containing jokes, photos and/or videos. These kinds of things, if viewed from the

point of view of common sense, certainly do not reflect the true meaning of sexual violence as it should be. Another problem is, as discussed in the previous section, the existence of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence as a norm, is only one of the many forms of laws and regulations spread in the legal system in Indonesia. After all, the Ministerial Regulation, which is the nomenclature of the norm, does not have a clear position in the hierarchy of the applicable laws and regulations in Indonesia. So how is it possible for the Ministerial Regulation with such conditions to regulate matters that are general, extensive and beyond the scope of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence.

Meanwhile, the Sexual Violence Crime Law, which is "settled" in the number of the Law, clearly has a stronger legal position in the hierarchy of the legal order in Indonesia. Especially for the Sexual Violence Crime Law, with its position, it is "backed" by the principle of *lex superior derogat legi inferiori* to the laws and regulations that are under it, including in this case the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence. The Sexual Violence Crime Law should regulate the provisions of the law that apply in general. Not to mention, this norm is the first to regulate sexual violence, where previously there was no norm that specifically regulated sexual violence. This means that the Law on Sexual Violence should be the main reference for the norms under it that will regulate similar things in the future, including the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence.

Unfortunately, the Law on Sexual Violence in terms of enforcement, is more recent than the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence which came into force earlier. This means that the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is the first norm that was born with a substance that specifically regulates sexual violence for the scope of universities. Such a condition results in no synchronization and harmonization of norms because the two norms on the one hand the lower level of norms actually regulate general and widespread matters. But on the other hand, higher norms regulate things that are much more specific, clear and detailed.

F. Improvement Efforts

Revising or improving is a choice made except in order to harmonize and synchronize the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence, with a few problems that have been described above, it can be seen that the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is still lacking in terms of substance. Regardless of the good intentions of the lawmakers and their efforts in preventing and dealing with sexual violence in the university environment. Some of the things that can be done in the future are to cover gaps and shortcomings in order to improve, including, First, making improvements and adjustments in terms of terms, so that the terms associated as "sexual violence" are in line with the true meaning of sexual violence. Because one of the problems that is quite fundamental in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is the occurrence of *contradictio in terminis*. As a result, the term sexual violence has undergone a very significant shift, even seems strange and forced.

Second, it is still related to the first thing, which is to restore the meaning and meaning of sexual violence in accordance with its original meaning. The extensification of the terms that occurs in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is indeed understandable because it aims to reach the widest possible range of acts that can be categorized as sexual violence. However, this actually makes the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence considered as a "lebay" (excessive) norm. In fact, it is worse to give birth to the assumption that the norm is too haphazard to regulate trivial and too trivial things. Therefore, a revision of the substance of the norm in the future needs to be carried out so that the issue of the extensification of the term does not give birth to polemics again.

Third, harmonize legal concepts. The many deviant legal concepts in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence make this norm seen as increasingly problematic. As it is understood that legal science is very attached to concepts. In fact, the concept of law has spread a lot. That means, the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence is still making adjustments to acts that are considered sexual violence so that they are in line with legal concepts that are generally known and closely related to daily conversations. For example, the concept of sexual harassment, immoral acts and various other legal concepts that can be used, that way the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence will look neater in terms of concept because it is based on the right legal concept.

Fourth, in order for the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence to be considered serious and consequential in its mission to prevent and handle sexual violence in the university environment, the phrase "without the consent of the victim" needs to be reviewed. It will feel counter-productive because the presence of this norm is none other than aimed at preventing and dealing with sexual violence in the university environment, but on the other hand it still opens up "opportunities" for perpetrators and victims to realize their desires. This actually damages and pollutes the "noble intention" of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence. Therefore, in order to maintain the dignity and main mission of the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence which is specifically designed to prevent and handle sexual violence in the university environment, the phrase would be better abolished or reformulated with a much better phrase.

Fifth, make adjustments to the substance of the norms in the Regulation of the Minister of Education and Culture concerning the Prevention and Handling of Sexual Violence to be in accordance and synchronous with the Law on Sexual Violence. Especially in some provisions of sexual violence that are not regulated in the Sexual Violence Crime Law. This means that there are several provisions in the Regulation of the Minister of Education and Culture on the Prevention and Handling of Sexual Violence that are not mentioned at all and are not regulated by the Sexual Violence Crime Law. This results in an imbalance in terms of the scope of the object of the regulated norms, so that the potential for a conflict of derogation principles between *the lex superior derogat legi inferiori* and *the lex specialis derogat legi generali* can be avoided.

CONCLUSION

The Sexual Violence Crime Law is a breakthrough in the world of education. The existence of these norms is expected to have a significant impact on the prevention and handling of sexual violence in the university environment. But still, the existence of the norm still leaves a number of problems that have become a crisis and must be resolved immediately. These problems include the occurrence of a *contradiction in terminis* between the nomenclature of norms and the substance that is the object of the norm, the extensification of the meaning of norms that are excessive because they deviate from the true meaning of "sexual violence", the occurrence of deviations in the legal concept where the Law on the Crime of Sexual Violence regulating a number of acts that are not in line with the legal concept should be, the emergence of controversial problems with the inclusion of the phrase "without the consent of the victim" which is actually counter-productive to the existence of the norm, and the potential for a conflict of derogation principles between *the lex superior derogat legi inferiori* and the principle *of lex specialis derogat legi generali*.

REFERENCES

- Achdami, Mulya. "Januari-Juli 2021 Terjadi 2500 Kasus, Nadiem: Kekerasan Seksual di Perguruan Tinggi Meningkat." *Pikiran Rakyat* Jakut, Desember 2021. <https://jakartautara.pikiran-rakyat.com/nasional/pr-1763207132/januari-juli-2021-terjadi-2500-kasus-nadiem-kekerasan-seksual-di-perguruan-tinggi-meningkat>.
- Afrillia, Yesy, Lidya Rosnita, Deassy Siska, Muzaffar Rigayatsyah, dan Nurqamarina. "Analisis Sentimen Ciutan Twitter Terkait Penerapan Permendikbudristek Nomor 30 Tahun 2021 Menggunakan TextBlob dan Support Vector Machine." *G-Tech: Jurnal Teknologi Terapan* 6, no. 2 (2022): 387–94. <https://doi.org/10.33379/gtech.v6i2.1778>.
- Alpian, Riyan. "Perlindungan hukum pidana terhadap tindak kekerasan seksual di dalam institusi perguruan tinggi." *Lex Renaissance* 7, no. 1 (2022): 69–83. <https://doi.org/10.20885/JLR.vol7.iss1.art6>.
- Amal, Bakhrul. "Tinjauan Hukum Terhadap Frasa 'Tanpa Persetujuan Korban' Dalam Permendikbud Nomor 30 Tahun 2021 Tentang Pencegahan dan Penanganan Kekerasan Seksual." *CREPIDO* 3, no. 2 (2021): 86–95. <https://doi.org/10.14710/crepido.3.2.86-95>.
- Andriansyah, Anugrah. "Komnas Perempuan: Kasus Kekerasan Seksual di Lingkungan Pendidikan, Paling Tinggi di Universitas." *VOA Indonesia*, 12 April 2022. <https://www.voaindonesia.com/a/komnas-perempuan-kasus-kekerasan-seksual-di-lingkungan-pendidikan-paling-tinggi-di-universitas/6525659.html>.
- Asy'ari, Asy'ari. "Membaca Relasi Kuasa Dan Tantangan Kekerasan Terhadap Perempuan Di Perguruan Tinggi Islam." *FENOMENA: Jurnal Penelitian* 14, no. 1 (2022): 29–42. <https://doi.org/10.21093/fj.v14i1.5035>.
- Cindy. "Isi Permendikbud No 30 Tahun 2021 yang Tuai Kontroversi." *medcom.id*, 11 November 2021. <https://www.medcom.id/pendidikan/news-pendidikan/JKRWm6yN-isi-permendikbud-no-30-tahun-2021-yang-tuai-kontroversi>.

- Elfiani, Fitri. "Analisis Pembentukan Permendikbud Nomor 30 Tahun 2021 Di Tinjau Dari Sudut Pandang Ilmu Perundang-Undangan." *Journal Of Juridische Analyse* 1, no. 01 (2022): 1–10. <https://doi.org/10.30606/joja.v1i01.1241>.
- Febrianti, Erinca, Bambang Widiyahseno, Robby Darwis Nasution, dan Yusuf Adam Hilman. "Analisis Kebijakan Permendikbud Ristek Nomor 30 Tahun 2021 Dalam Upaya Pencegahan Dan Penanganan Kekerasan Seksual Di Universitas Muhammadiyah Ponorogo." *Jurnal Ilmu Pemerintahan Suara Khatulistiwa* 7, no. 1 (2022): 52–62. <https://doi.org/10.33701/jipsk.v7i1.2529>.
- Hadi, Ilman. "Perbedaan Undang-Undang dengan Peraturan Perundang-Undangan." *hukumonline.com*, 7 Juli 2018. <https://www.hukumonline.com/klinik/a/perbedaan-undang-undang-dengan-peraturan-perundang-undangan-lt5094bd4fc0c40/>.
- Irfawandi, Irfawandi, Irwanda Hirwan, Zahra Mawarda Aziz, M. Syukur, dan Ibrahim Arifin. "Analisis Jenis Jenis Dan Penyebab Kekerasan Seksual Di Lingkungan Kampus." *Jurnal Pendidikan Indonesia* 4, no. 04 (2023): 383–92. <https://doi.org/10.59141/japendi.v4i04.1747>.
- Komariah, Fitratun. "Survei Kemendikbudristek: Kekerasan Seksual Terbanyak Di Perguruan Tinggi." *rri.co.id - Portal berita terpercaya*, Oktober 2023. <https://www.rri.co.id/pusat-pemberitaan/nasional/413884/survei-kemendikbudristek-kekerasan-seksual-terbanyak-di-perguruan-tinggi>.
- Kusumah, Fitrya Anugrah. "Kemendikbud: Kasus Kekerasan Seksual Paling Banyak di Perguruan Tinggi." *detiknews*, Oktober 2023. <https://news.detik.com/berita/d-7000253/kemendikbud-kasus-kekerasan-seksual-paling-banyak-di-perguruan-tinggi>.
- Mangindaan, Brayen Sinyo, Debby T. Antow, dan Max Sondakh. "Pertanggungjawaban Tindak Pidana Kekerasan Seksual Aparatur Sipil Negara Di Lingkup Perguruan Tinggi." *Lex Privatum* 11, no. 3 (2023). <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/46934>.
- Marzuki, Peter Mahmud. *Pengantar Ilmu Hukum*. Jakarta: Kencana, 2008.
- M, Puput dan Prima. "100 Persen PTN Bentuk Satgas PPKS, Bukti Komitmen Kampus Merdeka Dari Kekerasan Seksual." Kementerian Pendidikan, Kebudayaan, Riset, dan Teknologi, 2 Februari 2023. <https://www.kemdikbud.go.id/main/blog/2023/02/100-persen-ptn-bentuk-satgas-ppks-bukti-komitmen-kampus-merdeka-dari-kekerasan-seksual>.
- Musayadah, Maunatul. "Tijauan Yuridis Peraturan Menteri Pendidikan Dan Kebudayaan Nomor 30 Tahun 2021 Tentang Pencegahan Dan Penanganan Kekerasan Seksual (PPKS) Di Perguruan Tinggi Dan Dilihat Dari Undang-Undang Dasar Republik Indonesia Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia." *Prosiding Seminar Nasional Hukum* 1, no. 1 (15 Februari 2021): 1876–92.
- Nurbaya, Siti, dan Sri Wahyuni. *Victim Blaming in Rape Culture (Narasi Pemakluman Kekerasan Seksual di Lingkungan Kampus)*. Malang: Unisma Press, 2023.
- Rahmasari, Rizkia. "Analisa Makna 'Persetujuan' Dalam Pemendikbud Ristek No. 30 Tahun 2021 Terhadap Fenomena Kekerasan Seksual Di Lingkungan Pendidikan Yang

Dianggap Sebagai Upaya Legitimasi Terhadap Perzinaan.” *Jurnal Penegakan Hukum Dan Keadilan* 3, no. 1 (2022): 78–89. <https://doi.org/10.18196/jphk.v3i1.13484>.

Rahmawati, Ayu Diasti, Ulya Niami Efrina Jamson, Mustaghfiroh Rahayu, Irham Nur Anshari, Suparjan, Ambar Teguh Sulistyani, Selma Theofany, Husna Yuni Wulansari, Nurry Aida Wardhani, dan Gendis Syari Widodari. *Panduan, Pelaporan, Penanganan dan Pencegahan Kekerasan Seksual di Kampus FISIPOL-UGM*. Yogyakarta: Fisipol Crisi Center, 2019. <https://hpu.ugm.ac.id/wp-content/uploads/sites/1261/2021/02/Buku-Panduan-Pelaporan-Penanganan-dan-Pencegahan-Kekerasan-Seksual-di-Kampus-FISIPOL-UGM.pdf>.

Separen, Separen. “Bentuk Pelindungan Terhadap Korban, Pendamping Korban, dan Saksi Kekerasan Seksual di Lingkungan Perguruan Tinggi.” *PETITA* 5, no. 1 (2023): 15–24. <https://doi.org/10.33373/pta.v5i1.5525>.

Shidarta. *Hukum Penalaran dan Penalaran Hukum (Buku 1: Akar Filosofis)*. Yogyakarta: Genta Publishing, 2013.

Shidarta. “Bahasa Hukum dan Hukum Bahasa.” ResearchGate, 2015. https://www.researchgate.net/publication/354693183_Bahasa_Hukum_dan_Hukum_Bahasa?enrichId=rgreq-b8751759a68b651766d038555d6ddf96-XXX&enrichSource=Y292ZXJQYWdlOzM1NDY5MzE4MztBUzoxMDY5OTIyNDk0OTc2MDAxQDE2MzIxMDA4MDk5MjQ%3D&el=1_x_2&_esc=publicationCoverPdf

— — —. “Bahasa Hukum: Definisi ‘Menteri Adalah Menteri...’” ResearchGate. Unpublished, 2015.

https://www.researchgate.net/publication/354693292_Bahasa_Hukum_Definisi_Menteri_adalah_Menteri?enrichId=rgreq-d103bda597fe177f91cba245937467f4-XXX&enrichSource=Y292ZXJQYWdlOzM1NDY5MzI5MjBUzoxMDY5OTIzODgzMjk4ODE2QDE2MzIxMDExNDA4NjY%3D&el=1_x_2&_esc=publicationCoverPdf

— — —. “Generalisasi Konsep Hukum dan Skandal bagi Filsafat.” ResearchGate, 17 Desember 2023.

https://www.researchgate.net/publication/376797804_Generalisasi_Konsep_Hukum_dan_Skandal_bagi_Filsafat?enrichId=rgreq-aace84f6b7a11c2215ce2917712ab69f-XXX&enrichSource=Y292ZXJQYWdlOzM3Njc5NzgwNDtBUzoxMTQzMtI4MTIxNDM0MzQzOUAxNzAzNDY0MTg5NjMw&el=1_x_2&_esc=publicationCoverPdf

— — —. “Kegunaan Pohon Porphyrius dalam Pembuatan Definisi Hukum.” ResearchGate, 2018.

https://www.researchgate.net/publication/354877048_Kegunaan_Pohon_Porphyrius_dalam_Pembuatan_Definisi_Hukum?enrichId=rgreq-7d7dac05fbe76f30c7a3b7cdc18aec2a-XXX&enrichSource=Y292ZXJQYWdlOzM1NDg3NzA0ODtBUzoxMDcyODM5MDkyMzM4Njg4QDE2MzI3OTYxODAxMDM%3D&el=1_x_2&_esc=publicationCoverPdf

— — —. “Kolom Agama pada Dokumen Identitas Kependudukan.” ResearchGate, 2017. https://www.researchgate.net/publication/354938408_Kolom_Agama_pada_Dokumen_Identitas_Kependudukan?enrichId=rgreq-12a7b93ea39a4640c7d384f6cb993835-XXX&enrichSource=Y292ZXJQYWdlOzM1NDkzODQwODtBUzoxMDczNTUxNTI4NDM1NzEzQDE2MzI5NjYwMzg2MjI%3D&el=1_x_2&_esc=publicationCoverPdf

- — —. “Konsep dan Definisi Dalam Hukum.” ResearchGate, 22 Maret 2022. https://www.researchgate.net/publication/359399815_Konsep_dan_Definisi_dalam_Hukum?enrichId=rgreq-2d2d369b3ef2e5b18ee011904a97b753-XXX&enrichSource=Y292ZXJQYWdlOzM1OTM5OTgxNTtBUzoxMTM2NDU2NDk2MDk5MzI4QDE2NDc5NjM3NTEyNTk%3D&el=1_x_2&_esc=publicationCoverPdf.
- — —. *Positivisme Hukum*. Jakarta: UPT Penerbitan Universitas Tarumanagara, 2020.
- Shidarta Shidarta, dan Petrus Lakonawa. “Lex Specialis Derogat Legi Generali: Makna dan Penggunaannya,” 2018. <https://doi.org/10.13140/RG.2.2.15629.05602>.
- Soejoeti, Ariani Hasanah, dan Vinita Susanti. “Diskusi Keadilan Restoratif dalam Konteks Kekerasan Seksual di Kampus.” *Deviance Jurnal Kriminologi* 4, no. 1 (2020): 67–83. <https://doi.org/10.36080/djk.1311>.
- Sofyan, Andi, dan Nur Azisa. *Buku Ajar Hukum Pidana*. Makassar: Pustaka Pena Press, 2016.
- Sumintak, Sumintak, dan Abdullah Idi. “Analisis Relasi Kuasa Michel Foucault: Studi Kasus Fenomena Kekerasan Seksual Di Perguruan Tinggi.” *Jurnal Intelektualita: Keislaman, Sosial Dan Sains* 11, no. 1 (2022): 55–61. <https://doi.org/10.19109/intelektualita.v11i1.11117>.
- Susanto, Agus, Riyan Setiyanto, Dody Mulya, dan Diyan Sakti Purwanto. “Membangun Kesadaran Anti Kekerasan Seksual Untuk Mahasiswa Baru Di Lingkungan Kampus.” *Journal of Social Empowerment* 8, no. 2 (2023): 85–91. <https://doi.org/10.21137/jse.2023.8.2.3>.
- Susilowati, Anggi Yus. “Kampus Ramah Mahasiswa Dari Kekerasan Seksual: Analisis Tingkat Pengetahuan Mahasiswa Terkait Pencegahan Dan Penanganan Kekerasan Seksual.” *Empower: Jurnal Pengembangan Masyarakat Islam* 7, no. 2 (2022): 233–47. <https://doi.org/10.24235/empower.v7i2.11516>.
- Sylvani, Sylvani, dan Winsherly Tan. “Tinjauan Hukum Atas Frasa ‘Tanpa Persetujuan’ Pada Permendikbudristek Nomor 30 Tahun 2021 Terkait Tindak Seksual Di Lingkungan Perguruan Tinggi.” *Jurnal Hukum Sasana* 8, no. 2 (2022): 438–52. <https://doi.org/10.31599/sasana.v8i2.1133>.
- Tahir, Heri, Ririn Nurfaathirany Heri, dan St Junaeda. “Analisis Peraturan Mendikbud Ristek (Permendikbud) Nomor 30 Tahun 2021 Tentang Pencegahan dan Penanganan Kekerasan Seksual di Lingkungan Perguruan Tinggi di Universitas Negeri Makassar.” *Seminar Nasional LP2M UNM*, no. 0 (2022). <https://ojs.unm.ac.id/semnaslemlit/article/view/40152>.