



The Resistance to the Sexual Violence Eradication Bill 2012-2022

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Abstract

The study of sexual violence and its principle has been widely discussed. However, this study tends to focus more on different viewpoints regarding the Sexual Violence Eradication bill and examines why it took so long to be ratified. According to the current legal framework in Indonesia, protecting people from sexual violence solely includes the conviction of the perpetrators; no prevention efforts, handling, and the victim's recovery. Thus, the victim's rights were not fulfilled by existing law, whereas the Sexual Violence Eradication bill specifies more detailed provisions of sexual violence. However, the bill has its pros and cons, which come from a controversy between two contradictory opinions in understanding it. The pros tend to use a gender perspective and rely their support on the academic text of the bill. This gender perspective places significant attention on the experience of victims, especially women. The opposing party, meanwhile, tends to use a religious perspective, arguing that because the bill takes a gender perspective from the secular West, it invalidates Islamic traditions. Therefore, this research aims to explore the struggle to pass the bill. By conducting a qualitative content analysis, the researcher analyzed transcripts of press conferences, debates, academic papers, fact sheets, and key points, also meeting results from news sources and the parliament's official websites related to the Sexual Violence Eradication bill. The findings of this research indicate that cultural, economic, and political factors are the main reasons the Sexual Violence Eradication bill was delayed for almost 10 years.

Keywords: Sexual violence, Sexual violence eradication bill, Indonesia

INTRODUCTION

Background

Violence against women is a form of violence against human rights and crime that degrades human dignity, also included in gender discrimination. It is usually caused by gender equality and injustice, therefore must be eliminated by the State. Not only women, children, or even people with disabilities are also often become victims of sexual violence. However, until now, the victims still have to face difficulties in obtaining access to justice, truth, and remedies which are the responsibility of the State (Rahmi, 2021).

According to a recently adopted Council of Europe recommendation, domestic violence is the major cause of death and disability for women between the ages of 16 and 44 (Fried, 2003). Violence against women also crosses

through racial, social, religious, age, ethnicity, sexuality, cultural, and geographic region, and it can happen to any woman, wherever in the world. This phenomenon is particularly common in low- and lower-middle-income countries and regions across the world. Across the MENA region, there is up to 60% of women say they have been harassed on the street, while around 65% of men report having perpetrated such acts (Htun & Jensenius, 2020).

Moreover, according to both World Health Organization and United Nations statistics, 37% of women aged 15 to 49 who live in countries classed as "least developed" by the Sustainable Development Goals had experienced physical and/or sexual intimate partner abuse at some point in their lives, which intimate partner violence more often occurs than no-partner violence. Intimate partner violence has been reported by 22% of women in "least developed

nations” in the last year, far higher than the global average of 13%. Men become the most common perpetrators of intimate relationships and sexual violence against women, they are responsible for up to 38% of all female murders worldwide. On the other hand, 6% of women say they’ve been sexually abused by someone who isn’t their partner (Facts and Figures: Ending Violence Against Women, n.d.).

Over the past three decades, women’s organizations have created a paradigm shift in understanding and acting to end violence against women (Fried, 2003). Even though we know they do exist, it is still rare to find people who support acts of violence against women.

Sexual violence and sexual harassment have remained an issue of controversy in Indonesian society. Even worse, it is still considered normal by most people, even though its cases have often been heard in the ears of the Indonesian people. The number of sexual violence also keeps increasing and the pattern of cases is more complicated. Quoted from the official website of the National Commission on VAW, from 2015 to 2019 there were at least 35 women, victims of sexual violence per day, whereas, in 2019, there were 431,471 cases of sexual violence, an increase from the previous case of 406,178 cases. There were 2,521 cases of sexual violence in public places (i.e., workplace), while 2,988 cases occurred at the private level. (i.e., domestic violence) (Paradias & Soponyo, 2022).

Previously, Indonesia has just one criminal code, the Penal Code of Indonesia 1982 (Kitab Undang-Undang Hukum Perdana), which was enacted by our colonial authority and passed down to us. There has been an attempt to change the law, but no revision has been made yet. The National Commission on VAW has been drafting the Sexual Violence Eradication bill since 2014, based on the need for legal protection for victims of various forms of sexual violence and to defend women’s human rights. It amends provisions governing the rights of victims of sexual assault. However, while the bill’s consideration was still ongoing, it cannot be utilized as a legal shield against acts of sexual violence (Nurmila, 2019). The bill was eventually enacted by the People’s Representative Council in April 2022, ending an almost ten-year legislative process, and was signed by Joko Widodo, the President of Indonesia on May 2022.

Research questions

This research will perform as a case study of the Sexual Violence Eradication bill in Indonesia, to find out the difficulties surrounding the bill, and how it can improve the protection of women across the country.

1. What are the Legal Provisions for the eradication of sexual violence and the protection of victims through the Sexual Violence Eradication bill?
2. Why did it take so long to pass the Sexual Violence Eradication bill?

LITERATURE REVIEW

Sexual violence situation in Indonesia

Sexual violence is a form of violation of human rights, and it has been an issue that concerns our society for a long time, especially for women. Several laws and regulations do exist in Indonesia, that provides legal protection to victims of sexual violence. However, one of the issues with Indonesia’s sexual violence laws and regulations is that these elements are still regulated by different laws, and no legislation that specifically regulates sexual violence in the country.

According to data from the National Commission on Human Rights, there were at least 35 women victims of sexual violence per day, in other words, every two hours women experience sexual violence. DKI Jakarta has the most cases of violence against women (2,461 cases), followed by West Java with 1,011 cases, and East Java with 687 cases. This should be enough to put the focus on the government’s response to cases of sexual violence against women (Widya, 2022). These high numbers of violence against women are due to a lack of service-providing institutions, as well as the quality and capacity of institutional documentation, as well as the lack of institutions where victims can report their abuse, along with public distrust of available institutions or a feeling of inadequacy when reporting (Subarkah & Tobroni, 2020).

As per the existing legal framework, the only way to protect women from sexual violence is for the perpetrators to be charged, but there are no prevention efforts, treatment, or victim rehabilitation. As a result, the laws that were established did not fulfill the rights of the victims. Thus, the Sexual Violence Eradication bill was proposed, which provides more specific aspects of sexual violence, such as prevention, treatment, and victim rehabilitation (Putri & Adhari, 2021).

Indonesia’s sexual violence eradication bill

The National Commission on VAW, together with other service provider agency partners, has requested the State to take action to provide comprehensive, long-term, and complete protection as well as rehabilitation for sexual violence victims. The Sexual Violence Eradication bill’s priorities are to ensure that the State’s obligation to protect citizens, particularly women, from sexual violence; to take action to prevent sexual violence; to provide a sense of justice for the victim and the community; to build a system for dealing with, protecting, and recovering from sexual violence victims; to encourage the society in creating a sexual violence-free environment (Subarkah & Tobroni, 2020). The Sexual Violence Eradication bill is also formed to fill the legal vacuum, for example by focusing an effort to take sides with the victims (Manurung & Wardani, 2019). This statement can be seen in Article 4 paragraph (1) of the bill.

Even though the President of Indonesia, Joko Widodo has urged speedy deliberation on the bill, it had been delayed by strong resistance from conservative Muslim groups in Indonesia. These groups argue that the bill will legitimize consensual extramarital sex and LGBT relationships in an indirect way. According to the Islamist-leaning Prosperous Justice Party, which is the only one of nine lower house parties to oppose the bill, it is "not comprehensive" since it does not include "all crimes of immorality" (Maulia, 2022).

Though there are some weaknesses in the bill, such as it does not cover the particular interests and needs of victims with disabilities and protection against cyber gender violence. Nevertheless, the government's decision to finally ratify the bill is a significant step forward. By ratifying the bill, it will become the first step in ensuring the safety of its citizens within their own country (Davies et al., 2021).

The sexual violence eradication bill's controversy

Since the beginning of the Sexual Violence Eradication bill proposed by the National Commission on VAW in 2012, there have been many misperceptions about the bill, such as the bill is considered to legalize abortion, pro-LGBT, and so on, which has made the ratification of the bill has been delayed for almost 10 years. Even until the bill was ratified, there were still many pros and cons from various parties. Moreover, some people still believe that the bill contradicts Indonesia's religious character, they alleged that religious values were ignored throughout the drafting of the bill.

The pros and cons of the Sexual Violence Eradication bill one of which comes from a conflict between two contrary views. The people who support tend to take a gender perspective, focusing their arguments on the academic text of the bill, which specifically declares that the bill was drafted based on women's perspective (feminist legal theory). The experience of victims, particularly women, is the focus of this gender perspective. Meanwhile, in contrast, the people who are against the bill tend to use a religious perspective. They assume that the bill is not in accordance with Indonesia's religious standards by adopting a secular Western gender perspective, and the root of the problem is simply because of sexual violence that has occurred in the past is not because of gender inequality, malfunction of family institutions instead, so the solution should be to return to religious norms (Tamam, 2019).

According to Lidwina Inge Nurtjahyo, a professor from the University of Indonesia, one of the difficulties to the ratification of the Sexual Violence Eradication bill is the Indonesian people's low literacy culture. She explained that they mostly gain their knowledge by listening and watching, however, if the content is unreliable, they are not willing to confirm it by reading (Khairunnisa, 2022).

Another major challenge in the ratification process was ideological differences among the House members, which made it difficult to pass and ratify the bill. Apart from that,

the Sexual Violence Eradication bill is often used by political parties to improve their electability, for example, by raising false issues about the bill's contents in order to win public sympathy (Rachman, 2021).

Furthermore, according to an Islamic State University professor, those who opposed the Sexual Violence Eradication bill are conservatives who believe the bill would allow consensual extramarital sex. They are surprisingly assertive and then use social media to propagate misinformation about the bill. They also recruit young people, influence them, and counter-narrative by using various media to criticize progressive ideas (CNN Indonesia, 2020).

Summary

Sexual violence has been an issue that concerns our society, particularly among women. Even though Indonesia has laws and regulations that give legal protection to the victims of sexual violence, it was not enough since there was still no legislation that specifically regulates sexual violence in the country, and there was still a high increase in sexual violence cases. Thus, in 2012, The National Commission on VAW, with other service provider agency partners, asked the State to take action to provide comprehensive, long-term, and complete protection as well as rehabilitation for sexual violence victims. However, not everybody agreed with their proposal and opposed the ratification of the bill. There have been many misperceptions and controversies about the bill ever since.

Finally, after the bill went through around 10 years process of discussion, included in and excluded from Priority National Legislation Programs, in April 2022, the Sexual Violence Eradication bill has finally been ratified by the House, and signed by the President in May 2022.

METHODOLOGY

This paper is aimed to understand The Law on Sexual Violence Crimes (Law No. 12/2022) in Indonesia and the reason it took so long to be passed. Previous scholars who have researched sexual violence against women and its criminal laws, theories, hypotheses, and arguments are included in the literature review. By doing a qualitative content analysis, the researcher tries to discover data that either supports or refutes previous scholars' claims, resulting in the development of new theories, arguments, and hypotheses. Data is gathered from various websites, including J-STOR, and others, also a checklist is utilized to assure its reliability and validity. This research contributes to a better understanding of the difficulties surrounding the Law on Sexual Violence Crimes until it was finally enacted. The following part will go through using the content analysis approach as well as how to gather and analyze data.

Research design

The researcher uses qualitative content analysis as the

design for this research. The purpose of qualitative content analysis in this study is to yield more insightful underlying reasons and standpoints of parties that support or opposed the law. By following a one-shot case study of the treatment which is from the beginning the bill was proposed and then observing the public opinion as a result of this event, the researcher is able to draw upon applicable data to analyze. Therefore, the researcher separated the collected data into two parties – pro and cons – to deeply observe how the Indonesian parliament deal with those two parties.

Data sources

The data used to address the research questions are sourced from the internet. The range of dates set is chosen from the time when the bill was first proposed until it was enacted. This paper will collect data regarding the Indonesia Government, Indonesia's House of Representatives, The National Commission of VAW, sexual harassment, and sexual violence cases in Indonesia. However, the researcher only used the 2016 to 2022 time period due to of lack of data on the internet ranging from 2012 to 2015, one of the reasons is that it was only 2016 when the news media started writing about the bill and its struggle. The only event in 2012 was the Sexual Violence Eradication bill proposal by the National Commission on VAW, then they drafted the Academic Paper and the formulation of the bill in 2014. Sources and breadth for these factors will be defined by the following table. For in-depth data showing the construction of the database established for data analysis, see Appendix A.

Data collection

A checklist was utilized to collect data for this research's purposes, to ensure that the data gathered was reliable and valid. Documents for data collection were gathered from official government documents and news articles. The data come from online sources provided by the Indonesian parliament; the House of Representatives where document records of the journey of the Sexual Violence Eradication bill were available. These data were filtered based on references to or statements of the following terms; sexual violence,

sexual violence in Indonesia, and the Sexual Violence Eradication bill. The analysis utilized data that adhered to this checklist. Other data were collected from transcripts of press conferences, debates, academic papers, fact sheets, and key points, also meeting results from news sources and the parliament's official websites, and saved in an archive. An outline of the data collected can be seen in (Table 1 and 2) below.

Data were analyzed and divided into three major factors that pertain to the qualitative approach. These factors include public mobilization, a well-stated problem, and a clearly defined event. The interpretation of these factors is covered in Chapter 4, Data Analysis.

Data analysis

The researcher has discovered three key themes using the data collection process mentioned in the Methodology chapter. This paper establishes the argument that this event should not be viewed as a single event, but rather as a continuation of the Sexual Violence Eradication Law's implementation. In this context, the government extension becomes clear and reasonable from the perspective of Indonesia's national interest. In order to finish a thorough analysis, the following section of this chapter will look at several types of factors and individuals who were significant to the event.

Cultural and religion factor

The discussion of the Sexual Violence Eradication bill was controversial. Some parties, including the National Commission on VAW, believe that this policy would be able to suppress cases of sexual violence and protect. However, there are not a few parties who reject the bill being passed. The rejection of the bill comes from conservative groups who still assume that the bill legalizes adultery. The conservative groups began to show their attitude in 2017, after losing the judicial review of Articles 284, 285, and 292 of the Criminal Code. These three articles regulate crimes against morality. Non-governmental Organizations (NGOs) have asked a

Table 1. Data sources.

FACTOR	SOURCE(S)	TIME PERIOD
Cultural and Religion	Indonesia Open Parliament, CNN Indonesia, Institute for Criminal Justice Reform*	2016 – 2022
Politics		
Social and Economy		

*For the directory of each source, see Appendix A.

Table 2. Raw data collected.

Raw Data	
Data Input	165 pieces
Data from Indonesia Open Parliament	35 pieces
Data from CNN Indonesia	110 pieces
Data from ICJR	20 pieces
Invalid data	5 pieces
Total Data Analyzed	160 pieces

number of community groups to not look back on the Sexual Violence Eradication bill. Activist Gusdurian Inayah Wahid said the bill was a regulation to ensure the security of victims of sexual violence. Of the nine factions in the House during this period, it can be said that the discussion of the Sexual Violence Eradication bill was hampered by the Prosperous Justice Party, which the only faction was against the ratification of the bill. In the parliament, the discussion of the bill is not only about sexual violence, but they also linked it to the issue of adultery and same-sex relations. Member of the Eighth Commission from the Prosperous Justice Party faction, Iqbal Romzi, questioned the crime against sexual violence in the form of marital rape, he relates it to the religious argument that the wife is obliged to serve her husband (meaning that it is not included as violence if it happens in marriage). Another opinion is that the Deputy Chairman of the Eighth Commission of the House from the National Awakening Party faction, Marwan Dasopang once linked the bill with homosexual relationships.

According to the Prosperous Justice Party faction of the House, the Sexual Violence Eradication bill was not based on religious values. Meanwhile, the proponents and a number of NGOs consider that the bill was drafted in favor of women as victims, which clearly considers religious values. Bukhori Yusuf, a member of the Legislation Body of the House, from the party, claimed that religion was the system most suited to regulating sexuality from the beginning. At the House's Legislation Body Public Hearing Meeting with the National Commission on VAW, he stated, "I don't listen to the logic that is based on religious values, which is the basis for thinking in constructing this idea and bill." Bukkhhori pointed to the example of adultery, which is said to have eluded the logic of religion since it does not directly result in a victim of a crime. Adultery, in his opinion, is an act that has been classified as a crime since before the time of the Prophet. He went on to say that in the case of adultery, God had stated the prohibition of the act as well as related things like violence. So, he continued, "Religion strictly regulates the framework of the logic specified in the bill, but religion is not included at all."

Nina Nurmila, a professor of gender studies and Islamic studies at the State Islamic University Sunan Gunung Djati, claimed that conservative groups that continued to believe the bill legalized adultery were responsible for the bill's rejection. Nina said, "This conservative group that opposes gender equality is quite aggressive and good at spreading rumors about the bill on social media." According to the National Commission on VAW, the Sexual Violence Eradication bill's main debate issues during 2019 frequently clashed with morality discourse inside a religious context. This was found from the monitoring of various fake news related to the bill on social media, public discussions from one of the factions who refused, to the discussion session of the Eighth Commission of the House's working committee with the government. However, it revealed that the faction

is not against all the materials of the bill. Member of the Legislation Body of the House, Mulyanto, emphasized that the material rejected by the faction from the bill was because it did not contain articles on sexual deviation and adultery.

In the discussion of the Sexual Violence Eradication bill, the National Commission on VAW has also never targeted the area of free sex behavior. "We met several times with the Indonesian Women's Ulema Conference, Muhammadiyah, Nahdlatul Ulama, and various religious leaders to ensure that there are no articles that are explicitly stated or signify that which is forbidden by religion for sure," said the Commissioner of the National Commission on VAW, Iman Nahe. Although the Sexual Violence Eradication bill does not contain offenses criminalizing adultery committed consensual, sanctions for free sex have been regulated in the criminal law.

Social and economy factor

The pandemic was indeed where the situation becomes disadvantageous for all of society, not only about physical health but also about domestic violence against women and children. The National Commission on VAW noted that more violence was committed by people who had a relationship with the victim, along with the increasing use of digital platforms, allegedly cyber gender-based violence (online) also increased.

From the study of COVID-19 and women, the National Commission on VAW found the number of reported cases in the March-end of October 2020 period was 1,459 cases. This case is both violence against women and girls. "This number turns out to be close to the number of reported cases in the 2019 Annual Records. In the Annual Records, there are 1,419 reported cases. Even though these were cases for 12 months, while the COVID-19 study was only specified for 8 months," said Bahrul Fuad, commissioner of the National Commission on VAW to CNNIndonesia.com. Judging from the form of violence, the highest number was sexual violence (405 cases) and psychological violence (225 cases). However, Bahrul noted that some of the victims had experienced not just one act of violence but also many ones.

"We can see that there are multiple issues. In fact, COVID-19 is the main reason why policies, such as Indonesia large-scale social restrictions, work-from-home, and distance learning, Wives who previously could travel now also choose to stay at home. Then there is intensive interaction, transmission fears, and everything builds up to lead to conflict," he explained.

According to the report, women face heavier burdens; the extra responsibility of accompanying kids to study at home is placed on top of housework. He also claimed that societal and cultural constructs that view women as the servants of their husbands worsen the situation. Bahrul also said that as of October 2020, the reports of cyber gender-based

violence had reached 659 cases. Whereas in the 2019 Annual Records, this institution 'only' received reports of 281 cases. In other words, there is a 300 percent increase, even though it has not yet reached the end of the year. He believes technological advances and the increased use of digital media platforms are one of the causes of gender-based violence. The increase in those cases is also supported by the lack of knowledge and understanding of digital platform users about the impact of their uploads. Bahrul also saw that the victims, who were mostly young people, were not aware of the risks of uploading their private photos or videos. "Many cases reported to the National Commission on VAW in the form of cyber gender-based violence by boyfriends and former spouses, are quite high. Some are threats to publish private photos or videos, some have even been publicized," he added.

On September 3, 2021, the Minister of Education, Research Culture, and Technology of the Republic of Indonesia issued Ministerial Regulation No. 30 of 2021 regarding the Prevention and Handling of Violence in Higher Education. For the record, this kind of regulation has also been issued in the Higher Education Environment under the Ministry of Religion, viz. the Decree of the Director General of Islamic Education Number 5494 of 2019 regarding Guidelines for the Prevention and Overcoming of Sexual Violence in Islamic Religious Universities. The implementation of this rule, however, has lots of pros and cons, since it supports the idea that consent might be the reason behind sexual violence. Those who opposed argued that the state had legalized adultery by accepting the concept of consent. The debate then continued on the Sexual Violence Eradication bill. A number of members of the Legislation Body of the House recommended the removal of articles that contained the words "disliked" or "with consent," and so on, and changed the definition of sexual violence to include all forms of sexual activity that are against social, religious, and cultural norms.

Rejection of this concept of consent is deceptive and could be harmful because an act referred to as sexual violence must clearly be caused by the lack of consent. The concept of consent is accommodated to ensure the protection of the integrity of the human body. Of course, we clearly agree that all humans do not have rights over other humans, right? Every individual has the right to choose whether to have sex, and this is how the idea of consent is looked at. To be able to engage in sexual relations, consent from the other person is needed, and the approval must also be "freely given" when the agreement is obtained from pressure, deception, threats, coercion, or power relations, then consent is not attained. Free consent, however, in certain circumstances, cannot always be given, for example, in the case of an unconscious person, as well as to minors under the age of 18, a special group whose age maturity has not been able to give consent.

When a sexual relationship is carried out not based on

consent, then there is a violation of the integrity of the human body which is protected by the state and the state's legal structure ought to forbid such a violation, even beyond the boundaries of legal relationships, such as marital relations. We can all agree that even in marriage, each individual still has integrity in their own body, and marriage is certainly not a method of "buying" another person's sexuality, that is also why forced sexual intercourse in marriage is prohibited. This is addressed by the law of forced sexual intercourse in marriage (Art. 46 of the Law on Elimination of Domestic Violence, Art. 288 of the Criminal Code). The state-guaranteed safety of individuals may likely suffer if the concept of consent is omitted from the legal sexual violence definition. In view of this perspective, marriage is offered to be a solution. Marriage, in contrast, is not a guarantee that sexual violence will not occur, the National Commission on VAW's 2021 Annual Record reported that throughout 2020 there were 57 cases of forced sexual intercourse by partners in households, and in 2019, the number of cases reached more than a hundred reports. With the elimination of this concept of consent, all victims who are involved in "illegal" relationships will be defined as perpetrators. The victim's involvement in a non-marital relationship will be condemned, rather than looking into the issue of consent, because it is much easier to claim that adultery has occurred than to prove that there was no consent, or in this case, sexual violence has occurred.

The main goal of the Sexual Violence Eradication bill discussion should be to provide comprehensive rights strengthening for the victims. The victim's rights must be protected, starting with the legal requirements, and extending to their right to the best medical care and recovery. The state must establish a special mechanism to protect victims' rights given how broad their rights are, including those related to rehabilitation. This scheme is a fund that the state receives through non-tax revenue and financial criminal fines to be processed and provided for the program to fulfill the rights of victims. It can take the form of a Victim Trust Fund or a Crime Victim Assistance Fund and does not absorb the State Revenue and Expenditure, it is a scheme that demands that the state handle its non-tax revenues for victims of criminal acts, including victims of sexual violence.

This is pretty important because compensation schemes for victims and the provision of services for victims must be developed in a better direction. For the record, according to the report from the Witness and Victim Protection Agency, throughout 2020, the agency's assessment of restitution was around 7 billion rupiahs, whereas the amount granted by the court's decision was only 1.3 billion rupiahs. More worrisome still, the execution of restitution for victims is even less than 10% of what the court imposed, which is only about 101 million rupiahs. The effectiveness of restitution raises several records, one of which is the difficulty of seizing the perpetrator's assets for restitution

payments to the limited assets that can be confiscated from the perpetrator of sexual violence are closest people to the victim, because of this dynamic, the restitution decided to order of the perpetrator in some cases will also burden the victim financially, including the possibility that the perpetrator comes from a different country. It is obvious that the financing of services, victim support, and recovery must be developed. The government needs to come up with innovative ways to govern leisure while also supporting victims' healing. According to data from the HIV/AIDS Research Center at Atma Jaya University from 2020 regarding "Analysis of the Costs and Impacts of Violence Against Women in Six Cities/Regencies of Indonesia," specifically Bener Meriah Regency, Batam City, Surakarta City, Maros Regency, Ambon City, and Belu Regency, local governments allocated between 86 thousand rupiahs to 223 thousand rupiahs (5.60 USD to 14.53 USD) per victim in one year for the provision of programs to deal with violence against women in all of the study.

Allocations from the State and Regional Revenue and Expenditure Budgets would certainly be drastically reduced as a result of the above cost requirements. Although this amount is a burden on the government, it should be increased when measured against the overall state income. For the record, according to information from the Ministry of Finance, non-tax state income in 2021 was 452 trillion rupiahs or 151.6% of the 298.2 trillion rupiahs objective for state revenue and expenditure. From non-tax state revenues, the Victim Trust Fund scheme or Victim Assistance Fund can be acquired, then processed to offer services and recompense for victims. The Witness and Victim Protection Agency or other service organizations can receive this funding, all the way down to the regional level of government service. Additionally, these funds may be donated to victims to make up for expenditures or losses suffered, including paying victims' compensation. This scheme has also been implemented by several countries and international organizations. The best-known, for example, is the provision in Article 79 paragraph 2 of the Rome Statute that allows the International Criminal Court (ICC) to order the transfer of money and other assets obtained through fines or redemption. Hence, the Trust Fund for victims is an institution that seeks, manages, and distributes Trust Fund for victims. This Trust Fund scheme itself in Indonesia has been known from the Presidential Regulation No. 88 of 2011 concerning Trust Funds, however, it was not specified and did not relate to the victim recovery scheme regulated in numerous laws.

Political factor

The Sexual Violence Eradication bill has come a long way. The bill was initially proposed by the National Commission on VAW in 2012, following the emergency conditions for sexual violence against women and children in Indonesia. The National Commission on VAW pushed the House to make legal protection regarding sexual violence for

about four years. It was only in May 2016, the National Commission on VAW was asked to submit an academic text to the Legislation Body of the House.

Since then, the majority of factions in the Legislation Body of the House agreed to include the Sexual Violence Eradication bill in the 2016 Priority National Legislation Program. Regarding the government regulation on child protection (which was currently being drafted by the government at that time) the Great Indonesia Movement Party's legislator thinks that it is better for legal protection in the form of legislation. Legislator of the Indonesian Democratic Party of Struggle, Esti Wijayati, said that as many as 70 members of the House signed an urging that the Sexual Violence Eradication bill is included in the 2016 Priority National Legislation Program. Moreover, the Indonesian Democratic Party of Struggle's politician, Rieke Diah Pitaloka, stated that the discussion of the Sexual Violence Eradication bill can be carried out across commissions. Sexual violence does not only concern the issue of children which is usually handled by the Eighth Commission, but also human rights which are part of the Third Commission of the House.

At the beginning of the discussion, there were nine definitions of sexual violence in the Sexual Violence Eradication bill, which are sexual harassment, forced contraception, forced abortion, rape, forced marriage, forced prostitution, sexual slavery, sexual torture, and sexual exploitation. Member of the Eighth Commission of the House, TB Hasan Ace Syadzihily, said that the government will examine the articles in the bill, which have the potential to have multiple interpretations, and will be included in the Problem Inventory List. After the Problem Inventory List is compiled, the discussion will be carried out in two stages, namely the discussion between the factions in the working committee of the bill, followed by the discussion between the working committee of the House and the government. The discussion of the Sexual Violence Eradication bill continued until 2018. At that time, the Eighth Commission of the House invited a number of elements of society to solicit opinions. However, at the end of 2018, the House decided that the bill would be postponed until the end of 2019. During that time, there was a rejection of the bill, for once, came from an online petition on the change.org site initiated by Maimon Herawati. She claimed it was considered to support adultery, due to a lack of specification regarding sexual activity that violates religious regulations. In the discussion at that time, a member of the Eighth Commission of the House from the Great Indonesia Movement Party, Rahayu Saraswati Djojohadikusumo said that there were various parties who were invited to discuss, ranging from religious leaders, academics, psychologists, to medical personnel. The pattern of the political situation that occurred ahead of the presidential election (2019) really influenced the public's tendency to conclude the substance of the Sexual Violence Eradication bill and was easier to provoke.

However, in 2019, the chairman of the House at that time,

Bambang Soesatyo confirmed that the Sexual Violence Eradication bill would not be passed by the House during that period. He stated the House, and the government was not able to finalize the bill, which had been in discussion since 2017, due to the limited work time. "I have coordinated with the head of the working committee, however, because the time is short, and there are still many issues that have not been resolved, so we have decided to postpone it," said Bambang Soesatyo. He also stated that the discussion of the Sexual Violence Eradication bill would be discussed again during the House tenure in the 2019 – 2024 period. Minister of Political, Legal and Security Affairs, Mahfud MD, stated that his party supports the DPR to immediately ratify the Sexual Violence Eradication bill. According to her, the bill is a way out of various problems experienced by women in Indonesia. The meeting on the evaluation of the 2020 National Legislation Program was marked by the protests from a number of factions in the House. They strongly demanded that the discussion of the Sexual Violence Eradication bill must be continued. Nurul Arifin, a member of the House's Legislation Body from the Party of Functional Groups, stated that she would disagree if the Sexual Violence Eradication Bill were to be repealed once more. She urged to continue the bill's discussion, and the House needs to make sure it won't entirely withdraw from the National Legislation Program.

However, Marwan Dasopang, the deputy chairman of the House's Eighth Commission, said that the factional lobbying in the Eighth Commission had caused all of the factions to reach a deadlock, which made it difficult to discuss the bill. Since the last National Legislation Program period, disagreements have arisen regarding the bill's title and definition of sexual violence. The regulations for the penalty are also still up for debate. "We will withdraw the bill and at the same time propose a new bill, namely the Bill on Elderly Welfare," said Marwan. He also claimed that the Eighth Commission would be more focused on finalizing the Disaster Management bill since it was authorized as an initiative by the House after Indonesia faced a non-natural disaster brought on by the COVID-19 pandemic. In addition to the COVID-19 pandemic delaying the discussion of the Sexual Violence Eradication bill, it has not been ratified due to the pros and cons that have developed in society. Fundamentalist parties like the Islam Defenders Front accused that the bill would legalize homosexuality (LGBT) and adultery. A total of 17 offices of the Legal Aid Institute under the Indonesian Legal Aid Foundation held a People's Assembly to urge the House and the government to immediately ratify the Sexual Violence Eradication bill. The People's Assembly urged the House to include the bill in the 2021 Priority National Legislation Program because they felt that the government was not committed to resolving the sexual violence cases in Indonesia.

In early 2021, the Sexual Violence Eradication bill is included in the list of 2021 Priority National Legislation Program.

33 bills for the 2021 National Legislation Program and 246 bills for the 2020 – 2024 National Legislation Program were approved at the House's Plenary Meeting on March 23, 2021. The Sexual Violence Eradication bill was included as one of the 33 bills. The House's chairman, Puan Maharani, asserted that the bill's inclusion demonstrated the state's support for the issue facing women.

In Mid-2021, the expert team for the Legislation Body of the House suggested that the word 'eradication' in the title of the Sexual Violence Eradication bill to be removed. A member of the team, Sabari Barus, proposed that the title of the bill will be changed to Bill on Sexual Violence Crimes. "The word 'eradication' in the title seems abstract because eradication means disappear completely, and it is an impossible thing to do. We are using the Bill on Sexual Violence Crimes," said Sabari at the House's Legislation Body meeting on August 30, 2021. Soon after the bill was renamed to Bill on Sexual Violence Crimes, the Coalition of Anti-Sexual Violence Civil Society revealed that up to 85 articles were omitted. According to their research, the law contained 128 articles as of September 2020; however, by August 2021, only 43 articles remained. The original version of the bill contained nine different types of sexual violence: rape, forced prostitution, forced contraception, forced abortion, forced marriage, forced contraception, forced contraception, forced contraception, and forced contraception. The new draft, however, only described four types of sexual violence: forced contraception, forced sexual contact, forced sex, and sexual exploitation. After its amendment, the bill also seems to be more focused on the legal action part rather than on the initiatives to eradicate sexual violence.

The reason for eliminating the five types of sexual violence from the bill was later made public by the expert team of the House's Legislation Body. According to Sadari, the Penal Code of Indonesia 1982 already regulated the five different types of sexual violence, hence they were eliminated in the bill's amendment. Two factions, the Party of Functional Groups and the United Development Party, urged that the decision about the bill's status be delayed, according to Willy Aditya, head of the working committee on the Sexual Violence Eradication bill of the Legislation Body of the House. The decision was previously set to be decided on November 25, 2021. He explained that the two factions had sent an official letter demanding a postponement so they could examine the bill. He said that the bill has not been approved as the House's initiative bill by all nine of the House's factions, nonetheless, only four factions have agreed. The four factions are the National Democratic Party, the National Awakening Party, the Indonesian Democratic Party of Struggle, and the Great Indonesia Movement Party. Meanwhile, five other factions, namely the National Mandate Party, Prosperous Justice Party, United Development Party, the Party of Functional Groups, and the Democratic Party, are said to be holding out as well. Therefore, the bill which

has been proposed since 2012, is threatened to be rejected if the majority of the factions oppose it.

The Sexual Violence Eradication bill was finally approved by the majority of factions in the House's Legislation Body on December 8, 2021, making it one of the House's initiatives bills. A total of six factions agreed that the bill would become an initiative bill. Meanwhile, the United Development Party faction concurred that the title of the proposed regulation would be modified to also include nonviolent sexual crimes like sexual deviation. While only the Prosperous Justice Party rejects the entire bill, more specifically, Al Muzammil Yusuf, one of the members of the faction believes that the bill can legalize adultery. In a plenary meeting, Supratman Andi Agtas, Chairman of the Legislative Body of the House, stated, "I convey that there are seven factions that agree and one faction asking to postpone it does not mean agreeing to ask to be postponed, and one faction that said it opposed."

Nevertheless, a week later, Willy Aditya, the head of the working committee of the Sexual Violence Eradication bill, asserted that the failure to submit the bill to the plenary meeting was due to the House's Deliberative Body did not schedule the discussion of the bill to be brought to the House's Plenary Meeting in 2021, because the House will be in recess from December 17, 2021, to January 10, 2022. The bill would thus be reconsidered the following year. The Saiful Mujani Research and Consulting (SMRC) survey showed that the majority of the Democratic Party and the Prosperous Justice Party were the ones who rejected the Sexual Violence Eradication bill the most. The findings were from the survey that used two methodologies: an in-person survey from December 8 to December 16, 2021, and a by-phone survey from January 5 to January 7, 2022. For in-person surveys, the population in this survey in 2062 respondents with the right to vote randomly. With this sample size, the survey's margin of error was calculated to be 2.2% at the 95% confidence level. For the by-phone survey, 1249 respondents were randomly selected proportionally by province. The survey's 95% confidence level error margin was +/-2.8%. The survey revealed that respondents' level of familiarity with the Sexual Violence Eradication bill's development was increasing. The percentage increased to 24% in March 2021, 36% in May 2021, and 39% in January 2022 among people who were knowledgeable of it.

"This awareness has increased compared to the March 2021 survey, which was 24%," said SMRC's program manager in an explanation of the results of the online survey. The level of support for the bill has varied among individuals who are knowledgeable of it. The percentage reached 57% in March 2021, 64% in May 2021, and 60% in January 2022. Since March 2021, the majority has consistently supported the bill, he claimed. The Democratic Party and the Prosperous Justice Party had the greatest rates of opposition to the bill, according to SMRC, if the respondents were elaborated based on the majority of the party. In specifics, the majority of the National Awakening Party agreed with 84% of the

statement, while the Great Indonesia Movement Party disagreed with 27% of it and did not respond with 2%; the Indonesian Democratic Party of Struggle 71% agreed, 24% disagreed, and 5% did not respond; the Party of Functional Groups 54% agreed, 33% disagreed, and 13% did not respond. The majority of the National Democratic Party 73% agreed, 11% disagreed, and 16% did not respond; the Prosperous Justice Party 37% agreed and 63% disagreed; the United Development Party 51% agreed and 49% disagreed; the National Mandate Party 100% agreed; the Democratic Party 37% agreed, 51% disagreed, and 11% did not respond; others 42% agreed, 45% disagreed and 13% did not respond.

Finally, the Sexual Violence Eradication bill was given the green light to become an initiative bill on January 18, 2022, during the House's Plenary Meeting. The plenary meeting was attended by 305 of the 575 board members, of which 77 board members were physically present and 190 members were present virtually. After hearing from each faction in the House and the head of the plenary meeting, Puan Maharani, the decision to pass the bill was made. She then requested the approval of the in-attendance council members. Yet, there was still one faction that opposed to give approval, the Prosperous Justice Party. Thence, the Sexual Violence Eradication bill is intended to be implemented by April 5, 2022, according to the government together with the Legislation Body of the House. The chairman of the House's Legislation Body, Supratman Andi Agtas hoped that the bill could be passed before the House's next recess period, from April 16 to May 16, 2022.

At last, the House of Representatives officially ratified the Sexual Violence Eradication bill into law at the 19th Plenary Session for the Fourth Session of the 2021 – 2012 trial year. 311 members of the council were present at the meeting for the bill's ratification; 51 of them were there in person, while the remaining 225 participated remotely. The Sexual Violence Eradication bill consists of 93 articles and 12 chapters which contain 9 types of sexual violence. The head of the working committee of the bill, Willy Aditya, stated that the bill would give law enforcement officials legal protection that was not already provided by the Penal Code of Indonesia 1982. In the meantime, three civil society organizations—the Center on Child Protection and Well-Being, the Indonesian Judicial Research Society, and the Institute for Criminal Justice Reform—provided several significant remarks on the Law on Sexual Violence Crimes, which is heralded as a breakthrough in Indonesia's approach to the issue of sexual violence.

CONCLUSION

In Indonesia, there are an increasing number of cases of sexual violence every year, especially sexual violence against women. However, the existing laws are considered to be inadequate to ensure victims' rights protection and legal protection. The Sexual Violence Eradication bill therefore urgently necessitated ensuring the fulfillment of

victims' rights by emphasizing that it is the state's duty to protect those who have been exposed to sexual violence. The ratification of the bill has been delayed from the first time it was proposed in 2012 until early 2022.

The key findings that arise from the data analysis are distinguished into three parts under a qualitative content analysis. The first factor, Cultural and Religion factors have mainly discussed that rejection of the bill comes from conservative groups, specifically the Prosperous Justice Party, one of the nine Indonesia House Representative's most influential factions, who still assume that the bill legalizes adultery, which is against the Muslims dogma and also against the Eastern culture.

The Social and Economy factor, on the other hand, explained the National Commission on VAW found an increasing number of reported sexual violence cases in the March-end of October 2020 period, which was the pandemic time, one of which was caused by the economic factor of the family. Furthermore, this section also examined the Victim Trust Fund, which is one of the reasons for the Sexual Violence Eradication bill to be ratified, so that the costs to give the victims full rights protection, starting with the legal requirements, and extending to their rights to the best medical care and recovery can be allocated directly to them.

Last but not least, political factors may have led to the almost ten-year delay in enacting the Sexual Violence Eradication bill, a factor that is no less relevant than the others. At first, as many as 70 members of the House signed an urging that the Sexual Violence Eradication bill is included in the 2016 Priority National Legislation Program. Thenceforth, the articles of the bill that could be misconstrued will be examined by the government to be added to the Problem Inventory List, then continued by the discussion between the factions in the working committee of the bill, and between the working committee of the House and the government later. However, for some reason, its discussion had been extended until 2018, and at the end of the year, the House agreed to postpone the bill until the end of 2019. Since then, the bill has repeatedly been in and out of the House's National Legislation Program due to opposition from some parties. When the bill was finally approved by the majority of the factions in the House's Legislation Body at the end of 2021, it has once again been rejected and said that it would be reconsidered the following year. The Sexual Violence Eradication bill was finally approved by the 311 council members who were present when the House officially ratified it on April 2022.

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