



Examining the Long Road to Protection of Women from Sexual Violence in the Bill on the Elimination of Sexual Violence

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Abstract

Komnas Perempuan data on the number of sexual violence against women reported and handled during 2017 amounted to 335,062 cases involving women and girls. Meanwhile, in 2019 there were 431,471 cases. During the Covid-19 pandemic, which is 2021, there will also be an increase in cases of violence against women. This prompted the Indonesian government to issue regulations related to the protection of women and children. Some of the existing regulations are Law No. 23 of 2002 jo. Law Number 35 of 2014 concerning Child Protection, and Law 23 of 2004 concerning the Elimination of Domestic Violence. However, there is no specific regulation regarding sexual violence against women and children. In 2015 Indonesia received a recommendation from the United Nations Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) to enact legislation to eliminate gender-based violence. One of the gender-based violence is sexual violence. To carry out this obligation, the Draft Bill on the Elimination of Sexual Violence (abbreviated as RUU PKS) was drawn up since 2016, but has not yet been ratified. This study aims to analyze the factors behind the PKS Bill until now it has not been ratified and to analyze the harmonization in the articles in the PKS Bill, so that later it can become a recommendation for the government to be included in the priority National Legislation Program. This research methodology is qualitative in nature, namely with a normative and doctrinal approach, where the emphasis is on the substance of the PKS Bill which is studied from its harmonization, with inductive analysis, so that meaning is essential.

Keywords: *PKS Bill; Sexual Violence; Women and Children*

Introduction

The proposal for the establishment of the PKS Bill has long been voiced by the public and community groups who care about women who experience sexual violence since 2015. Finally, the government and the DPR realized it in the form of an academic text and the PKS Bill in 2016. However, in fact, there are many pros and cons to it. society after this bill is finished. This is the reason that until 2022 the PKS Bill has not been ratified by the government. In order to be ratified immediately, the Government includes the PKS Bill and 21 other bills as priority bills in 2021. However, until March 2022 this PKS Bill has not yet been ratified by the Government.

This can be seen in the early days of the COVID-19 pandemic, the spike in cases of sexual violence against women deserves mutual attention, where during March to May 2020, Komnas Perempuan and Children found 1,299 cases of violence against women, including girls. The details are 784 cases of violence (66%) occurred in the private sphere, 243 cases (21%) in the public sphere, 24 (2%) cases in the state domain, and 129 cases (11%) classified as online-based violence.¹

The definition of sexual violence is described in Chapter I General Provisions Article 1 paragraph 1 of the PKS Bill is any act of humiliating, insulting, attacking, and/or other acts against a person's body, sexual desire, and/or reproductive function, by force, against someone's will, which causes a person to be unable to give consent in a free condition, due to inequality in power relations and/or gender relations, which results in or can result in physical, psychological, sexual suffering or misery, economic, social, cultural and/or political harm.

It should be known together, since the presence of this PKS Bill, until now it is still colored by various polemics. Where the community is divided into two groups, namely those who are pro against the bill and those who are against this bill. However, even for women's and children's activist groups, such as Komnas Perempuan and children, the ratification of the PKS Bill is a good hope for handling cases of sexual violence against women. The absence of a legal umbrella that protects women from sexual violence has resulted in a very high number of cases of violence against women and is increasing from year to year. On the other hand, the Government and the DPR in the process of ratifying the PKS Bill do not seem serious and seem to ignore the voices of the wider community who continue to speak out loud so that the PKS Bill is immediately ratified.

Seeing this, the political negotiation process between the government and the DPR shows that this country is a democratic country. However, all rejection of the PKS Bill based on certain interests is a form of neglect of human rights which means that you have denied your conscience. Victims of sexual violence continue to occur, and the physical impacts include injuries to certain organs, continuous pain, menstrual disturbances and excruciating pain, yet the psychological impact includes trauma to the perpetrator, depression, a shaken soul and feelings of pain when related to sexual violence. husband for life, trauma, and so on.

In the world of social media, those who reject the PKS Bill massively campaign and even spread hoaxes stating that the PKS Bill is a product of feminism and liberal western culture that is incompatible with Pancasila, eastern values and customs. In fact, the spirit of the PKS Bill is to humanize humans, which is the core of religious values and beliefs in Indonesia. There is no religion or belief that justifies violence against anyone.

From this background, several problems arise, namely what are the factors behind why the PKS Bill is not immediately ratified? Then what is the role of emancipatory fiqh in the PKS Bill? And how to

¹Kompasiana.com, "Jalan Panjang RUU PKS," KOMPASIANA, 8 Maret 2021, <https://www.kompasiana.com/bangfajar/6045cc69e32c477d62148de2/jalan-panjang-ruu-pks>.

harmonize the articles in the PKS Bill so that they are immediately ratified? The main purpose of this article is to be a recommendation for the government and the DPR so that the PKS Bill can be immediately passed to provide a legal umbrella for women from sexual violence. The methodology in this article uses a qualitative research type, namely normative and doctrinal research approaches, where the emphasis is on the substance of the PKS Bill which is reviewed from its harmonization, with an inductive analysis, in order to obtain a comprehensive and complete meaning and analysis.

The Concept of Emancipatory Jurisprudence

The Prophet Muhammad, saw., has built the humanism movement with a solid foundation to humanize humans, restore humans to their essence as rational beings, have the rule of law, so that they become universal humans. With the eschatological principle of the Prophet Muhammad, building a social formation based on the right and justice where all humans are equal regardless of gender, social, ethnic, national, or language status. What distinguishes it is the measure of glory in the sight of God Almighty, namely achievement and quality without distinguishing gender or ethnicity.² The foundations that have been built by the Prophet and are widely written in the hadiths that have been narrated today are interpreted as emancipatory Islam or emancipatory fiqh.

Emancipatory comes from the understanding of emancipation which according to Partanto and Al-Barry is defined as a self-liberation from slavery: namely the movement to obtain recognition of equality, degrees and rights and obligations in law; in the recognition of equal rights, degrees and positions.³ Emancipatory is a priority revolution that was breathed by the Prophet Muhammad, to liberate humans from the chain of exploitation due to the hegemony of power of a group, both gender and ethnic. Islam positions humans in the same formation having the same roles, rights and obligations, what distinguishes them is the quality and quantity of their role in forming social formations. The word emancipation comes from the Latin *emancipatio* which means "freedom from power", (popular dictionary). Thus, it can be described that emancipation is a liberation movement from a negated and marginalized person or group, from hegemony and domination of the ruling group. The emancipation movement arose because it wanted a revolution from an imperialist to a liberal condition, from a centralized to a decentralized one. The emancipation movement is rooted in a marginalized proletarian group who wants an acknowledgment of its existence.⁴ Emancipation can also be said to be liberation from slavery. Namely, the word emancipation has the meaning of equal rights in various aspects of community life (such as the equal rights of women and men).⁵

Islam and emancipation have a close relation, one being the identity of the other, and vice versa, emancipation is the movement of the Islamic revolution itself. "Islam is a religion that adheres to egalitarianism and human equality that human plurality is a blessing from God, not a differentiator in the degree of an ethnic or gender group, all are the same, what distinguishes it is the quality of its dedication to shaping individual and social piety." Muhammad's prophetic mission brought a big change in human civilization, a revolution occurred in the history of human civilization, when the orientation of human life changed drastically, the transition from the era of darkness (*dzulumat*) to the era of enlightenment (*Annur*).⁶

²Hmi, "Hijau Hitam Putih: ISLAM EMANSIPATORIS," *Hijau Hitam Putih* (blog), 10 November 2011, <https://hmi-hijauhitamputih.blogspot.com/2011/11/islam-emansipatoris.html>.

³Afifudin Afifudin, "Membangun Kerangka Keilmuan (Ekonomi-Akuntansi) sebuah Bingkai Nilai-nilai Emansipatoris," *Jihbiz : jurnal ekonomi, keuangan dan perbankan syariah* 2, no. 1 (20 Januari 2018): 19–30, <https://doi.org/10.33379/jihbiz.v2i1.764>.

⁴Hmi, "Hijau Hitam Putih: ISLAM EMANSIPATORIS," *Hijau Hitam Putih* (blog), 10 November 2011, <https://hmi-hijauhitamputih.blogspot.com/2011/11/islam-emansipatoris.html>.

⁵Muhammad Ulul Albab, "Konsep Emansipatoris dalam Kajian Gender (Analisis Teori Subyektivisme)," *Tadrisuna Jurnal Pendidikan Islam dan Kajian Keislaman* 3, no. 2 (2020). 147.

⁶Hmi, "Hijau Hitam Putih."

Thus, emancipatory Islam is a liberation and emancipation movement where humans cannot submit to other humans, apart from the truth of God and humans must reject various forms of injustice and only to accept and fight for truth and justice. Injustice, especially exploitation and human oppression has always occurred throughout human history, and even now, it cannot be separated from human nature which is prudent. Currently, the negation of a group against another group is still happening, even spreading to the various joints of human life, both in political, social, cultural and even religious life.⁷

Islam in the Qur'an and hadith teaches a social plurality that humans are created heterogeneously and it is not a differentiator of human dignity and status. But it is an advantage of each, although they have the freedom but not to discredit and negate each other but to share-take and give. Islam does not look at differences in ethnicity, nationality or certain social groups, so Islam really respects the existence of human rights (al'Haqq-al-Syakhsiyah) which is heralded by the west, but provided that it does not exceed the limits of transcendence rules..⁸

With the existence of emancipatory Islam in the economy and society, social and economic chaos will not occur. With social awareness and piety that is formed, a nation will progress and be dignified. Where Islamic emancipatorism is basically an acknowledgment of freedom (liberation) but cannot be separated from a social rule. Islamic emancipatorism is the recognition of equality (egalitarian), universal brotherhood (universal brotherhood), equality (equality), social justice (social justice) and economic justice (economical justice) all these concepts are to build a social formation with the concept of civil society. Emancipatory ethics demands an openness so that there is no domination of one moral belief of a certain environment over other moral beliefs.⁹

Social formations that adhere to civil society are those that are supported by Islamic emancipatoryism, which at the practical level requires a synergy of awareness and will between the government and the governed, the rulers and the people, civil and military, so that without universal awareness of course the concept of civil society is the Prophet's. will never materialize. Thus, emancipatory Islam must be fought for and always raised by every element who has an awareness of moral responsibility. The human task is to humanize; humanize humans, to become abid and caliph.

Harmonization of Laws

Harmonization comes from the word "harmony", which means harmony, compatibility, harmony.¹⁰ In the Big Indonesian Dictionary (2005) it is defined as an effort to find harmony. However, in the Collins Cobuild Dictionary, the words harmonious and harmonize are found with the following explanation:¹¹

- (a) *A relationship, agreement etc. that is harmonious is friendly and peaceful.*
- (b) *Things which are harmonious have parts which make up an attractive whole and which are in proper proportion to each other.*
- (c) *When people harmonize, they agree about issues or subjects in a friendly, peaceful ways; suitable, reconcile.*
- (d) *If you harmonize two or more things, they fit in with each other is part of a system, society, etc.*

⁷Hmi.

⁸Hmi.

⁹Manggara Bagus Satriya Wijaya, Hermanu Joebagio, dan Sariyatun, "Konstruksi Pembelajaran Sejarah Islam Berbasis Teks Kajian Dan Serat Cebolek Dengan Pendekatan Ways Of Knowing." *Jurnal Tarbawi* 15, no. 2 (2018). 77.

¹⁰M. Dahlan al Barry, *Kamus Modern Bahasa Indonesia* (Yogyakarta: Arkola, 1995), 185.

¹¹M. Ramli Ahmad, *Majalah Hukum Nasional; Koordinasi dan Harmonisasi Peraturan Perundang-undangan* (Jakarta: BPHN, 2008), 4.

The elements that can be drawn from the formulation of the definition of harmonization are, among others: (a) the existence of contradictory matters, irregularities; (b) harmonize the contradictory things proportionally in order to form a system; (c) a process or an effort to achieve harmony, conformity, harmony, compatibility, and balance; (d) cooperation between various factors in such a way, so that these factors produce a unified whole.

The development of legal substances (legal substances) or statutory regulations in Indonesia continues to this day, because laws and regulations are one of the main joints of the national legal system. However, there are still "problematic" laws and regulations, both because of their substance, processes and procedures, as well as aspects of legal drafting. According to Ahmad M. Ramli, there are at least 3 (three) main problems in this field, namely: (a) overlapping and inconsistent laws and regulations; (b) the formulation of laws and regulations that are not clear; and (c) the implementation of the law is hampered by its implementing regulations.¹²

The problems mentioned above, among others, are caused by the process of forming laws and regulations that ignore the importance of material deepening, coordination, synchronization and harmonization with other laws and regulations. Therefore, one of the priorities that must be carried out in the context of developing national law is to harmonize laws and regulations. Harmonization is carried out systemically from an early age, namely since the preparation of the academic text (NA), the preparation of the National Legislation Program (Prolegnas) to the preparation of the Bill.

What is meant by harmonization of laws and regulations according to Ahmad M. Ramli are:¹³ "Efforts or processes to realize harmony and harmony of legal principles and systems so as to produce harmonious regulations (legal systems)." The National Legal Development Agency provides an understanding of legal harmonization according to Moh. Hasan Wargakusuma, as follows:¹⁴ "Harmonization of law is a scientific activity towards a process of harmonizing written law that refers to both philosophical, sociological, economic and juridical values. In its implementation, harmonization activities are comprehensive studies of a draft legislation, with the aim of finding out whether the draft regulation, in various aspects, has reflected harmony or conformity with other national laws and regulations, with unwritten laws that live in society, or with international conventions and agreements, both bilateral and multilateral, which have been ratified by the Government of the Republic of Indonesia." Thus harmonization of laws and regulations can be formulated as an effort to harmonize laws and regulations so that they are proportional and beneficial to the common interest or society.¹⁵ It is also reinforced that one of the procedures for drafting laws and regulations is the process of harmonization. As stated in Article 47 Paragraph (3) of Law Number 12 of 2011 concerning the Establishment of Legislation, it stipulates that "Harmonization, unanimity, and consolidation of the conception of the Draft Law originating from the President shall be coordinated by the minister who carries out government affairs in the field of law."¹⁶

¹²Syahlan Syahlan, "Rekonstruksi Penataan Peraturan Perundang-Undangan Pasca Berlakunya Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan," *Jurnal Wacana Hukum* 25, no. 2 (12 Juli 2019): 94, <https://doi.org/10.33061/1.jwh.2019.25.2.3045>.

¹³Ahmad, *Majalah Hukum Nasional; Koordinasi dan Harmonisasi Peraturan Perundang-undangan*, 4.

¹⁴Ahmad, 5.

¹⁵Taufik H. Simatupang, "Disharmoni Peraturan Perundang-Undangan di Bidang Pengawasan Perwalian di Indonesia (Lintas Sejarah dari Hukum Kolonial ke Hukum Nasional)," *Jurnal Penelitian Hukum De Jure* 20, no. 2 (12 Juni 2020): 221, <https://doi.org/10.30641/dejure.2020.V20.221-232>.

¹⁶Padma Widyantari dan Adi Sulistiyono, "Pelaksanaan Harmoni Rancangan Undang-Undang Perlindungan Data Pribadi (RUU PDP)," *Jurnal Privat Law* VIII, no. 1 (2020). 118.

Factors Behind the Length of Time the PKS Bill was Ratified

The Draft Law on the Elimination of Sexual Violence (RUU PKS), at the beginning of this year seemed to have lost its echo. In 2021, where the PKS Bill becomes a priority bill, it is in the DPR Baleg, in the Baleg this Bill has been changed to the name of the Sexual Violence Bill (RUU TPKS). This bill will later become the legal umbrella for sexual violence cases in general. In addition to this, another factor that has hindered the ratification of the PKS Bill, according to the opinion of one member of the DPR, is waiting for the ratification of the Criminal Code Bill, where the aim is that the preamble or juridical basis exists and the substance does not overlap with the Criminal Code Bill.

The change in the naming of the PKS Bill also affects the substance or body of the PKS Bill, where there are several articles that were omitted following input from the expert team and public opinion. In addition, because it has not yet been ratified, according to Dian Novita from LBH Apik Jakarta at a workshop organized by the El-Bukhari Institute which invited several mainstream media to discuss the PKS Bill, Wednesday, November 18 2021, delaying the ratification also provides an opportunity for This bill can be improved.¹⁷

The meeting point between the pros and cons actually has the same goal, which is to agree to fight sexual violence in any form and form, especially against women. So the input from the counter parties who wanted to add some content, such as gathering together, expanding the meaning of adultery, and the prohibition of LGBT, by the DPR baleg influenced the naming of the PKS Bill into the TPKS Bill. The input from the counter parties is also based on the 'ijma ulama MUI' and the fatwas of the MUI. Because the PKS Bill is accused of legalizing adultery or free sex, abortion, pro-LGBT, then non-physical acts such as whistling, blinking of the eye can also be punished, and religious figures who commit harassment will receive additional penalties.¹⁸

They think why make rules on sexual violence, without including these additional prohibitions. In fact, the charge already exists in several previous regulations. The PKS Bill should indeed be present to answer the question of sexual violence that has not been answered by the Criminal Code. In the Criminal Code, which only regulates the crime of rape, the scope is narrow. Which has many weaknesses such as not reaching marriage rape, rape without penetration, and forgetting that there is a power relation. The point is that the Criminal Code does not recognize physical or verbal sexual harassment, which makes it difficult for victims to report their cases, and are very vulnerable to criminalization. Yes, like the case of Mrs. Baiq Nuril.¹⁹

The PKS Bill is very much needed, especially in the Covid-19 pandemic situation, LBH Apik experienced an increase in the number of complaints during 2020, reaching 1178 cases. Of this number, domestic violence occupies the first position, then online-based gender violence (KGBO), sexual violence against children, violence in dating, and others.²⁰ In addition to the increasing number of case complaints, the PKS Bill is very much needed because of the factor of law enforcement officers in Indonesia who still do not have a perspective on victims. The victim is still to blame for her clothes, why a night out. Even the police suggested that the victim withdraw the report and make peace with the perpetrator, and consider the sexual violence to be a consensual relationship. Even when the victim's report is received, the victim still has to be charged a visa fee, which is not covered by social security. The legal process is long and tiring, so it can't work. There is still a lack of protection for victims and witnesses from various

¹⁷Ayu Fatma, "Sulitnya Pengesahan RUU PKS, Payung Hukum Kasus Kekerasan Seksual," *Bincang Muslimah* (blog), 22 November 2021, <https://bincangmuslimah.com/muslimah-talk/sulitnya-pengesahan-ruu-pks-payung-hukum-kasus-kekerasan-seksual-36503/>.

¹⁸Nikodemus Niko dkk., "Perjuangan Kelas Pengesahan RUU Penghapusan Kekerasan Seksual," *Jurnal Ilmiah Dinamika Sosial* 4, no. 2 (2020). 234.

¹⁹Fatma, "Sulitnya Pengesahan RUU PKS, Payung Hukum Kasus Kekerasan Seksual."

²⁰Fatma.

pressures. And victims also get stigma from society. This also needs to be questioned regarding the readiness of the community to participate in preventing sexual violence as regulated in the PKS Bill based on article 79.²¹

The amendment to the TPKS Bill contains 6 key elements, namely prevention, expansion of the definition and types of crime, criminal provisions, criminal procedural law, monitoring, and recovery. The six important points above will answer the obstacles currently faced in cases of sexual violence, which of course have a perspective on the recovery of victims and the rehabilitation of perpetrators. There are 9 forms of sexual violence (sexual harassment, sexual exploitation, forced abortion, forced contraceptives, rape, forced marriage, forced prostitution, sexual slavery, sexual torture). Improve the terms of evidence. Integrating the criminal process with the recovery process. Collaborating on 2 types of punishment, namely imprisonment and actions in the form of rehabilitation of perpetrators, social work and others. On the other hand, the issue of sexual violence is not only about women, but in practice religious organizations do not think that way. Several times LBH Apik held hearings with mass organizations, but they were only met with the women's division. It's not impossible if the conversation is not conveyed to the top officials of the mass organization, and it will be discussed seriously.²²

It is hoped that changes and improvements in the substance of the PKS Bill can stop the pro and contra battle against this bill, so it is hoped that after being tested by the public, this bill can be ratified soon. However, if there is still a battle of pros and cons during the public examination, the legislative process to accelerate this bill into law will be hampered and the road to ratification will be longer. Even though the existence of this regulation can provide a strong legal umbrella for law enforcement of criminal acts of sexual violence in Indonesia. The long road of 6 years must end immediately, it is time for the PKS Bill or TPKS Bill to be ratified, it is very unfortunate that there is a change in the name of this rule and some changes in its substance which are based on the aspirations of the whole community are not immediately ratified. This will add a long way for victims to get justice and defense of their most basic rights. Let's guard together the PKS Bill, the legal umbrella for sexual violence cases. Because the implementation of the PKS Bill can guarantee the rights of victims of sexual violence, regulate procedural law in handling cases of sexual violence, and protect witnesses and victims.²³ In the general provisions of the PKS Bill, it has specifically and specifically stated provisions regarding the right to treatment, the right to protection and to recovery as the rights of victims, and contains the rights of victims and their families to receive health insurance and social security to continue their lives.²⁴

The Role of Emancipatory Jurisprudence in the PKS Bill

Emancipatory is synonymous with gender equality that puts forward the role of women or women. Women in contemporary political issues are often overlooked by their abilities, including religious circles. The Qur'an tells many stories about the abilities of women such as Bilqis and Maryam, Aisyah bint abu-Bakr and Fatimah bint Muhammad were political figures who were very influential and their role greatly influenced human civilization and culture at that time. So that an Imam al'Arabi positioned women as very special people with abilities that were not possessed by men so that he made three women as spiritual teachers..²⁵ Thus Islam as embodied in the verses of the Qur'an and the Hadiths of the Prophet position women in the same role. Where in emancipation fiqh, women have the same

²¹Angkasa Angkasa, Rili Windiasih, dan Ogiandhafiz Juanda, "Efektivitas Rancangan Undang-Undang Penghapusan Kekerasan Seksual Sebagai Hukum Positif Dalam Perspektif Viktimologi," *Jurnal USM Law Review* 4, no. 1 (2021). 142.

²²mediaindonesia.com developer, "RUU TPKS Perang Melawan Ancaman Kekerasan Seksual," 9 Desember 2021, <https://mediaindonesia.com/opini/452450/ruu-tpks-perang-melawan-ancaman-kekerasan-seksual>.

²³Agnes Kusuma Wardadi, Gracia Putri Manurung, dan Natasya Fila Rais, "Analisis Keberlakuan RKUHP dan RUU-PKS dalam Mengatur Tindak Kekerasan Seksual," *Lex Scientia Law Review* 2, no. 2 (2019). 65.

²⁴Reno Efendi dkk., "Urgensi Percepatan Pengesahan Rancangan Undang-Undang Penghapusan Kekerasan Seksual," *Jurnal Suara Hukum* 3, no. 1 (2021). 41.

²⁵Hmi, "Hijau Hitam Putih."

freedom of roles as men, but still do not lose their main nature and their feminine main role as an identity awareness.

When reviewing the contents of the PKS Bill which turned into the TPKS Bill in September 2021, which was approved by the Baleg and the government, it is a form of the government and DPR upholding women's rights and protecting them by providing a legal umbrella in the form of a Law even though it has not been ratified. The existence of this bill is also a long struggle of gender activist groups who are members of the APIK LKBH and the National Commission for Women and Children who are not tired of fighting for, guarding the ratification of this bill and participating in drafting the substance of this bill since 2015 and became the PKS Bill in 2016, even still loyal until early 2022.

When examined from the contents of the articles of the PKS Bill, it is also inseparable from Islamic law, where there is public awareness, the government and the DPR continue to use Islamic law as a source of law in drafting the contents of this bill, which has changed its name or there have been changes to several articles so that nor does it conflict with Islamic law which has been enshrined in the ijma' ulama and several MUI fatwas. From this, the role of emancipatory fiqh dominates the contents of the initial changes to the articles of the PKS Bill, namely the first from the naming of the TPKS Bill, namely by adding several contents, such as gathering together, expanding the meaning of adultery, and the prohibition of LGBT, all of which are prohibited and condemned in religion. Islam.

In addition, the revision of the PKS Bill to the TPKS Bill is very in line with the content of the Qur'an and hadith where the formulation of sexual violence is reformed so that it is in accordance with Islam and the customs of the Indonesian people. Then the addition of 9 forms of sexual violence which may be the development of today's era is not only suffered by women but also men, which include sexual harassment, sexual exploitation, forced abortion, forced contraceptives, rape, forced marriage, forced prostitution, sexual slavery, and sexual torture. The expansion of the definition of sexual violence and the subject of sexual violence victims has changed the perspective that sexual violence is not only for women but can also be experienced by men, girls and even boys.

In addition to expanding the types of sexual violence crimes, it also improves the provisions of evidence which make it easier to ensnare perpetrators of sexual violence to be snared and prosecuted. Then integrate the criminal process with the recovery process and collaborate with 2 types of punishment, namely imprisonment and actions in the form of rehabilitation not only from the perspective of the victim but also the perpetrator so that they do not repeat their actions such as education in Islamic boarding schools or adapted to the religion adopted, the imposition of customary and religious sanctions, work social and more.

Harmonization of the PKS Bill Towards Ratification into Law

The elements of the notion of harmonization of legislation include: (a) the existence of contradictory matters, irregularities; (b) harmonize the contradictory things proportionally in order to form a system; (c) a process or an effort to achieve harmony, conformity, harmony, compatibility, and balance; (d) cooperation between various factors in such a way, so that these factors produce a unified whole. The change of name and substance from the PKS Bill to the TPKS Bill is a form of harmonization of legislation. Harmonization is very important in the process of forming and reviewing the substance of the bill, even from its preamble to its articles, with the aim that once it is ratified it will not cause an uproar in the community.

Some things that are contradictory and odd in the RUU PKS, for example, are the most crucial regarding the definition and meaning of sexual violence in Article 1 Paragraph 1 CHAPTER General Provisions, which in this sense has given rise to pros and cons in society, where from groups who are against the notion of violence. Sexual relations in the PKS Bill will open up opportunities to legalize

adultery, cohabitation and LGBT in Indonesia. So after becoming a priority bill in 2021, by the legislative body the substance of the definition of sexual violence was changed. However, it is unfortunate that the draft of the PKS Bill which changed its name to the TPKS Bill has not been shared with the public.

Then from the Article concerning the types of criminal acts of sexual violence still in Article 1 which is described in general provisions there are only 6 forms of sexual violence, but in this TPKS Bill there are 9 descriptions of the forms of sexual violence whose meaning is described in the TPKS Bill and in subsequent Articles. This is a form of proportionally aligning contradictory matters in order to form a system, in which the development of offenses or criminal acts of sexual violence includes not only 6 forms but 9 forms. Therefore, the aim of establishing a fully and comprehensively integrated system for the crime of sexual violence can be fully accommodated and efforts to protect and enforce the law against crimes of sexual violence can be realized to the fullest. This is a form of realizing harmony, compatibility, compatibility, compatibility, and balance between the articles of the substance of the amendments to this Bill.

The existence of pro and contra groups against this bill has demonstrated the cooperation between various factors in such a way that these factors produce a unified whole. On the one hand, the long road to realizing this bill also provides ample time for the government and the DPR to improve the substance of the PKS Bill which has changed its name to the TPKS Bill so as to produce a unified whole in which a common understanding is reached from pro and contra groups in society to realize common goals that are aspired to with the realization of this bill and until it is later ratified. Hopefully, the results of the harmonization of this bill can soon be realized into a law that becomes the main legal umbrella for the eradication of criminal acts of sexual violence in Indonesia.

Closing

There are many factors behind the lengthy ratification of the PKS Bill, because it also considers groups in society both in terms of religious views, customs and meanings, expansion of forms, handling and protection in accordance with legal language. So that the purpose of the establishment of this bill is to provide a legal umbrella for victims of sexual violence and restorative justice for perpetrators until it is ratified without causing pros and cons in society. When viewed from emancipatory fiqh, the content of the PKS Bill and its amendment to the TPKS Bill has adopted Islamic law and is in favor of Muslims, such as the expansion and addition of forms of sexual violence, expansion of the meaning of sexual violence which includes the crime of adultery, cohabitation and LGBT which is also a crime. part of the form of sexual violence which in Islam is prohibited and forbidden, which is in accordance with the consensus of the ulama and the fatwa of the MUI. In addition, from harmonization of legislation, name changes and additions or deletions of articles from the PKS Bill to the TPKS Bill as a form of harmonization of this bill so that it becomes more perfect and complete and has accommodated all the aspirations of the community, so it is hoped that after it is ratified it will not cause pros and cons in the community.

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