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Juridical Analysis of the Criminal Act of Sexual Harassment by Medical Personnel in the Perspective of Progressive Law and the New Criminal Code

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Abstract

This study discusses the juridical analysis of the criminal act of sexual harassment by medical personnel from the perspective of progressive law and the New Criminal Code (KUHP). The case of sexual harassment by medical personnel in Garut in 2025 is the background for this study, which shows the abuse of power relations between medical personnel as the dominant party and the patient as the vulnerable party. This study aims to analyze how law enforcement of the case is reviewed from progressive legal theory and its conformity with the provisions of the New Criminal Code and the Sexual Violence Crime Law. The research method used is normative legal research with a statutory approach, a conceptual approach, and a case approach, and is analyzed qualitatively. The results of the study show that although law enforcement has resulted in criminal verdicts and restitution for victims, the process is still influenced by the phenomenon of *no viral, no justice*, so it does not fully reflect substantive justice. Based on the progressive legal theory put forward by Satjipto Rahardjo, the law should not only be oriented to legal certainty, but also to the protection and recovery of victims as a whole. Therefore, it is necessary to strengthen the progressive legal paradigm in law enforcement in order to create a more responsive, humane, and just legal system for victims.

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1. INTRODUCTION

Sexual violence is a form of human rights violation which is still a serious problem in various sectors of life, including health services. In the relationship between medical personnel and patients, there is a structurally unbalanced relationship. Medical personnel have scientific authority, professional legitimacy, and control over medical actions, while patients are in a vulnerable position both physically and psychologically. This inequality in relationships has the potential to cause abuse of authority, including in the form of sexual harassment under the guise of medical measures. Recent research shows that power relations in medical practice still tend to place patients as subordinate parties, thereby increasing the risk of violations of the patient's body integrity and dignity (Herlambang, 2016; Siregar, 2023).

This phenomenon is reflected in the case of sexual harassment by medical personnel in Garut Regency in 2025 which is of wide public concern. This case emerged after a viral video recording circulated on social media, which showed alleged indecent acts

against pregnant women patients in the process of medical examination. The virality triggered a quick reaction from the public as well as encouraging law enforcement officials to immediately investigate and take action against the perpetrators. In the next development, the perpetrator was designated as a suspect and legally processed until the trial stage (Detik, 2025; Kompas, 2025).

In the judicial process, the court sentenced the perpetrator to five years in prison, accompanied by the obligation to pay restitution to the victim. The verdict is based on the provisions in the Sexual Violence Crime Law that prioritizes the protection of victims and recognition of the psychological impact experienced (CNA, 2025). In addition, it was revealed that the victim in this case was not only one person, but several patients who experienced similar actions in vulnerable conditions, thus indicating a pattern of repeated actions (People's Mind, 2025).

The provision of restitution to the victim in this case reflects a paradigm shift in the Indonesian criminal justice system, from a *retributive justice* approach to a more *restorative justice* approach. This is in line with the development of national regulations, including Law Number 12 of 2022 concerning the Crime of Sexual Violence and Law Number 1 of 2023 concerning the Criminal Code which strengthens regulations regarding moral crimes and victim protection (Siregar, 2023).

However, the revelation of this case cannot be separated from the very significant role of social media. This case only received serious attention after the video that circulated went viral. This phenomenon reflects a tendency in law enforcement to be influenced by public pressure, known as *"no viral, no justice"*. From a socio-legal perspective, this condition shows that the legal system is not fully capable of working proactively and independently in handling cases of sexual violence (Nonet & Selznick, 1978).

Legal approaches that are formalistic and oriented towards legal certainty alone are often not able to provide complete justice for victims. Therefore, a more humane and responsive legal approach is needed, one of which is through progressive legal theory developed by Satjipto Rahardjo. Progressive law emphasizes that law must be on the side of people and substantive justice, and not trapped in mere formalities (Rahardjo, 2009).

In the context of cases of sexual harassment by medical personnel, the progressive legal approach becomes very relevant because it places the victim as the main subject that must be protected. The law not only serves as a tool of punishment for the perpetrator, but must also be able to provide protection and recovery for the victim. This is in line with the theory of victimology which emphasizes the importance of the position of the victim in the criminal justice system as well as the need for an approach oriented towards the interests of the victim (Mendelsohn, 1956; Walby, 2011).

In addition, various studies show that victims of sexual violence often face barriers in accessing justice, such as social stigma, fear of reporting, and lack of support from the surrounding environment (Walby, 2011). This condition strengthens the urgency to present a legal system that is not only repressive, but also preventive and responsive to the needs of victims.

Based on this description, this study is important to examine how law enforcement against the crime of sexual harassment by medical personnel is carried out in the perspective of progressive law and its conformity with the provisions of the New Criminal Code. This analysis is expected to provide an overview of the extent to which the law is able to provide substantive justice for victims, as well as identify various challenges in the law enforcement system in Indonesia.

Thus, this research not only focuses on the normative aspects of the law, but also considers the social and humanitarian aspects as an integral part of law enforcement. This

approach is expected to contribute to the development of legal science, especially in realizing a more fair, responsive, and victim-protection-oriented legal system.

2. METHOD

This research is a normative legal research (doctrinal research) that focuses on the study of legal norms, principles, and doctrines related to the crime of sexual harassment by medical personnel in the perspective of progressive law and the provisions of the New Criminal Code. The approaches used include a statute *approach*, a *conceptual approach* that examines progressive legal theory developed by Satjipto Rahardjo, and a *case approach* to sexual harassment by medical personnel in Garut. The source of legal material consists of primary legal materials in the form of laws and regulations such as the Law on the Crime of Sexual Violence and Law Number 1 of 2023 concerning the Criminal Code, secondary legal materials in the form of scientific literature, journals, and legal expert opinions, as well as tertiary legal materials in the form of legal dictionaries and credible media reports. The collection of legal materials is carried out through library *research*, while data analysis uses normative qualitative methods by interpreting and connecting legal norms with case facts to assess the appropriateness of the application of the law in realizing substantive justice for victims.

3. RESULTS AND DISCUSSION

In the perspective of progressive law put forward by Satjipto Rahardjo, law is understood as an instrument that must work for humans and humanity, not just a rigid normative device. Therefore, in every legal event, including the crime of sexual harassment by medical personnel, the main focus lies not only on the fulfillment of the elements of the crime formally, but also on the extent to which the law is able to provide substantive justice for the victim. This approach is very relevant in analyzing cases of sexual harassment by medical personnel in Garut in 2025, which shows that there is an unequal power relationship between doctors and patients.

In these cases, medical personnel as perpetrators have a dominant position because of scientific authority, professional legitimacy, and institutional trust given by the health system. Meanwhile, the victim as a pregnant woman patient is in a very vulnerable position, both physically, emotionally, and medically. The patient's dependence on medical personnel creates an asymmetrical situation that in the perspective of progressive law must be understood as a structural factor that allows abuse of authority to occur. Thus, the actions of the perpetrators cannot be seen only as individual actions, but also as a form of system failure in protecting vulnerable groups.

From the point of view of law enforcement, this case shows that the legal process is only running intensively after the virality on social media. This phenomenon is known as *"no viral, no justice"*, which is a condition when a new case receives serious attention after gaining widespread public attention. From a progressive legal perspective, this condition is an indicator that the legal system has not fully worked in a responsive and independent manner. Ideally, law enforcement officials should be able to respond to any alleged criminal act from the beginning of receiving the report without having to wait for social pressure. The reliance on virality shows weaknesses in the early detection system, victim protection mechanisms, and the sensitivity of the authorities to crimes based on power relations.

In the development of the case, the perpetrator was finally legally processed, designated as a defendant, and sentenced to prison and the obligation to pay restitution to the victim. Normatively, this shows that the legal system has worked in accordance with the provisions of the Sexual Violence Crime Law and Law Number 1 of 2023 concerning the

Criminal Code. However, from a progressive legal perspective, the settlement should not only be assessed from the formal aspect of criminalization, but must be tested from the aspect of substantive justice, namely whether the victim really obtained a proper remedy.

Progressive law emphasizes that justice is not synonymous with the severity of punishment, but rather with the extent to which the law is able to restore the suffering of the victim in its entirety. In this case, restitution is indeed given as a form of compensation for the losses experienced by the victim. Nevertheless, victim recovery in a progressive legal perspective is not only material, but also includes psychological, social, and dignity restoration aspects. Victims of sexual violence, especially in the context of medical personnel, not only suffer physical harm, but also deep psychological trauma and the potential for prolonged social stigma.

In addition, progressive law also emphasizes the importance of partiality towards weak groups. In the relationship between doctor and patient, the patient is a party who is structurally in a subordinate position. Therefore, the state through law enforcement officials should not only play the role of a punitive after a crime occurs, but also as an active protector who ensures that the health service system does not become a vulnerable space to abuse of power. In this context, case resolution should also be followed by a thorough evaluation of the medical personnel supervision system and patient protection mechanisms.

Furthermore, progressive law also criticizes legal approaches that are too formalistic and procedural. In many cases of sexual violence, victims often face various obstacles in the legal process, such as a lack of evidence, social pressure, and fear to report. Therefore, if the law only adheres to the procedural aspect without considering the social context, then substantive justice is difficult to achieve. In this case, the fact that victims only gained attention after a viral case shows that the legal system is still not fully capable of providing quick and effective access to justice for victims without public intervention.

In the context of positive legal implementation, the existence of regulations such as the TPKS Law and the New Criminal Code has actually provided a more progressive legal basis in protecting victims of sexual violence. However, progressive law asserts that the success of regulation is determined not only by the substance of the rule, but also by the way law enforcement officials implement it. Law enforcement officials, including judges, prosecutors, and investigators, must be able to act as active interpreters who are not only fixated on the legal text, but also explore the value of justice that lives in society.

In this case, the ideal legal settlement according to the progressive legal perspective should include several important aspects. First, the aspect of punishment is not only repressive, but also reflects substantive justice for the victim. Second, the aspect of comprehensive victim recovery (*restorative justice*), which not only includes financial restitution, but also long-term psychological assistance and social recovery. Third, the prevention aspect, namely strengthening the supervision system of medical personnel and improving professional ethical standards so that similar incidents do not recur.

In addition, this case also shows the importance of integration between law, professional ethics, and the social protection system. From a progressive legal perspective, violations committed by medical personnel are not only criminal offenses, but also violations of fundamental human values. Therefore, the handling of cases like this should not stop at criminalization alone, but must include systemic reforms in the health and legal sectors to prevent the recurrence of abuse of power relations.

Thus, it can be concluded that progressive legal theory provides a comprehensive analytical framework in understanding cases of sexual harassment by medical personnel in Garut. Law is not only seen as a set of normative rules, but as a social instrument that must be able to answer the needs of justice in a real way. In this case, progressive law requires a clear partiality towards the victim, responsive law enforcement without relying on virality,

and a paradigm transformation of law enforcement officials from just law enforcement to justice enforcers.

Finally, the application of progressive law in this case shows that the primary goal of the law is to bring humane and sustainable justice. Therefore, legal reform is not only needed at the regulatory level, but also at the level of the way law enforcement officials think and act. Without this paradigm shift, it will be difficult for the law to achieve its goals as a means of protection and justice, especially for vulnerable groups such as victims of sexual violence.

4. CONCLUSION

Based on the discussions that have been carried out, it can be concluded that the criminal act of sexual harassment by medical personnel in the case in Garut in 2025 is a form of abuse of the unequal power relationship between medical personnel and patients, where the dominant position of medical personnel is faced with the patient's vulnerability, thus opening up space for sexual violence to occur disguised as medical acts. In the perspective of progressive law put forward by Satjipto Rahardjo, the handling of this case is not enough only from the criminal aspect of the perpetrator, but must also be measured from the extent to which the law is able to provide substantive justice and comprehensive protection for victims. Although provisions have been implemented in the Law on Sexual Violence and Law Number 1 of 2023 concerning the Criminal Code that result in criminal verdicts and restitution, the law enforcement process still shows a reactive tendency due to the *phenomenon of "no viral, no justice"*, so it does not fully reflect a law that is responsive and victim-oriented; therefore, it is necessary to strengthen the progressive legal paradigm in law enforcement to not only focus on legal certainty, but also ensure protection, restoration, and substantive justice for victims as a whole.

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