

LEGAL PROTECTION OF FEMALE WORKERS SUBJECT TO HARRASSMENT IN WORK RELATIONS

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Abstract

This study aims to describe the legal protection in the field of labor in Indonesia for female workers who had experienced harassment in work relationships. The research uses the normative juridical method through statute approach, conceptual approach, and case approach. A particular case of Baiq Nuril is analyzed as a case study. The results showed that Indonesian law has not protected female workers in protecting human rights to morals and morals, the right to treatment following human dignity, and values of social justice in work relations. Indonesian labor law differentiates worker status. Workers in government agencies apply State Civil Apparatus Law and workers in the private sector apply Manpower Law. The status of non-permanent workers working for government agencies became unclear after the enactment of the ASN Law. These two laws do not protect women who experience harassment in a working relationship. Manpower Law only guarantees economic rights for workers detained by the authorities for allegedly committing a criminal act, in the form of assistance to their families as a form of the principle of presumption of innocence. In cases of non-physical sexual harassment experienced by BN in a working relationship, BN was detained for 5 (five) months based on charges of violating the Electronic Information and Transaction Law. BN cannot prosecute economic rights in the Manpower, because the legal subject of the employer is a state civil servant superior. In practice, the Criminal Code does not recognize non-physical sexual harassment, so that female workers who experience it cannot defend their human rights before a criminal court.

ILO Convention No. 190 of 2019 and the Sexual Violence Bill have included a complete list of non-physical sexual harassment. Still, the Convention has not been ratified by the Indonesian government and the Sexual Violence Bill has not been legalized by the House of Representatives (DPR).

Kajian ini bertujuan untuk menggambarkan perlindungan hukum di bidang ketenagakerjaan di Indonesia terhadap pekerja perempuan yang mengalami pelecehan dalam hubungan kerja. Metode penelitian yang digunakan adalah yuridis normatif melalui pendekatan undang-undang (statute approach), pendekatan konseptual (conceptual approach) dan pendekatan kasus (case approach) Baiq Nuril. Sumber data berupa bahan hukum primer yakni peraturan perundang-undangan, putusan Mahkamah Agung, putusan Pengadilan Negeri, dan sumber sekunder lain. Hasil penelitian menunjukkan hukum Indonesia belum memberi perlindungan kepada pekerja perempuan berupa perlindungan hak asasi atas moral dan kesusilaan, hak atas perlakuan yang sesuai harkat dan martabat manusia serta nilai-nilai keadilan sosial dalam hubungan kerja. Hukum bidang Ketenagakerjaan Indonesia membedakan status pekerja. Pekerja di instansi pemerintah berlaku UU ASN dan pekerja di swasta berlaku UU Ketenagakerjaan. Status pekerja honorer di instansi pemerintah menjadi tidak jelas setelah berlakunya UU ASN. Kedua UU ini tidak memberikan perlindungan terhadap perempuan yang mengalami pelecehan dalam hubungan kerja. UU Ketenagakerjaan hanya menjamin hak-hak ekonomi bagi pekerja yang ditahan pihak berwajib karena diduga melakukan tindak pidana, berupa bantuan kepada keluarganya sebagai wujud asas presumption of innocence. Dalam kasus pelecehan seksual non fisik yang dialami BN dalam hubungan kerja, BN ditahan selama 5 (lima) bulan didasarkan tuntutan pelanggaran UU ITE. Hak-hak ekonomi dalam UU Ketenagakerjaan tersebut tidak dapat dituntut oleh BN, karena subjek hukum pemberi kerja adalah atasannya seorang aparatur sipil negara. Dalam praktik, KUHP tidak mengenal pelecehan seksual non fisik, sehingga pekerja perempuan yang mengalaminya tidak dapat mempertahankan hak-hak asasinya di depan pengadilan pidana. Konvensi ILO No. 190 Tahun 2019 serta RUU PKS telah mencantumkan secara lengkap tentang pelecehan seksual non fisik, tetapi Konvensi tersebut belum diratifikasi oleh pemerintah Indonesia dan RUU PKS belum disahkan oleh DPR.

Keywords: Women Worker, Harassment, Working Relationships, Law Protection.

Introduction

The National Commission on Violence Against Women observation in its 2019 annual record shows that violence against women in a period of 12 years, violence against women has increased by 792% (nearly 800%), meaning that violence against women in Indonesia for 12 years has increased almost 8 times.¹ Issues of sexual violence in public transportation, apartments, educational institutions, and other public spaces show leave vulnerabilities for women, including in the world of work, migration, and disaster contexts. Issues that were highlighted were also issues of femicide that were not recognized by the state, cyber violence, the criminalization of women through the ITE Law, Domestic Violence Protection Law, Criminal Code, which show that sexual harassments still occur in schools, workplaces, and office², show that sexual harassments still occur in schools, workplaces and offices. Komnas Perempuan's record in 2018, out of 2,521 cases of sexual violence in the community realm, there were 73 cases of which were committed by work superiors. The Baiq Nuril (BN) case is an example. Criminalization at BN sets a bad precedent for the loss of security for women, injures the sense of justice in society, and fails to fulfill women's rights. However, these cases were not handled adequately.³

¹Number of violence against women, in 2018=54.425 cases, in 2009=143.586 cases, in 2010=105.103 cases, in 2011=119.107 cases, in 2012=216.156 cases, in 2013=279.688 cases, in 2014=293.220 cases, in 2015=321.752 cases, in 2016=259.150 cases, in 2017=348.446 cases, in 2018=406.178 cases. The Indonesian National Commission for Women, "*Increasing Violence: Policy on the Elimination of Sexual Violence to Build Safe Spaces for Women and Girls*," Annual Records of Sexual Violence Against Women, 2019, Jakarta, 6 March 2020, p.7, <https://www.komnasperempuan.go.id/file/pdf/2020/Catatan-Tahunan-Kekerasan-Terhadap-Perempuan-2020.pdf>, accessed 17 November 2020.

² Indonesia National Commission for Women, "*Victims Voiced, Talking Data Ratifies the Bill on the Elimination of Sexual Violence as a Form of State Commitment*," Annual Records of Sexual Violence Against Women, 2019, Jakarta, 6 March 2019, p.2, <https://www.coursehero.com/file/43846562/Catatan-Tahunan-Kekerasan-Terhadap-Perempuan-2019pdf/>, accessed 13 November 2020.

³ Indonesian National Commission for Women, "Indonesian National Commission for Women's Recommendation Letter for Amnesty for the Baiq Nuril Case," 16 July, 2019, <https://www.komnasperempuan.go.id/read-news-surat>

Concerning that, Usman Hamid⁴, director of Amnesty International Indonesia argues, “this condition occurs due to the unequal political structure between men and women. In the employment field, women who work as non-permanent workers are often discriminated. One recent example is the case of Baiq Nuril (BN), who worked as a non-permanent employee at a senior high school’s administration in the State Senior High School 7 Mataram. She was reported by her superior, HM, the school principal where she works, for criminally”.

In this case, BN, a female non-permanent administrative worker of the State Senior High School 7 (SMAN 7), Mataram, received unethical treatment from her superior, who is the principal of the school. BN was reported for violating Law No. 11 of 2008 concerning Electronic Information and Transaction Law (UU ITE). She was reported for spreading a telephone conversation. This telephone conversation was considered to demean a woman's dignity and went viral on social media.

BN's was detained in the State Detention Center from 27 March 2017 to 30 May 2017. Afterward, she was detained in City Detention from 31 May 2017 to 26 July 2017. BN was indicted according to Article 27 paragraph (1) in conjunction with Article 45 paragraph (1) of the ITE Law.⁵ These provisions states, "everyone knowingly and without the right to distribute and/or transmit and/or make accessible electronic information and/or electronic documents containing contents which violate decency, shall be sentenced to a maximum imprisonment of 6 (six) years and / or a maximum fine Rp1,000,000,000.00 (one billion rupiahs)". The Mataram District Court through Decision No. 265/Pid.Sus/2017 dated 26 July 2017 acquitted BN of all charges by the public prosecutor.

The public prosecutor filed an appeal against the Mataram District Court's decision. The panel of judges at the Supreme Court (the cassation level) issued a different decision from the Mataram

[rekomendasi-komnas-perempuan-untuk-amnesti-bagi-kasus-baiq-nuril](#), accessed 19 November 2020.

⁴Usman Hamid, “*Amnesty and Learning from Nuril*,” Kompas Daily, Friday 26 June 2019.

⁵<https://nasional.tempo.co/rad/1224953/perjalanan-kasus-baiq-nuril-pengadilan-sampai-amnesti/ful&view=ok>, accessed 16 November 2020.

District Court, BN was found guilty of committing a criminal act through Supreme Court's Decision No. 574 K/Pid.Sus/2018 dated 26 September 2018. The panel of judges sentence her of 6 months in prison and a fine of Rp. 500 million on the condition that if the fine is not paid then it is replaced with 3 (three) months' imprisonment. BN continues to fight for justice for herself through judicial review (PK) efforts. The Supreme Court's decision rejected BN's judicial review application and decided that Nuril should be executed according to the previous verdict. In her last struggle, BN appealed for amnesty from the President who later submit the amnesty to the President and the House of Representatives. On 24 July 2019, the House of Representatives approved the amnesty.

The Baig Nuril's case received public attention, women protection activists, legal experts, regarding various things such as the criminalization of BN, the cassation and judicial review decisions, and the granting of amnesty, from a different point of views.

In this case, there is an inequality of power between women and men in working relationships, as well as in law enforcement. In line with that, Usman Hamid, director of Amnesty International Indonesia, argued: "If this gender-based political inequality is allowed, then that is a picture of human rights violations, especially against women. This clearly contradicts the politics of policy of the Indonesian State which in 1984 ratified the Convention on the Elimination of All Forms of Discrimination against Women"⁶, through Law No.7 of 1984 concerning Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

This study does not discuss the different perspectives on the amnesty, but discusses from the perspective of protecting women workers in the working relationship, so it is urgent to research and study regarding protection of women workers who experience harassment in employment relationships. I am using the analysis of the BN case as my case study example. I argue that in a situation of inequality of power between male superiors and female subordinates, women workers who are weaker in position need to be protected by

⁶ Usman Hamid, "*Amnesty and Learning from Nuri*" (full reference when it is first mentioned) (Note: Ini kutipan kedua kali, telah disesuaikan template Jurnal Hukum dan Peradilan)

law so that there is no arbitrariness, especially concerning morals (verbal sexual harassment).

The formulation of the problem in this study is: how the law protects for female workers who experience harassment from the perspective of employment relations in Indonesia? It is necessary to find a legal umbrella to protect all female workers from sexual harassment in work relationships, not only for temporary workers in government agencies but also in the private sector.

This research study aims to describe legal protection in Indonesia for female workers who experience harassment in a work relationship. The results of this study are expected to benefit female workers who experience harassment in a work relationship, and it is hoped that this will be a contribution for legislators to immediately include provisions for legal protection for female workers who experience harassment in the law of the manpower sector.

Research Method

In order to seek answer to the problem, this article uses normative legal method through analysis of statute, the conceptual approach and the case study approach. The statutory approach is carried out by examining laws and regulations relating to legal issues being handled. The case approach is carried out by analyzing a case, particularly the Baiq Nuril (BN) case, which has been decided by the court and has a permanent legal force. The conceptual approach departs from the views and doctrines that develop in law by studying the legal literature. An understanding of these views and doctrines is the basis for researchers in a legal argumentation in solving the problems at hand.⁷

According to Ronald Dworkin, normative legal research is a research that refers to "*law as it is written in the books and law as it is decided by the judge through judicial process*"⁸ This research uses primary legal materials in the form of the Information and Electronic Transaction, Undang-Undang Informasi dan Transaksi Elektronik (ITE Law), Criminal Code (KUHP), Human Rights Law, the Manpower Law, the

⁷ Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana, 2013), p. 133.

⁸ "In Bismar Nasution, Paper: "*Normative Legal Research Methods and Comparative Laws*," presented at the Interactive Dialogue on Legal Research and Legal Writing Results in Akreditasi Magazine, USU's Faculty of Law, on 18 February 2003, p.1.

Disputes Settlement Industrial Law, and Supreme Court Decision No.574 K/Pid.Sus/2018, secondary legal materials in the form of the Sexual Violence Bill, books, journals contain views and doctrines that are developed in the legal science.

Discussion

Baiq Nuril's (BN) stance case.

The beginning of this case was harassment through cell phones (mobile phone), in the form of obscene words and beyond the boundaries of morals and decency as well as religious values or non-physical sexual harassment committed by the principal to his subordinate BN in a work relationship, so BN was a victim. Another issue is immoral acts against the other principal's subordinate, namely initial L. These two main issues are not legally processed. Another issue was about distributing indecent conversations by some people which then go viral on social media, but they are not touched by the law of the ITE Law. Injustice in the form of different treatment or discrimination is seen in this case.

According to Supreme Court Decision No. 574 K/Pid.Sus/2018⁹, HM in this case the victim witness, was the principal of the school. The defendant BN worked as a non-permanent staff. Defendant BN was charged with a single charge as regulated and threatened with Article 27 paragraph (1) in conjunction with Article 45 paragraph (1) ITE Law.

L is a witness as a treasurer at SMAN 7 Mataram. The Defendant and L were once invited by the witness and the victim HM, as the Principal of SMAN 7 Mataram to work overtime outside the school office hours at PS Hotel, Senggigi. The next day after the incident at PS Hotel, Senggigi, the witness and the victim HM called the Defendant, and during the telephone conversation the witness and the victim HM told the occurrence of intercourse with L that took place in the PS Hotel. The conversation between the witness and the victim HM and the Defendant was recorded by the Defendant without the knowledge of HM.

⁹Supreme Court Decision No.574K/Pid.Sus/2018 on 26 September 2018, <https://putusan3.mahkamahagung.go.id/direktori/putusan/f3b616f05f548c29317bce7b3e071687>, accessed 18 November 2020.

The Defendant was willing to hand over the recorded conversation on the Defendant's cellphone to the laptop of the witness HIM, that it was used as material for a report to the Mataram Regional House of Representatives. It turned out that a few moments later the witness HIM had forwarded, sent and/or transferred the contents of the recorded conversation which violated this decency to witness M and then redistributed it to another man M cellphone and so on to LW, HID, S, HI, and H, went viral on social media. Then HM reported it to the local Indonesian Police because he felt that his good name had been harmed by the ITE Law's legal basis. The defendant was detained from 27 March 2017 to 30 May 2017, then detained in City Detention from 31 May 2017 to 26 July 2017.

The decision of the Panel of Judges at the first level stated¹⁰ That the Defendant was not legally proven and convinced that he was guilty of committing a criminal act as charged by the Public Prosecutor; release the Defendant from the prosecution; ordered the Defendant to be released from the City Detention immediately after the verdict was read; restore the Defendants' rights in terms of ability, position, dignity, and status. The Panel of Judges considered that in examining and adjudicating criminal cases in the field of Information Law and Electronic Transactions, it is necessary to consider prudent and careful considerations. Following global developments in the field of information technology in the context as a sociological-juridical symptom, the main problem of criminal law enforcement lies in the aspect of how effective the law is applied concerning legal problems of proof, so that accuracy and professionalism of law enforcement officials are needed to obtain complete legal solutions. , sure and fair according to the teaching of "responsive law" developed by Philippe Nonet and Philip Selznick. The evidentiary results show the fact that the witness HIM actively requested the recording and distributed it to other parties. The Panel of Judges considered the sense of justice in the context of procedural justice and substantial justice for the interests of the victim and the interests of the Defendant.

¹⁰ The Mataram District Court Decision No.265/Pid.Sus/2017 dated 26 July 2017, <https://putusan3.mahkamahagung.go.id/direktori/putusan/fcc6196712ef05d003cd4246fb25384d.html>, accessed 18 November 2020.

The decision of the Panel of Judges at the Cassation level overturned the Court's decision at the first level by stating that BN was legally proven and convinced BN to be guilty. Consideration is based on the consideration of the juridically relevant facts, the Defendant's actions have fulfilled the offense element in Article 27 paragraph (1) in conjunction with Article 45 paragraph (1) of Law of the Republic of Indonesia Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) and therefore the defendant must be sentenced to prison.

From the perspective of the ITE Law, BN was declared guilty for criminal offense by the panel of Judges of the Supreme Court, because her actions had met the elements of offense in Article 27 paragraph (1). For this reason, the defendant was sentenced to 6 months in prison and a fine of Rp. 500 million subsidiaries, with imprisonment for 3 (three) months in accordance with Article 45 paragraph (1). Consideration of the relevant legal facts is the basis for making decisions, so that legal certainty takes precedence, while the factor of justice is not considered. Whereas the verdict's purpose is justice under the direction of the decision "For justice based on the One Godhead." where BN is a victim of non-physical sexual harassment by a superior (the reporter).

The Panel of Judges should have guided the Supreme Court Regulation No.3 of 2017 concerning Guidelines for Adjudicating Women's Cases Against the Law, Article 3 determines, in adjudicating cases of women in conflict with the law so that the first judge understands and applies the principle of respect for human dignity, non-discrimination, gender equality, equality before the law, justice, benefit, and legal certainty; second, identify situations of unequal treatment that result in discrimination against women, and third, guarantee women's rights to equal access to justice.¹¹

Protection for Female Workers in Employment Relations

Manpower is the backbone of the country in achieving goals through national development. The participation of the workforce in

¹¹ Supreme Court Regulation No.3 of 2017 concerning Guidelines for Judging Women's Matters Facing the Law, https://jdih.mahkamahagung.go.id/index.php?option=com_remository&Itemid=46&func=fileinfo&id=3994, accessed 19 November 2020.

national development is increasing, accompanied by the various challenges and risks it faces. It is necessary to provide protection, maintenance and increase in welfare for workers, which will increase national productivity.¹² Helena Poerwanto and Syaifullah quoted M.G. Rood's opinion "the law regarding the protection of workers is an example of social law whose main character is generally based on the Inequality of Compensation Theory"¹³ The inequality of compensation theory states that the socioeconomic status between an employer and a recipient is not the same. Job recipients generally depend heavily on employers, both from economic, sociological, and psychological aspects. So the law needs to give weak parties (employees) more rights than strong parties (employers). The law acts differently for the parties because of this background.¹⁴ The imbalance between the position of the worker and the employer can be seen clearly, because the employer is the one who provides the job, wages and orders. So the employer has a stronger position from an economic, social and psychological perspective. This is where the need for compensation in the form of legal protection for workers.

Legal protection is needed, especially for women workers. The rationale behind the regulation or separate legal protection for women workers / laborers is that women have certain specificities, both physical, biological, psychological moral, and social decency.¹⁵ In patrilineal culture, women are subordinate to men, so they are considered only as a complement to the breadwinner. In the world of work, it is not uncommon for women workers to be discriminated against and treated not in accordance with morals and decency.

¹² Ridwan Halim, *Actual Labor Law*, (Jakarta: Pradnya Paramitha, 1987), p.1.

¹³ "In Helena Poerwanto and Syaifullah, *Labor Law in the Health and Safety Sector*, (Jakarta: Faculty of Law University of Indonesia, 2005), p.27-28.

¹⁴ Ahmad Zaini, "Urgensi Penerapan Sistem Manajemen Keselamatan dan Kesehatan Kerja (K3) di Perusahaan", *Al Ahkam Journal*, Vol. 13 No. 2 (Juli-Desember 2017), pp.7-8, <http://jurnal.uinbanten.ac.id/index.php/ahkm/article/view/1807/1538>, accessed 17 November 2020.

¹⁵ Aloysius Uwiyono dkk, *Fundamentals of Labor Law*, (Jakarta: PT.RajaGrafindo Persada, 2014), p.99. Resty Woro Yuniar, "Indonesia's 'Right to Be Forgotten' Raises Press Freedom Issues," *The Wall Street Journal* (31 October 2016), <https://www.wsj.com/articles/indonesias-right-to-be-forgotten-raises-press-freedom-issues-1477908348>, accessed 30 May 2017.

Protection according to the 1945 Constitution

Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia provides a constitutional right that every citizen has the right to work and a decent living for humanity. The provision means that the state guarantees everyone to get protection and comfort in carrying out their work and that the wages received by workers must be in the form of wages that are fair or decent for life. By protection it means ensuring equality and treatment without discrimination, on any basis, in order to realize the welfare of workers and their families while still paying attention to the progress of business development and the interests of entrepreneurs. In line with that, manpower development aims to improve the quality and contribution to the development and protect rights and interests in accordance with human dignity.¹⁶

The Constitution also stipulates human rights (including workers); article 28 D paragraph (1) of the 1945 Constitution states: "Everyone has the right to recognition, guarantee, protection, and legal certainty that is just and equal treatment before the law." Article 28 D paragraph (2) stipulates: "Every person has the right to work and to receive fair and proper remuneration and treatment in a work relationship." The form of legal certainty in the form of protection of workers' constitutional rights is through the formation of laws in the manpower sector.

Further, Article 28 I paragraph (4) of the 1945 Constitution affirms that protection (protection), furtherance (enforcement), and fulfillment (fulfillment) of human rights are the responsibility of the state, especially the government.¹⁷ These constitutional provisions suggests that work is part of human rights, so that the state is obliged to provide legal protection and provide employment for its citizens in order to obtain decent work for humanity.

Human Rights Protection

The existence of worker as one of the groups that drives the economic sector deserves attention. In its history, workers have always

¹⁶ Gerry Silaban and Salomo Perangin-angin, *Rights and, or the Obligations of Labor and Employers/Administrators Stipulated by in Laws and Regulations on Occupational Safety and Health*, (Medan: USU Press, 2008), p.1.

¹⁷ Lalu Husni, *Introduction to Labor Law*, (Jakarta: PT RajaGrafindo Persada, 2014), p.13

been in a disadvantageous position, and have even experienced human rights violations. The state has full responsibility to provide welfare and protects of its citizens from all forms of injustice. This protection is also stated in the Five Principles (Pancasila) and the 1945 Constitution of the Republic of Indonesia, as the foundation for statutory regulations, among others:¹⁸

Law No.7 of the year 1984 concerning Ratification of CEDAW

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by UN General Assembly Resolution or G.A.Res. 34/180 on 18 December 1979. The Government of Indonesia retained this Convention by Law No.7 of 1984 concerning Ratification of the Convention on the Elimination of All Forms of Discrimination against Women on 24 July, 1984.¹⁹

There are 3 (three) main principles of CEDAW²⁰: First, the Principle of Substantive Equality, this principle is known as a corrective approach, namely an approach that does not focus on equal treatment before the law alone but also includes equality in terms of de jure the actual or real impact of the law. Second, the Principle of Non-Discrimination, the meaning of discrimination in this Convention is any distinction, exclusion, or restriction made based on sex, which has the effect or purpose of reducing or eliminating the recognition, enjoyment, or use of human rights and basic freedoms in the field of political, economic, social, cultural, civil or anything else by women. And based on UN recommendations added violence against women. Third, the Principles of State Obligations, which include: Ensuring women's rights through laws and policies and ensuring the results; The state not only guarantees but also realizes women's rights both de-jure but also de-facto, the State must not only be responsible

¹⁸<http://www.solidaritasperempuan.org/pers-realise-kronologi-kasus-buruh-perusahaan-perkebunan-sawit-pt-dil-konawe-utara/>, accessed 17 May 2016.

¹⁹ Eko Riyadi, *Human Rights Law, International, Regional and National Perspectives*, (Jakarta: PT Rajagrafindo Persada, 2018), p.124.

²⁰Rini Maryam, "Translating the Convention on the Elimination of All Forms of Discrimination Against Women," *Journal Indonesian of Legislation*, Volume 9 No. 1 (2012), p.100-101, <https://e-jurnal.peraturan.go.id/index.php/jli/article/view/379>, accessed, 18 November 2020.

and regulate it in the public sector but also implement it towards the actions of people and institutions in the private (family) and private sectors.

The 1945 Constitution has stipulated the responsibility of the State, in Article 28 H paragraph (2) it is stated that everyone has the right to enjoy facilities and special treatment to obtain equal opportunities and benefits in order to achieve equality and justice. Therefore, the principles of the CEDAW Convention include the addition of UN recommendations on violence against women, the State needs to formulate legislation more specifically on forms of violence against women, especially in the provisions of the law in the field of Manpower accompanied by legal sanctions in order to guarantee the protection of all female workers. Both those working in the public sector and in the private sector.

Law No. 39 of the year 1999 regarding Human Rights

Indonesia has established Law No. 39 of the year 1999 regarding Human Rights. These provisions stipulate that all forms of harassment based on sex are forms of discrimination that violate women's human rights. BN who has experienced non-physical harassment in a work relationship is discriminatory treatment that violates women's human rights. This is emphasized in Article 69 paragraph (1), every person is obliged to respect the human rights of others, morals, ethics, and the order of life in society, nation, and state.

Specifically for the protection of women's human rights, a National Commission on Violence against Women (Komnas Perempuan) has been established through Presidential Decree No.181 of 1999 strengthened by Presidential Regulation No.65 of 2005. Both regulations are national human rights mechanisms with a specific mandate to eliminate all violence forms against women. Komnas Perempuan is given the task and authority, one of which is to provide advice and considerations to the government, legislative and judiciary institutions, and community organizations to promote a legal and policy framework that supports efforts to prevent and eliminate all forms of violence against women.²¹

²¹ Indonesian National Commission for Women, "Indonesian National Commission for Women's Recommendation Letter for Amnesty for the Baiq Nuril Case," 16 July, 2019,.....

In the case of BN, Komnas Perempuan has monitored and escorted access to justice for BN from the first instance court to extraordinary legal remedies in the form of reconsiderations. Komnas Perempuan has provided opinions and input to the Mataram District Court, among others, that as a subordinate of BN, it can only follow the dynamics of work relations controlled by their superiors. However, in its development, BN was annoyed when it was discussed having a special relationship with its superiors. To stop him, BN recorded a telephone conversation from his superior containing content that violates decency. Records were given to colleagues who had repeatedly asked them to be used as evidence for filing a complaint with a party in a stronger position. But the purpose of the complaint has not been achieved, the contents of the recording have gone viral on social media. As a result, his work contract as an honorary employee was not extended, and BN was reported by his superior to the police in violating Article 27 paragraph (1) of the ITE Law.²²

Komnas Perempuan's opinion and input to the Mataram District Court bore fruit with the release of BN from punishment through the Mataram District Court Decision No.265 / Pid.Sus / 2017.MTR with considerations of justice as described in the case for the position above. The Court's decision of the first instance was canceled at the cassation level, then the judicial review was also rejected, so Komnas Perempuan made a Recommendation Letter for Amnesty for the Baiq Nuril Case to the President dated 16 July, 2019. Finally, the amnesty was approved by the DPR and the President. How long and tiring is BN's struggle as a worker who is a victim of non-physical sexual harassment by their superiors in a working relationship to seek justice in Indonesia.

This shows that, even though it has been guaranteed in various laws and regulations, to date, not all rights of women workers have been fulfilled, either due to internal or external factors. Among the internal factor is the lack of knowledge and understanding of women workers about their rights. Meanwhile, the external factors can take forms such as: (1) patriarchal culture; (2) marginalization in

²² Indonesian National Commission for Women, "Indonesian National Commission for Women's Recommendation Letter for Amnesty for the Baiq Nuril Case," 16 July, 2019,.....

employment; (3) stereotypes toward performance; and (4) lack of socialization.²³

The state's responsibility to respect human rights is the responsibility not to act or take policies that are contrary to human rights. The responsibility to fulfill human rights is the obligation of the state to implement, provide and guarantee human rights through actions and policies. The responsibility to protect human rights is the responsibility to prevent, stop and punish every violation of human rights.²⁴ In the case of Baiq Nuril, the state should punish the perpetrators of human rights violations in the form of non-physical sexual harassment, which in this case is the law enforcer as the representative of the state.

ILO Convention No.190 and Recommendation No.206 Protection

The International Labour Organisation (ILO) respects for human rights at work.

The ILO has produced Convention No.190 of 2019 on Violence and Harassment and Recommendation No. 206 regarding Violence and Harassment at Work. They provide a clear framework for action and an opportunity to shape a future for the world of work based on dignity and respect, free from all forms of violence and harassment. The right of every person to a world of work free from violence and harassment has never been clearly articulated in an agreement. The Convention also recognizes that such behavior may constitute a violation or abuse of human rights.²⁵

²³ Sali Susiana, "Protection of the Rights of Women Workers in the Perspective of Feminism," *Jurnal Aspirasi*, Vol 8 No. 2, Desember (2017), pp.207-221, <https://jurnal.dpr.go.id/index.php/aspirasi/article/view/1266/694>, accessed 31 Agust 2020.

²⁴ Osgar S. Matompo et.all., *Law and Human Rights*, (Malang: Intrans Publishing, 2018), p.17.

²⁵ILO-Jakarta, "Information sheet 91: Five Key Questions Regarding ILO Convention No. 190 of 2019 and Recommendation No. 206 regarding Violence and Harassment at Work", https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/--ilo-jakarta/documents/publication/wcms_726739.pdf, accessed 18 November 2020.

ILO Convention No.190²⁶ Defines the definition of "violence and harassment" in the world of work to refer to a series of behaviors and practices that are unacceptable, or threats to, that occur once or repeatedly, which aim, produce, or tend to harm physically, psychologically, sexual or economic, and includes gender-based violence and harassment. This Convention applies to all sectors, both private and public, in both the formal and informal economy, and in urban and rural areas.

This Convention clarifies the responsibility of each ratifying Member State to take appropriate action to monitor and enforce national laws and regulations on violence and harassment in the world of work, ensure easy access to appropriate and effective solutions and reporting and dispute resolution mechanisms, which is safe, fair, and effective in cases of violence and harassment in the world of work. Such as complaints and investigation procedures, as well as, if necessary, dispute resolution mechanisms at the workplace level, dispute resolution mechanisms outside the workplace, courts or tribunals, protection against victimization or retaliation against complainants, victims, witnesses and whistleblowers; and legal, social, medical and administrative support measures for complainants and victims, protect the privacy and confidentiality of those involved, and ensure that requirements for privacy and confidentiality are not abused and provide adequate sanctions in cases of violence and abuse worldwide work.

When examined the contents of the articles of the ILO Convention No. 190, it has provided adequate protection for all female workers against violence and harassment in the world of work. Therefore, the Indonesian government needs to immediately ratify it so that the legal umbrella protects all women workers against verbal and non-verbal sexual harassment in the world of work, both workers who work in government and private agencies.

²⁶ILO-Jakarta, "ILO Convention - 190", <https://www.google.com/search?client=firefox-b-d&q=Konvensi+ILO+tentang+pelecehan+seksual+dalam+hubungan+kerja>, accessed 18 November 2020.

Protection according to Manpower Law dan Criminal Code

For private workers, Law No.13 of 2003 concerning Manpower (Manpower Law) in several articles provides protection to female workers related to morality, can be seen in article 86 gives workers gives workers / laborers (including women) the right to obtain protection for: a. occupational health and safety; b. morals and decency; and c. treatments in accordance with human dignity and religious values. This protection is carried out in accordance with statutory regulations.

Manpower Law has provided protection to female workers/laborers for morals and decency and attitudes that are in accordance with human dignity in the work relationship. In contrast to violations of wages, working hours, protection of health and safety for women workers, sanctions for violations of morality and decency are not regulated in the Manpower Law, but are implemented in accordance with statutory regulations. The legislation referred to is the Criminal Code, but the Criminal Code does not recognize the criminal act of non-physical harassment.

This can be seen in the case of BN, where BN also reported their superior HM to the Mataram Regional Police of West Nusa Tenggara for non-physical sexual harassment, but the investigation was stopped because it was deemed insufficient evidence of sexual immorality. The understanding and opinion of criminal experts regarding sexual immorality conveyed to the Regional Police is that obscene acts must be accompanied by physical contact. Thus, the sexual harassment recorded by BN does not fulfill this element.²⁷ So the Criminal Code also does not protect non-physical sexual harassment to women, even though this non-physical sexual harassment can also result in psychological pressure for female workers, especially done by their superiors, and is an undermining of their dignity as women.

The implementation of this protection should be included in the Manpower Law in the form of sanctions for violations, such as violations of the rights of other women workers, as *lex specialist*.

Apart from being detained in the Detention Center and City Detention Center, another impact of this case on BN is that BN loses

²⁷Indonesian National Commission for Women, "Indonesian National Commission for Women's Recommendation Letter for Amnesty for the Baiq Nuril Case," 16 July, 2019,.....

its job because the contract was not extended by HM's superior, so that his economic rights in the form of wages also stopped, meaning that his family's livelihood also stopped. When compared with private workers, then regarding the rights of workers who are being detained in the criminal investigation process, it is regulated in Article 160 paragraph (1) of the Manpower Law, namely that the granting of their rights in the form of assistance to their families for 6 (six) months must still be provided until found guilty by a criminal court decision of permanent legal force (principle of presumption of innocence). The question is whether the Manpower Law and the Industrial Relations Dispute Settlement Law can be applied to BN, whose status is a non-permanent worker in a government agency (SMA Negeri 7)?

In Indonesia, there are differences in the provisions that apply to Civil Servants (*ambtenaar*) with the provisions that apply to workers/laborers in private companies (*arbeider*), which are based on who the employer is.²⁸ The difference is in the cause of the legal relationship between the employer and worker (*government employee*). A legal relationship exists with the issuance of a Decision Letter, then the provisions for the management of civil servants will apply.²⁹ The provisions that apply to workers who are not civil servants, both in private companies and state-owned companies are the provisions of Manpower Law.³⁰

Workers who work in government agencies are specifically regulated in Law no. 5 of 2014 concerning the State Civil Apparatus (ASN Law) and regulations and its implementation regulation, these workers are civil servants and PPPK³¹, while the non-permanent is eliminated. BN is neither a civil servant nor a PPPK, so he is not

²⁸ Imam Soepomo, *Labor Law in the Employment Relations*, (Jakarta: Djambatan, 1995) p.4

²⁹ Article 17 Law Number 43 of 1999 concerning Amendments to Law No. 8 of 1974 concerning Employment Fundamentals.

³⁰ Aloysius Uwiyono et al, *Principles of Labor Law*, (Jakarta: PT. RajaGrafindo Persada, 2014), p.52,

³¹Article 1 paragraph 1 ASN Law: State Civil Apparatus is a profession for civil servants and government employees with a work agreement working for government agencies. Article 1 paragraph 2: ASN employees are civil servants (PNS) and government employees with a work agreement (PPPK) who are appointed by a civil service officers and assigned to a government position or assigned to other state duties and are paid based on statutory regulations.

subject to the ASN Law. In terms of objectivity, the working relationship between a worker/non-permanent worker and a government agency includes the scope of the Manpower Law which has met the elements of employment, wages and administration in accordance with the provisions of Article 1 paragraph 15 of Manpower Law. The working relationship should be subject to the Manpower Law and work relationship disputes can be resolved by the Industrial Relations Court in accordance with Settlement of Industrial Relations Disputes Law.

The issue is, the legal subjects of entrepreneurs or employers in the Manpower Law do not cover government agencies, only private companies and state-owned SOEs/ROEs. The legal subject of "entrepreneurs and companies" in the provisions of Article 1 paragraph 6 and number 7 of Industrial Relations Dispute Settlement Law³², the government agencies that employ non-permanent workers who are not Civil Servants (PNS) or State Civil Servants (ASN), are not entrepreneurs/companies.

The study above shows that the limitations on legal subjects in the Manpower Law and the limitations on the authority of the Industrial Relations Court in the Industrial Relations Dispute Settlement Law to probe and prosecute legal subjects of employers of government agencies that employ non-permanent workers have resulted in injustice to some workers, namely non-permanent workers who work in government agencies. There is discrimination against non-permanent workers in government agencies as parties seeking justice in Indonesia.

Employees and the communities who are entrepreneurs or employers have the right to get social justice in a harmonious, dynamic and just legal relationship so that it is optimally realized in accordance

³²Article 1 number 6 PPHI Law: Entrepreneurs are individuals, associations, or legal entities that run a company that is owned by themselves; an individual, an association or a legal entity that independently runs a company that does not belong to him; Individuals, associations or hulkcrun bodies residing in Indonesia representing companies as referred to in subparagraphs a and b domiciled outside the territory of Indonesia. (Article 1 (5) Manpower Law). Article 1 paragraph 7 of the PPHI Law: Company is any form of business that is legal or not, owned by an individual, association, or legal entity, both private and state-owned, which employs workers/laborers by giving wages or other forms of remuneration (Article 1 (6) Manpower Law).

with the values of Pancasila. Social justice that is meant from an economic perspective is proportional justice, that workers as the backbone of national development as well as development goals must be guaranteed their basic rights and equal opportunity and treatment without discrimination on any basis to realize the welfare of workers and their families. This social justice also includes when workers seek justice to resolve their cases before the court, and must pay attention to their survival and their families.

Protection according Sexual Violence Bill

According to Siti Mazumah,³³ many women victims of sexual harassment are criminalized because there is no legal umbrella to protect women. This is due to the non-accommodation of non-physical sexual harassment in the Criminal Code and other laws. For example, the sexual harassment case against Nuril has not made any progress. The reason was that Nuril was verbally abused in the form of speech over the phone, not physically. It turns out that our law does not accommodate non-physical sexual harassment, even though it happens to many women. It is necessary to include provisions for non-verbal sexual harassment in the Criminal Code Bill which has been postponed for approval in the House of Representatives.

BN experienced non-physical sexual harassment from her superior in the form of words that were obscene and beyond the limits of morals and decency and religious values that had been proven in court, however-BN became helpless because there was no provision that provided a legal umbrella for her, although it has digital evidence in the form of recorded telephone conversations.

The principal who should be a role model in the educational environment actually commits immoral acts which cannot be justified in any way. This person should be aware that the immoral acts committed by him are punishable, and be aware that conversations about immoral acts that are indecent over the phone can be recorded and possibly spread on social media. What happens is that the

³³ Siti Mazumah, Director of Indonesian Women's Association Legal Aid Institute for Justice (LBH APIK), "Reflecting on the Baiq Nuril Case, RUU PKS is Considered to be Legalized Immediately," *Kompas.com* (26 July 2019). <https://nasional.kompas.com/read/X019/07/26/1743557/berkaca-dari-kasus-baiq-nuril-ruu-pksdinilai-rnesti-segera-disahkan>, accessed 29 July 2019.

immoral perpetrator actually reports BN to the police on the basis of violating the ITE Law, thus during judicial considerations, socio-philosophical and philosophical considerations should be taken into account by the Panel of Cassation Judges in handing down its decision on BN in cases of violating the ITE Law.

The laws that must be upheld are not in essence the norms of rules themselves, but the values of justice contained therein. Therefore, the notion of law enforcement should contain the enforcement of justice itself, so that the terms law enforcement and justice enforcement are two sides of the same coin.³⁴ Progressive Law makes sincerity and honesty as the crown of law enforcement. Justice is the ultimate goal of the law enforcement process. This progressive legal teaching prioritizes the attitude of empathy, concern and dedication of law enforcement officials to uphold justice, because law enforcement officials are the spearhead of the intended justice enforcer.³⁵

The Sexual Violence Bill actually accommodates the form of prevention and handling of physical and non-physical sexual violence against women, namely in the following Article 9: Form of Prevention namely by establishing policies against sexual violence in corporations, trade unions, employers' associations, labor supplier associations, and/or other parties; Implementation of Prevention is carried out by the ministry in charge of manpower affairs and the Regional Government.

Furthermore, in Chapter V concerning Crimes of Sexual Violence following Article 11: Everyone is prohibited from committing sexual violence Sexual violence consists of: sexual harassment; sexual exploitation; forced contraception; forced abortion; rape; forced marriage; forced prostitution; sexual slavery; and/or sexual torture. Sexual violence includes incidents of sexual violence within the scope of personal, domestic, work relations, public relations and other special situations. Article 12: Sexual harassment is Sexual Violence which is committed in the form of physical or non-physical acts

³⁴ Jimly Asshiddiqie, "Legal Enforcement," http://www/jimly.com/makalah/namafile/56/Penegakan_Hukum.pdf, accessed 12 February 2018.

³⁵ Sudijono Sastro Atmojo, "Configuration of the Law of Progress," in Mahrus Ali, *Progressive Criminal Justice System : Alternatives in Criminal Law Enforcement*, Legal Journal, Vol. 14 Number 2, April (2007) Edition, Indonesian Islamic University, Yogyakarta, p. 215.

against another person, which is related to a person's body parts and related to sexual desire, thus causing other people to be intimidated, insulted, degraded, or humiliated. Sexual harassment is a complaint offense, unless it is committed against children, persons with disabilities and children with disabilities.

If the Sexual Violence Bill is passed, the non-permanent worker BN who has experienced non-verbal sexual harassment from her superiors will be able to report it/complain to the local police by bringing digital evidence of his recorded telephone conversations. Legal vacuum is no longer an obstacle for women workers to defend their rights in work relations. This Sexual Violence Bill must be immediately passed by the House of Representatives and the Government, so that no other BN-BN would be criminalized and persecuted.

Gustav Radburch in "*idee des recht*" argue, legal ideals can be achieved if they can meet the elements legal certainty (*rechtsicherheit*), justice (*gerechtigkeid*) and utility (*zweckmasigkeit*)³⁶ People not only need regulations that guarantee legal certainty in their relationship with each other, but also justice in addition to the law is also demanded to serve their interests (provides benefits).³⁷ Likewise, the Elimination of Sexual Violence Law must have these three basic values in order to answer the legal issues, especially sexual harassment of women in work relationships.

Conclusion

Indonesian law does not yet protect women workers in the form of human rights to morals and morals, according to human dignity and values of social justice in work relations.

The results showed that Indonesian law has not protected female workers in the form of protection of human rights to morals and morals, the right to treatment that is following human dignity and

³⁶."Gustav Radburch, "*Idee des Recht*," in Fence M. Wantu, "*Anitomy in Law Enforcement by Judges*," p.338. Dalam Tata Wijayanta, "*Principles of Legal Certainty, Justice and Benefit in Relation to the Commercial Court Bankruptcy Decision*," Jurnal Dinamika Hukum, Vol. 14. No. 2. Mei 2014, p. 219.

³⁷ Teguh Prasetyo and Abdul Halim Barkatullah, *Philosophy, Theory and Law, Notion Towards a Just and Dignified Society*, (Jakarta: PT. RajaGrafindo Persada, 2014), pp.15-16.

values of social justice in work relations. Indonesian labor law differentiates worker status. Workers in government agencies apply the ASN Law and workers in the private sector apply the Manpower. The status of non-permanent workers working for government agencies became unclear after the enactment of the ASN Law. These two laws do not protect women who experience harassment in a working relationship. The Manpower Law only guarantees economic rights for workers detained by the authorities for allegedly committing a criminal act, in the form of assistance to their families as a form of the principle of presumption of innocence. In cases of non-physical sexual harassment experienced by BN in a working relationship, BN was detained for 5 (five) months based on charges of violating the ITE Law. BN cannot prosecute economic rights in the Manpower Law, because the legal subject of the employer is a state civil servant superior. In practice, the Criminal Code does not recognize non-physical sexual harassment, so that female workers who experience it cannot defend their human rights before a criminal court. ILO Convention No. 190 of 2019 and the Sexual Violence Bill have included a complete list of non-physical sexual harassment, but the Convention has not been ratified by the Indonesian government and the Sexual Violence Bill has not been legalized by the House of Representatives.

Based on the above conclusions, the following are recommended:

1. The state must provide protection to all women workers for their moral and moral rights, regardless of the status of their employment relationship, so it is necessary to establish a law covering acts of non-physical sexual violence.
2. The government will immediately ratify the ILO Convention No. 190 of 2019 or the House of Representatives and the Government will immediately legalize the Sexual Violence Bill or Criminal Bill as an umbrella for criminal law in Indonesia which needs to contain provisions on non-verbal sexual harassment.
3. In the process of law enforcement against women who experience violence, law enforcers should consider substantive justice more harassment, so that female workers who experience it cannot defend their human rights before a criminal court.

Bibliography

- Ahmad Zaini, "The Urgency of Implementing Occupational Safety and Health (K3) Management Systems in Companies", *Al Ahkam Journal*, Vol. 13 No. 2 (July-December 2017), pp.7-8, <http://jurnal.uinbanten.ac.id/index.php/ahkm/article/view/1807/1538>, accessed 17 November 2020.
- Aloysius Uwiyono et al, *Principles of Labor Law*, Jakarta: PT. RajaGrafindo Persada, 2014.
- Bismar Nasution, Paper: "Normative Legal Research Methods and Comparative Laws," presented at the Interactive Dialogue on Legal Research and Legal Writing Results in Akreditasi Magazine, USU's Faculty of Law, on 18 February 2003.
- Eko Riyadi, *Human Rights Law, International, Regional and National Perspectives*, Jakarta: PT Rajagrafindo Persada, 2018.
- Gerry Silaban and Salomo Perangin-angin, *Rights and, or the Obligations of Labor and Employers/Administrators Stipulated by in Laws and Regulations on Occupational Safety and Health*, Medan: USU Press, 2008.
- Gustav Radburch, "Idee des Recht," in Fence M. Wantu, "Anatomy in Law Enforcement by Judges," p.338. Dalam Tata Wijayanta, "Principles of Legal Certainty, Justice and Benefit in Relation to the Commercial Court Bankruptcy Decision," *Jurnal Dinamika Hukum*, Vol. 14. No. 2. Mei 2014.
- <https://nasional.tempo.co/rad/1224953/perjalanan-kasus-baiq-nuril-pengadilan-sampai-amnesti/ful&view=ok>, accessed tanggal 16 Nopember 2020.
- <http://www.solidaritasperempuan.org/pers-realise-kronologi-kasus-buruh-perusahaan-perkebunan-sawit-pt-dil-konawe-utara/>, accessed 17 May 2016.
- ILO-Jakarta, Information sheet 91 : Five Key Questions Regarding ILO Convention No. 190 of 2019 and Recommendation No. 206 regarding Violence and Harassment at Work", https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_726739.pdf, accessed 18 November 2020.
- ILO-Jakarta, Konvensi ILO 190, <https://www.google.com/search?client=firefox-b-d&q=Konvensi+ILO+tentang+pelecehan+seksual+dalam+hubungan+kerja>, accessed 18 November 2020.
- Imam Soepomo, *Labor Law in the Employment Relations*, Jakarta: Djambatan, 1995.

- Indonesian National Commission for Women, "Increasing Violence: Policy on the Elimination of Sexual Violence to Build Safe Spaces for Women and Girls," Annual Records of Sexual Violence Against Women, 2019, Jakarta, 6 March 2020, p.7, <https://www.komnasperempuan.go.id/file/pdf/file/2020/Catatan-Tahunan-Kekerasan-Terhadap-Perempuan-2020.pdf>, accessed 17 November 2020.
- Indonesian National Commission for Women, "Victims Voiced, Talking Data Ratifies the Bill on the Elimination of Sexual Violence as a Form of State Commitment," Annual Records of Sexual Violence Against Women, 2019, Jakarta, 6 March 2019, p.2, <https://www.coursehero.com/file/43846562/Catatan-Tahunan-Kekerasan-Terhadap-Perempuan-2019pdf/>, accessed 13 November 2020.
- Indonesian National Commission for Women, "Indonesian National Commission for Women's Recommendation Letter for Amnesty for the Baiq Nuril Case," 16 July, 2019, <https://www.komnasperempuan.go.id/read-news-surat-rekomendasi-komnas-perempuan-untuk-amnesti-bagi-kasus-baiq-nuril>, accessed 19 November 2020.
- Jimly Asshiddiqie, "Legal Enforcement," http://www.jimly.com/makalah/namafile/56/Penegakan_Huku m.pdf, accessed 12 February 2018.
- Lalu Husni, *Introduction to Labor Law*, Jakarta: PT Rajagrafindo Persada, 2014.
- Mataram District Court Decision No.265/Pid.Sus/2017 dated 26 July 2017, <https://putusan3.mahkamahagung.go.id/direktori/putusan/fcc6196712ef05d003cdd246fb25384d.html>, accessed 18 November 2020.
- MG Rood in Helena Poerwanto and Syaifullah, *Labor Law in the Health and Safety Sector*, Jakarta : Faculty of Law University of Indonesia, 2005.
- Osgar S. Matompo et.all., *Law and Human Rights*, Malang: Intrans Publishing, 2018.
- Peter Mahnud Marzuki, *Legal Research*, Jakarta: Kencana, 2013.
- Ridwan Halim, *Actual Labor Law*, Jakarta: Pradnya Paramitha, 1987.
- Rini Maryam, "Translating the Convention on the Elimination of All Forms of Discrimination Against Women," *Journal Indonesian of Legislation*, Volume 9 No. 1 (2012), p.100-101, <https://e->

- jurnal.peraturan.go.id/index.php/jli/article/view/379, accessed, 18 November 2020.
- Sali Susiana, "Protection of the Rights of Women Workers in the Perspective of Feminism," *Jurnal Aspirasi*, Vol 8 No. 2, Desember (2017), pp. 207-221, <https://jurnal.dpr.go.id/index.php/aspirasi/article/view/1266/694>, accessed 31 August 2020.
- Siti Mazumah, Director of Indonesian Women's Association Legal Aid Institute for Justice (LBH APIK), "Reflecting on the Baiq Nuril Case, RUU PKS is Considered to be Legalized Immediately," *Kompas.com* (26 July 2019). <https://nasional.kompas.com/read/X019/07/26/1743557/berkaca-dari-kasus-baiq-nuril-ruu-pksdinilai-rnesti-segera-disahkan>, accessed 29 July 2019.
- Sudijono Sastro Atmojo, "Configuration of the Law of Progress," in Mahrus Ali, *Progressive Criminal Justice System : Alternatives in Criminal Law Enforcement*, Legal Journal, Vol. 14 Number 2, April (2007) Edition, Indonesian Islamic University, Yogyakarta, p. 215.
- Supreme Court Decision No.574K/Pid.Sus/2018 on 26 September 2018, <https://putusan3.mahkamahagung.go.id/direktori/putusan/f3b616f05f548c29317bce7b3e071687>, accessed 18 November 2020.
- Supreme Court Regulation No.3 of 2017 concerning Guidelines for Judging Women's Matters Facing the Law, https://jdih.mahkamahagung.go.id/index.php?option=com_remository&Itemid=46&func=fileinfo&id=3994, accessed 19 November 2020.
- Teguh Prasetyo and Abdul Halim Barkatullah, *Philosophy, Theory and Law, Notion Towards a Just and Dignified Society*, Jakarta: PT. RajaGrafindo Persada, 2014.
- Usman Hamid, "Amnesty and Learning on Nuril," *Kompas Daily*, Friday 26 June 2019.