



ARMA Update: 22 June 2022

(English Version)

Key Points on the Newly Legitimate Sexual Violence Crime Law by DPR

General Overview

The House of Representatives (*Dewan Perwakilan Rakyat* or “**DPR**”) of Indonesia has passed Law No. 12 of 2022 concerning the Sexual Violence Crime Law in the DPR Plenary Meeting on 12 April 2022 (“**Sexual Violence Crime Law**”). The Sexual Violence Crime Law was initiated 10 (ten) years ago by the National Commission on Violence Against Women (*Komisi Nasional Anti Kekerasan Terhadap Perempuan* or “**Komnas Perempuan**”) in 2012 and was originally called the Sexual Violence Prevention Bill (*Penghapusan Kekerasan Seksual*). Since then, the law has gone through long discussions in DPR until DPR legitimized it as the Sexual Violence Crime Law.

This ARMA Update will discuss the critical points of the Sexual Violence Crime Law, including the purpose, forms, procedural law, the victim’s rights, and the criminal sanctions. We also discuss how the Sexual Violence Crime Law may affect corporate practices and the impact of the approach in drafting certain agreements, including in merger and acquisitions documents.

What is the Purpose of Sexual Violence Crime Law?

The substance of the Sexual Violence Crime Law aims to (a) prevent all forms of sexual violence; (b) handle, protect, and recover the victims; (c) carry out law enforcement and rehabilitate the perpetrators; (d) create an environment without sexual violence; and (e) ensure the non-repetition of sexual violence.

What are the Forms of Sexual Violence Crime?

Based on the Sexual Violence Crime Law, there are 9 (nine) forms of regulated Sexual Violence Crime:¹

1. Non-physical sexual harassment;
2. Physical sexual harassment;
3. Forced contraception;
4. Forced sterilization;
5. Forced marriage;

¹ Article 4 Paragraph (1) of the Sexual Violence Crime Law



6. Sexual abuse;
7. Sexual exploitation;
8. Sexual slavery; and
9. Electronic-based sexual violence.

How does the Procedural Law Work on Treatment of Sexual Violence Crime?

In dealing with Sexual Violence Crime, the law presents a breakthrough in providing a special procedural law that overcomes the obstacles to cater justice for victims. First, the law enforcement officers who handle cases of sexual violence must have the integrity and competence from the perspective of human rights and the victims and have attended training related to handling cases of criminal acts of sexual violence.²

Sexual violence cases also cannot be resolved outside the judicial process, except for child perpetrators.³ Further, the examination of Sexual Violence Crime cases is conducted in a closed trial, but the reading of the judge's verdict is carried out in a public trial by keeping the identities of witnesses and victims confidential.⁴

What are the Victim's Rights?

Victims have the right to be handled, protected, and recovered since the occurrence of the Sexual Violence Crime⁵ which includes the victim being accompanied at every judicial process.⁶ In addition, victims of sexual violence are entitled to restitution and recovery services. The restitution is given in the form of compensation due to loss of property or income, suffering directly related as a result of the Sexual Violence Crime; for reimbursement of medical and/or psychological treatment costs; and/or compensation for other losses suffered by the victim as a result of the crime.⁷

What are the Criminal Sanctions?

In addition to imprisonment and fines, perpetrators of Sexual Violence Crime may be subject to additional penalties in the form of:⁸

² Article 21 Paragraph (1) of the Sexual Violence Crime Law

³ Article 23 of the Sexual Violence Crime Law

⁴ Article 58 and 59 of the Sexual Violence Crime Law

⁵ Article 66 Paragraph (1) of the Sexual Violence Crime Law

⁶ Article 26 Paragraph (1) of the Sexual Violence Crime Law

⁷ Article 30 Paragraph (1) and (2) of the Sexual Violence Crime Law

⁸ Article 11 of the Sexual Violence Crime Law



1. Revocation of child custody or pardon;
2. Announcement of perpetrator's identity;
3. Deprivation of profits derived from criminal acts; and/or
4. Payment of restitution or compensation charged to the perpetrator or a third party based on a court decision with permanent legal force, for material or immaterial losses suffered by the victim or the victim's heirs.

Further, perpetrators of the Sexual Violence Crime may also be subject to rehabilitation.

In the event that a corporation commits the Sexual Violence Crime, criminal sanctions can be imposed on the management, the order giver, the controller, the beneficial owner of the corporation, and/or the corporation.⁹

It is stipulated that corporate parties who commit Sexual Violence Crimes may be subject to a fine of a minimum of 5 (five) million Rupiah up to 15 (fifteen) million Rupiah.¹⁰ In addition, corporations may be subject to additional penalties in the form of:¹¹

1. Refund payment;
2. Job training financing;
3. Deprivation of profits obtained from the Sexual Violence Crime;
4. Revocation of certain permissions;
5. Freezing of all or part of business premises and/or corporate activities; and/or
6. Dissolution of the corporation.

ARMA Law comments: the Start of a New Standard in Transactions?

As the Sexual Violence Crime Law includes sanctions on corporations, this may be the start of the movement of including clauses in transaction deals to take into account the risk of any pending or potential sexual crime allegations made against a corporation. The representations and warranties regarding no sexual harassment allegations against any employees and management of the target company may become Merger and Acquisitions (M&A) standard market clause in order to comply with the Sexual Violence Crime Law and protect the investor or seller from any potential financial and reputational liabilities caused by such allegations.

This movement has been adopted in the United States, for example, which adopted the so-called '#MeToo' sexual harassment representation and warranty clauses in merger and acquisition contracts back in 2018, after the wake of the Harvey Weinstein case or known as "Weinstein clause". Such

⁹ Article 18 Paragraph (2) of the Sexual Violence Crime Law

¹⁰ Article 18 Paragraph (1) of the Sexual Violence Crime Law

¹¹ Article 18 Paragraph (4) of the Sexual Violence Crime Law



clauses are contractual safeguards for the buyer which state that no sexual harassment allegations have been made against the target company's executives or personnel. Further, these clauses are typically used for representatives and warranties regarding the employment and management of target entities or companies.

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