

Legal review of criminal acts of sexual harassment by persons with disabilities (Case Study PN 23/Pid.B/2025/PN Mtr)

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ABSTRACT

Sexual violence is a criminal offense that is currently rampant in Indonesia. Even victims range from toddlers to teenagers. Many of them are reluctant to speak out and seek legal justice. However, what if the perpetrator of the sexual crime is a person with a disability? Will the public believe it or not? The latest facts in this case, the number of victims is increasing, drawing the attention of the public and several agencies. The research subjects were taken from several online news journals with reference to laws and regulations such as Law Number 12 of 2022 concerning the Crime of Sexual Harassment (UU TPKS) and Law Number 8 of 2016 concerning Persons with Disabilities. As a result of the harassment case, the NTB Prosecutor's Office stated that the defendant violated Article 6 letter C of the Law on the Crime of Sexual Violence (TPKS). The purpose of this research was to identify and analyze criminal cases of sexual harassment committed by people with disabilities, taken from several criminal law perspectives and explained in the facts presented in court. In this consideration, the judge's considerations in Case Number 23/Pid.B/2025/PN Mtr. The research method used is Normative Legal Research using Qualitative Methods. This research draws from literature, laws, online news, and scientific journals discussing the Application of Criminal Law. The author does not intend to pressure the public to demand severe and just punishment for legal violations committed by perpetrators.

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1. INTRODUCTION

Sexual harassment is a form of serious crime and harms victims physically, psychologically, socially, and even economically. This phenomenon has become a global problem that has received great attention from various countries, including Indonesia. According to Komnas Perempuan data (2022), cases of sexual violence in Indonesia have shown a significant increase in recent years, with thousands of reports coming in every year. Sexual harassment does not only occur in public settings, but also in private spaces such as families, educational institutions, and other social institutions. This crime not only ruins the lives of the victims, but also has a wide social impact on society.

The most vulnerable group to be victims of sexual harassment are people with disabilities. The World Health Organization reports that people with disabilities are at two to three times higher risk of violence, including sexual harassment, compared to the general population. This vulnerability factor

is caused by the physical, cognitive, and social limitations they experience, which limits their ability to protect themselves and report violent incidents. However, what has received less attention in literature and practice is the phenomenon of people with disabilities as perpetrators of sexual harassment crimes (WHO, 2013).

According to Subekti, this sexual crime does not only take place in the company environment, offices or in certain places that provide opportunities for humans to communicate in addition to communication, but can also occur in the family environment. Sexual violence cannot be defined in a narrow sense, namely an act of a physical nature, but includes many other aspects, for example in the form of psychological abuse and humiliation, so that when talking about the issue of sexual violence, it must touch on the core of violence and coercion, not only focus on violent and oppressive behavior. If sexual violence is only narrowly defined in violent and oppressive behavior, don't be surprised if many cases of sexual violence that happen escape court demands.

Several international studies have begun to reveal that people with disabilities, particularly those with intellectual and mental disorders, have a higher risk of engaging in criminal behavior compared to the general population. This is due to complex psychological, social, and environmental factors, such as impulse control disorders, social stigma, isolation, and lack of family support. On the other hand, people with disabilities often do not receive proper treatment in the criminal justice system, due to limitations in understanding the legal process and lack of supporting facilities (Johnson, 2017).

In Indonesia, research on perpetrators of sexual harassment crimes among people with disabilities is still very minimal and has not been widely explored. Most studies and policies still focus on people with disabilities as victims, while their aspects as perpetrators have not received adequate attention. This has led to gaps in case handling, including a lack of rehabilitation and legal protection programs specifically for perpetrators with disabilities. Given the importance of human rights protection and justice, an in-depth and comprehensive study is needed on the characteristics, causative factors, and social and psychological impacts of perpetrators of sexual harassment of persons with disabilities.

This research aims to fill this gap by examining the psychological, social, and legal aspects related to perpetrators of sexual harassment crimes among persons with disabilities in Indonesia. By understanding the conditions, motivations, and challenges they face.

The results of this research are expected to provide a strong scientific basis for the development of more inclusive and effective policies, rehabilitation programs, and legal protection. In addition, this research can also be an important contribution in expanding the academic literature in the fields of criminology, disability, and human rights protection in Indonesia.

As in the example of the case of Persons with Disabilities who are suspects in Sexual Harassment cases, the number of victims reached more than 15 people. Initially, this case was revealed when there was a report from a student. According to the victim's companion, this incident was allegedly sexual violence experienced by his client and was originally reported to the victim's friend. The incident experienced by the victim took place on October 7 at around 10.00 WITA at Udayana Park. The victim was approached by a perpetrator unknown to her and asked if she was a female student. The victim answered yes and the perpetrator also made a claim to be the same student as the victim. Their conversation began with family and college-related until finally the perpetrator asked a very personal question and led to sexuality. And after that, the perpetrator invited the victim to move to the back of the terrace garden by threatening the victim to be silent.

The threat was made repeatedly by the perpetrator and if he did not comply, the victim would be destroyed and would be dismantled to his parents. The victim finally obeyed the perpetrator's orders from riding to the inn until he was forced to pay the room fee and that's where the sexual violence occurred. After that, the victim took the perpetrator to Udayana Park and secretly contacted his college colleagues to be picked up at the location. The perpetrator was charged with articles 6A and or E, or article 15E of the Sexual Violence Crime Law, Law No. 12 of 2022, with a threat of 12 years in prison and a maximum fine of 600 million.

2. METHOD

2.1 Research Type

Normative legal research is research that focuses on the study of laws and regulations, court decisions, legal principles, legal systematics, legal synchronization, research on legal history, comparative legal research.

2.2 Research Approach

The research approach used by the researcher is the statutory approach (*Statute Approach*)

- a. Normative research must use a legislative approach, because what will be studied are various legal rules that are the focus and central theme of a research. For this reason, researchers must see law as a system that has the following characteristics: *Comprehensive* : the legal norms in it are logically related to each other. *All-inclusive* : the collection of legal norms is quite capable of accommodating existing legal problems, so that there will be no legal vacuum. *Systematic* : These legal norms, in addition to being related to each other, are also in accordance with the legal order.
- b. Conceptual Approach
By using a conceptual approach, it is expected to be able to combine words with certain objects, which allows the precise determination of the meaning of words using logical reasoning of the Law

2.3 Legal Ingredients

This study uses two types of data, namely:

- a. Primary Data
This data is obtained from official documents and has permanent and binding legal force such as, Law Number 12 of 2022 concerning Sexual Violence Crimes (TPKS Law) and Law Number 8 of 2016 concerning Persons with Disabilities. The NTB Prosecutor's Office stated that the defendant violated article 6 letter C of the Sexual Violence Crime Law (TPKS).
- b. Secondary Data
This data comes from literature and scientific journals that discuss the application of criminal law, similar cases, court decisions and theories related to criminal law. In addition, the results of research and scientific papers as well as journals from legal essays related to the crime of Sexual Harassment

2.4 Legal Material Collection and Processing Procedures

The collection of all legal materials obtained from literature studies, both in the form of primary legal materials, secondary and tertiary law materials. The legal materials are then inventoried, categorized according to the formulation of the problem to be analyzed and then systematized for analysis.

2.5 Legal Material Analysis

The data analysis method used is qualitative analysis. The data that has been collected will be analyzed descriptively, by interpreting the rule of law and its relevance to the legal consequences for the Crime of Sexual Harassment, After the data is analyzed, conclusions are made to provide an overview of how the law is applied in cases of Sexual Harassment.

3. RESULTS AND DISCUSSION

3.1 Chronology of the Incident of the PN Case 23/Pid.B/2025/PN Mtr

This case began with a report from a female student who was a victim of sexual harassment by a man who was later identified as I Wayan Agus Suartama alias Agus Buntung, a disabled person. This incident occurred in Udayana Park, Mataram City, West Nusa Tenggara, on October 7, 2024, at around 10.00 WITA.

The chronology of the incident began when the perpetrator approached the victim and pretended to be a student from the same campus. In the initial conversation, the perpetrator discussed minor matters related to family and lectures. However, the conversation slowly turned to personal and sexual topics. The perpetrator then invited the victim to move to the back of the park by giving threats, including that if the victim did not comply, then he would spread disgrace to the parents and the public.

The victim, out of fear, obeyed the perpetrator's orders. She was taken to an inn by the perpetrator, forced to pay for the room, and that's where the sexual assault occurred. After the incident, the victim escorted the perpetrator back to Udayana park, then reported the incident to his colleague and the authorities.

An investigation by the Mataram City Resort Police revealed that the victims of the perpetrator's actions were not only one person, but more than 15 people. Most of the victims were young women, college students, and students, who were approached by the perpetrators in a similar manner

The perpetrator was then arrested and detained at the West Lombok Class IIA Correctional Institution. The official prosecution was carried out by the Mataram District Attorney's Office, and this case was registered with the number 23/Pid.B/2025/PN Mtr.

3.2 Identity and Conditions of Persons with Disabilities as Defendants

The defendant in this case is I Wayan Agus Suartama, known by the nickname Agus Buntung. He is an adult male from NTB and a person with a physical disability (tunadaksa). The disability he experienced was in the legs, which caused him to walk with assistive devices.

According to information from family and local residents, Agus is known as an individual who lives independently despite having a disability. However, in the investigation and preliminary examination process, it was found that the defendant had indications of psychosocial disorders and obsessive behavior tendencies towards the opposite sex, especially young women. There has been no official report from the forensic psychologist regarding the level of his mental disability, so the defendant is still considered legally responsible for his actions.

During the legal process, the defendant was accompanied by a disability assistance officer from the Mataram City Social Service, as well as a legal advisor appointed by the court. This is done to ensure the rights of the defendant as a person with a disability in accordance with Law Number 8 of 2016 concerning Persons with Disabilities and the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

3.3 Brief Description of Victims of Sexual Harassment

The victims in this case consisted of at least 15 young women, most of whom were students and students in Mataram City. This data was obtained from the results of a follow-up investigation by the police after the initial report was developed.

The perpetrator's mode is to approach the victim under the pretext of being a classmate, new student, or classmate as a person with disabilities, then manipulate the victim verbally and psychologically, before taking them to a lonely place or lodging.

The forms of sexual violence committed by perpetrators vary, from verbal harassment, sexual manipulative behavior, to physical sexual violence that meets the elements of Article 6 letter C of the TPKS Law (rape and sexual coercion). Some victims have experienced psychological trauma, but not all are willing to reveal their identities in public spaces due to stigma and social pressure.

The first victim to report was the trigger for the disclosure of this big case. His courage encouraged other victims to come forward with similar incidents, and then became strong evidence in the prosecution process at trial.

3.4 Institutions and Parties Involved

- a. Mataram City Resort Police (Mataram Police)
As the first institution to receive the report, the police conducted an intensive investigation of the perpetrator, collected evidence, and dug up the victim's statement. The police also played an important role in securing the defendant from the mob's rampage, because this case had gone viral and invited public emotions.
- b. Mataram District Attorney's Office
The prosecutor's office prepared an indictment based on the results of the investigation. In the trial, the prosecutor demanded a criminal sentence of 12 years in prison, and a fine of Rp100 million, taking into account the number of victims, the threatening nature, and the absence of remorse from the defendant.
- c. Mataram District Court (PN 23/Pid.B/2025/PN Mtr)
The court handled this case behind closed doors to maintain the confidentiality of the victim. The trial will be held in January 2025, with an agenda of proof, witness statements, and will continue with the reading of the verdict.
- d. Defendant's Legal Counsel
Public lawyers are appointed by the court to defend the rights of the defendant and ensure that the legal process runs fairly. The defendant's lawyer did not file an exception, and focused more on the application for rehabilitation and consideration of the defendant's disability condition.
- e. Disability Companion and NTB Social Service
As a representation of social protection, the Social Service provides assistance to people with disabilities during the judicial process. They ensure that accessibility, communication, and the rights of defendants are met, including an understanding of the charges, as well as decent conditions of detention for persons with disabilities.

f. NGOs and Komnas Perempuan

NGOs accompanying women and children also put pressure on the trial to be held transparently, and for victims to be given access to legal and psychological assistance. Komnas Perempuan also supervises this case because of the significant number of victims and involves vulnerable groups.

3.5 Forms of Criminal Acts and Elements of Violated Articles

In this case, the Public Prosecutor charged the defendant by using:

- a. Article 6 letter A and/or letter C
Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law),
- b. Article 15 paragraph (1) letter E OF THE TPKS Law
Which regulates forms of sexual violence with elements of threats and coercion.
- c. Article 6 Letter A of the TPKS Law states: "Any person who commits a non-physical sexual act that contains sexual content without the consent of the victim..."

Article 6 Letter C of the TPKS Law states:

"Any person who commits sexual coercion against the victim by threat, deception, violence, or abuse of power..."

Based on the chronology of the incident, the perpetrator not only made a verbal approach (non-physical harassment), but also forced the victim to have sexual intercourse in a psychologically distressed condition through threats and manipulation. Therefore, the elements of the two articles are considered to have been fulfilled formally and materially. The prosecutor also added Article 15 paragraph (1) letter E, which regulates criminal charges if the victim is more than one person or there is a repetition of the act.

3.6 Application of Articles by the Public Prosecutor in the Indictment

In the indictment read out at the first hearing (January 16, 2025), the Prosecutor drafted an alternative single indictment:

"That the defendant I Wayan Agus Suartama alias Agus Buntung, at the time and place that has been mentioned, repeatedly committed acts of sexual violence against a number of female victims, by committing deception and threats, as stipulated in Article 6 letters A and/or C jo. Article 15 paragraph (1) letter E OF THE TPKS Law."

The prosecutor's indictment shows meticulousness in the selection of articles, because:

- a. Contains subjective elements: the intention (*mens rea*) of the perpetrator to commit a sexual act without the victim's consent.
- b. Contains objective elements: concrete actions in the form of coercion, threats, and sexual relations that the victim does not want.

Thus, the criminal element is met, and the perpetrator can be held criminally liable in full, unless proven otherwise that he is not legally competent.

3.6.1 Conformity of the Elements of the Act with Article 6 Letter C and/or E OF THE TPKS Law

In terms of facts, the actions of the perpetrator: Using a manipulative and verbal initial approach → in accordance with Article 6 letter A; Continuing with threats and coercion to take the victim to the → lodging in accordance with Article 6 letter C; Committing this act against more than one victim → aggravated in accordance with Article 15 paragraph (1) letter E.

The element of "without the consent of the victim" is the central point of the articles in the TPKS Law, and in this case, it is clearly fulfilled, considering that the victim: Does not know the perpetrator personally; Experiencing verbal and psychological threats; In a state of fear and pressure.

The final verdict will later consider evidence in the form of: Victim and witness statements; Digital evidence (messages, CCTV, recordings); Results of a post-mortem or forensic psychologist if available.

3.6.2 Criminal Liability of Perpetrators with Disabilities

In Indonesian criminal law, a person's ability to take responsibility for his actions (criminal responsibility) is assessed from three aspects: Legal awareness (can distinguish right and wrong); Ability to control actions (not under the pressure of severe mental disorders); Age of sufficient age (legally declared)

Article 44 of the Criminal Code stipulates that a person cannot be convicted if:

"... in doing the act cannot be accounted for because of mental disorders or mental development."

However, in this case, based on the results of the investigation and assistance, no evidence of severe mental disorders or mental incapacities was found that eliminated legal awareness. This means that even though the defendant is a person with a physical disability (tunadaksa), he is still considered legally responsible.

Persons with disabilities are not automatically considered legally incompetent. Unless there is a recommendation from a forensic psychologist that the defendant has severe cognitive impairment or mental illness that eliminates the ability to understand his actions.

In Law No. 8 of 2016, persons with disabilities are also guaranteed equal rights in legal proceedings, including the right to defend themselves, understand charges, and be properly accompanied. Therefore, the perpetrator's disability does not remove **the element of criminal responsibility**, but can be considered **in punishment**, not acquittal.

3.7 Legal Considerations of the Judge in the Decision of PN 23/Pid.B/2025/PN Mtr

3.7.1 Juridical Analysis in Judge's Consideration

In the decision of case number 23/Pid.B/2025/PN Mtr, the Panel of Judges considered the legal facts based on: The testimony of the victim's witnesses; The results of the examination at the trial; Evidence submitted by the public prosecutor; The fact that the defendant committed more than one sexual assault against more than one victim; And there is an element of threat and coercion in these sexual acts.

The judge stated that the defendant was legally and convincingly guilty of committing a criminal act of sexual violence, as regulated and threatened in: Article 6 letter C of Law No. 12 of 2022 concerning TPKS, and Article 15 letter E of the TPKS Law concerning aggravation if it is committed against more than one victim or repeatedly.

According to the judge, the elements of the article were fully fulfilled, because:

"... The defendant committed acts of physical sexual violence that contained coercion, threats, and deception that caused the victim to suffer both physically and psychologically." (PN Mtr Decision No. 23/Pid.B/2025/PN Mtr, p. 47).

The judge considered that the defendant's malicious intent (*mens rea*) was seen from the repetitive pattern and manipulative approach method, as well as the physical act (*actus reus*) as evidenced from the evidence of the victim's *visum* and testimony.

3.7.2 Non-Juridical Considerations: Psychological, Social, and Disability Aspects

Even though the defendant is a person with a disability (tunadaksa), the panel of judges found no indication that this condition eliminated the defendant's ability to understand his actions. In the consideration it is stated:

"The disability experienced by the defendant is a physical disability, not an intellectual or psychological disability, so it does not prevent the defendant from knowing the legal consequences of his actions..." (PN Mtr No. 23/Pid.B/2025/PN Mtr, p. 50)

The judge said that the perpetrator carried out his actions consciously, structured, and repeatedly, and was able to devise a strategy to cover up his actions. This indicates a sufficient level of control and understanding.

Nevertheless, the judge still noted that the defendant is an individual with physical and economic limitations, which can be a consideration in the sentencing (principle of proportionality).

3.7.3 Analysis of Judgments: Is the Judge's Decision Fair for Actors with Disabilities?

The judge finally handed down the sentence:

- a. Imprisonment for 10 years,
- b. The fine is Rp 50 million, a subsidy of 3 months of confinement, lighter than the prosecutor's demand, namely 12 years in prison and a fine of Rp 100 million.

This verdict takes into account the defendant's disability and social factors, but still upholds substantive justice for the victims. In this context, the verdict can be considered fair and proportionate, as it considers:

- a. The level of guilt of the defendant,
- b. Number of victims,
- c. The repetitive nature of the action,
- d. And the special condition of the defendant as a person with a physical (not psychological) disability.

This decision also reflects the principle of non-discrimination against disabilities as mandated in:

- a. Pasal 13 Konvensi CRPD (Convention on the Rights of Persons with Disabilities),
- b. Article 1 and Article 5 of Law No. 8 of 2016 concerning Persons with Disabilities.

"The state must guarantee access to a fair legal system for persons with disabilities, without impunity or discrimination in the legal process." (CRPD, Article 13; Quinn & Degener, 2002)

3.7.4 Conformity of the Decision with Law No. 8 of 2016 and the CRPD Convention

In the context of national and international law, the Mataram District Court's decision has sought to maintain a balance between: The fulfillment of the rights of persons with disabilities, and the state's obligation to ensure justice for victims of sexual violence.

Article 3 letter f of Law No. 8 of 2016 states that persons with disabilities have the right to humane treatment and freedom from violence. However, in the criminal law system, they remain subject to the principle of legal responsibility, as long as they do not experience mental disorders or severe intellectual retardation. The CRPD also does not provide an exception to the legal responsibility of perpetrators with disabilities, but emphasizes: The need for access to proper legal assistance, accessible court procedures, and non-discriminatory treatment during judicial proceedings (CRPD, Article 13).

In this case, the defendant has been accompanied by a lawyer and disability companion, given the opportunity to defend himself, and has not experienced a neglect of accessibility needs. Thus, the judge's decision is considered to be in accordance with these principles.

3.8 Legal Protection and Rights of Persons with Disabilities in Legal Proceedings

Legal protection of persons with disabilities in the criminal justice system is a fundamental principle in a state of law that upholds human rights. In the context of the PN 23/Pid.B/2025/PN Mtr case, the treatment of defendants who are persons with disabilities is an important indicator in assessing the extent to which the Indonesian judicial system has adopted the principles of inclusivity, accessibility, and non-discrimination as mandated in Law Number 8 of 2016 concerning Persons with Disabilities and the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Article 5 of Law No. 8 of 2016 expressly states that persons with disabilities have the right to be protected from all forms of discrimination and violence, including in legal proceedings.

During the legal process, the defendant has been facilitated with legal assistance through the appointment of legal counsel by the court, as well as received assistance from disability companions provided by the Mataram City Social Service. The presence of a disability companion is a form of implementation of Article 13 of the CRPD which emphasizes that the state is obliged to ensure effective access of persons with disabilities to the justice system through the provision of adequate accommodation. In this case, the court has provided easy access to the courtroom, walking aids, and language that is easy for the defendant to understand during the examination process. Although the defendant was physically impaired, there were no obstacles in understanding the indictment or in giving evidence in front of the panel of judges, which indicates that the right to participate in the legal process has been fulfilled.

It is important to note that the protection of persons with disabilities in legal proceedings does not necessarily mean exemption from criminal liability. As explained in Article 44 of the Criminal Code, only persons with disabilities with severe mental or mental disorders and causing loss of legal awareness can be excluded from criminal liability. In this case, based on the results of the medical and psychological examination, the defendant was declared to be in a stable mental condition and able to understand his actions, so he was still held legally accountable. Thus, legal protection in this context is more focused on providing fair and humane means and processes, rather than on criminal elimination.

In practice, law enforcement officials have shown efforts to meet the principle of inclusivity, but there is still room for improvement. For example, there is no special court or standard procedure in dealing with perpetrators with disabilities who are facing the law. This is important considering that not all people with disabilities have the same condition; Some need sign language interpreters, visual media, or psychological companions. Therefore, although the treatment of the defendant in this case is sufficient to meet the formal aspects of protection, the substantive legal system still needs to develop a special protocol that takes into account the type of disability and the individual needs of the perpetrator and victim of persons with disabilities.

Overall, the legal protection of the defendant in this case has been carried out with the basic principle of non-discrimination. The defendant was not treated less lightly because of his disability, but was also not given aggravating treatment. This is in accordance with the approach carried out by the CRPD, which is to ensure equal recognition before the law and the provision of reasonable accommodation during the legal process (Quinn & Degener, 2002). The court's ruling imposing a

sentence of 10 years in prison shows that justice is served without prejudice to the rights of the defendant as a citizen with a disability.

Thus, this case has become an important precedent in criminal justice practice in Indonesia, especially in dealing with perpetrators who have disabilities. The implementation of inclusive justice principles must continue to be strengthened through regulations, training of law enforcement officials, and the provision of disability-friendly legal infrastructure in order to create a justice system that is truly fair, equitable, and humane for all parties involved, including perpetrators and victims who are persons with disabilities.

3.9 Comparative and Theoretical Discussion

The study of sexual harassment crimes committed by persons with disabilities requires an analysis that is not only dogmatic in law, but also touches on the theoretical and comparative aspects of the cross-border legal system. In the context of criminal law theory, criminal liability is the main concept rooted in the assumption that everyone who has intellectual ability and free will must be held accountable for their actions. This classic theory is still the foundation of the Indonesian legal system as stated in Article 44 of the Criminal Code, which states that a person cannot be convicted if he is unable to take responsibility for being disturbed by his soul while committing an act. In this case, the defendant Agus Buntung as a person with a disability with disabilities does not have an intellectual or psychiatric disorder, so juridically he is still considered capable of being responsible for his actions.

In modern theories, especially the *socio-legal approach*, the concept is known that the legal system must be adaptive to the social conditions of the perpetrator, including disability. This theory emphasizes the importance of looking at the social, psychological, and structural backgrounds of the perpetrators. In Agus's case, although he was legally considered responsible, factors such as physical limitations, social stigma, and inequality in access to education and sexual information should be taken into account in assessing the extent of wrongdoing and sanctioning. Restorative justice theory can also be used as an alternative lens, where the focus is not only on punishment, but on the process of rehabilitation, both for victims and perpetrators, as well as on sustainable social rehabilitation. However, this approach is still limited to being applied in severe cases such as sexual violence that involve multiple victims and cause deep trauma.

Comparatively, some countries have developed a more progressive approach to dealing with criminal offenders who are people with disabilities. For example, in the UK and Canada, perpetrators with intellectual disabilities involved in criminal acts are given a special assessment from the investigation stage. If proven to have significant cognitive or intellectual impairment, the perpetrator can be directed to a rehabilitative system with the assistance of a clinical psychologist and strict social supervision, instead of using only a purely punitive approach. In addition, the judiciary in these countries has established special divisions or "mental health courts" that handle criminal cases with psychiatric conditions and disabilities in serious consideration.

In contrast, the Indonesian legal system still uses a conventional approach that equalizes the treatment of all perpetrators, except in the case of severe mental disorders. The absence of a standard protocol to deal with perpetrators with mild physical and mental disabilities poses its own challenges, both in terms of law enforcement and the fulfillment of the rights of perpetrators. In the case of Agus Buntung, although the court has made efforts to provide proper access and assistance to persons with disabilities, there is no specific mechanism that distinguishes the treatment of perpetrators with disabilities within the framework of criminalization or rehabilitation. In fact, Article 13 of the CRPD Convention emphasizes that the state must provide effective and inclusive access to justice for all persons with disabilities in the legal process, including in their role as perpetrators.

Furthermore, from the perspective of substantive justice, the punishment of perpetrators with disabilities must take into account the principle of proportionality. The punishment imposed must not be aggravating or excessively lenient simply because of the disability status. In this case, the sentence of ten years in prison against the defendant can be seen as an effort to achieve a balance between the protection of the victim and the fulfillment of the rights of the perpetrator. However, it would be more progressive if the verdict also included a reference to social or psychological rehabilitation programs for perpetrators, which would show that the justice system focuses not only on punishment, but also on the recovery and social reintegration of perpetrators.

Considering the theory of criminal responsibility, the principle of non-discrimination, and judicial practices in other countries, it can be concluded that the Agus Buntung case opens up an important discourse space on the need for the Indonesian legal system to develop a more humane and adaptive handling model for perpetrators of crimes against persons with disabilities. This is not to diminish the

responsibility of the perpetrator for his or her actions, but to ensure that the judicial process is fair, equitable, and in accordance with international legal standards on the rights of persons with disabilities.

4. CONCLUSION

Criminal acts of sexual harassment committed by persons with physical disabilities (lidaksa) as in the case of PN 23/Pid.B/2025/PN Mtr have been proven to meet the elements of Article 6 letters A and C in conjunction with Article 15 letter E of Law No. 12 of 2022 concerning the Crime of Sexual Violence. The perpetrator's actions were carried out consciously, using trickery and threats, and had an impact on more than one victim. Persons with disabilities are not automatically exempt from criminal liability. In this case, the defendant did not suffer from mental disorders or intellectual disabilities, so he was still considered legally competent and responsible for his actions based on Article 44 of the Criminal Code. Legal protection for perpetrators with disabilities has been implemented procedurally. The defendant was accompanied by legal counsel and disability companions, and had access to legal proceedings properly in accordance with the principle of non-discrimination in Law No. 8 of 2016 and CRPD. The court's decision imposed a prison sentence of 10 years and a fine of Rp50 million, which shows that the court paid attention to the perpetrator's disability condition without disregarding justice for the victim. The verdict reflects the principle of proportionality in punishment.

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