

MINISTER OF MANPOWER DECREE
REPUBLIC OF INDONESIA
NUMBER 88 OF 2023
REGARDING
GUIDELINES FOR THE PREVENTION AND HANDLING OF SEXUAL VIOLENCE IN THE WORKPLACE
BY THE GRACE OF GOD ALMIGHTY

MINISTER OF MANPOWER OF THE REPUBLIC OF INDONESIA,

- Considering : a. whereas everyone has the right to protection from sexual violence and to be free from treatment that degrades their degree and dignity within the workplace;
- b. whereas sexual violence is in contrary to spirituality and humanity and disturbs the security and harmony of work relations in the workplace;
- c. whereas based on the considerations as stated in points a and b, it is necessary to establish a Minister of Manpower Decree regarding Guidelines for the Prevention and Handling of Sexual Violence in the Workplace;
- In view of : a. Law Number 13 of 2003 regarding Manpower (State Gazette of the Republic of Indonesia of 2003 Number 39, Supplement to the State Gazette of the Republic of Indonesia Number 4279);
- b. Law Number 12 of 2022 regarding Sexual Violence Crimes (State Gazette of the Republic of Indonesia of 2022 Number 120, Supplement to the State Gazette of the Republic of Indonesia Number 6792);
- c. Presidential Regulation Number 95 of 2020 regarding the Ministry of Manpower (State Gazette of the Republic of Indonesia of 2020 Number 213);
- d. Regulation of the Minister of Manpower Number 1 of 2021 regarding the Organization and Work Procedure of the Ministry of Manpower (State Gazette of the Republic of Indonesia of 2021 Number 108);

HAS DECIDED:

- To stipulate : MINISTER OF MANPOWER DECREE REGARDING GUIDELINES FOR THE PREVENTION AND HANDLING OF SEXUAL VIOLENCE IN THE WORKPLACE.
- FIRST : Guidelines for the Prevention and Handling of Sexual Violence in the Workplace, hereinafter referred to as the Guidelines as listed in the Appendix which is an integral part of this Ministerial Decree.
- SECOND : The Guidelines as referred to in the FIRST Dictum are intended to provide technical guidance so that the implementation of prevention and handling of sexual violence in the workplace can be carried out optimally and can maintain harmonious and productive industrial relations.
- THIRD : The Guidelines as referred to in the FIRST Dictum are guidelines in carrying out the prevention and handling of sexual violence in the workplace, especially for entrepreneurs/companies, workers/laborers, trade unions/labor unions, and other related

parties in the workplace, as well as ministries and agencies that carry out government affairs in the manpower sector at the province/regency/city level.

FOURTH : This Ministerial Decree shall come into force on the date of stipulation.

Stipulated in Jakarta
on May 29, 2023

MINISTER OF MANPOWER OF
THE REPUBLIC OF
INDONESIA,

[signed and stamped]

IDA FAUZIYAH



APPENDIX
MINISTRY OF MANPOWER DECREE
REPUBLIC OF INDONESIA
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GUIDELINES FOR PREVENTION AND HANDLING OF SEXUAL VIOLENCE IN THE WORKPLACE

CHAPTER I
INTRODUCTION

A. Background

The Constitution of the Republic of Indonesia has laid down a firm legal basis that every citizen has the right to a work and life that is decent for humanity. This is as regulated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution). These provisions are interpreted such that every citizen has the right, may it be in their work or livelihood to be treated according to their degree and dignity as a human being. Article 28G paragraph (1) of the 1945 Constitution also states that everyone has the right to protection for themselves, their family, honor, dignity, and has the right to feel safe and protected from threats of fear to act or not to act on something that is a human right. This provision is interpreted to include protection against acts of sexual violence.

Law Number 13 of 2003 regarding Manpower (Law No. 13/2003) regulates that every worker/laborer has the right to obtain protection for occupational safety and health, morals and decency, and treatment according to human degree and dignity, and religious values. In addition to the aforementioned provisions, there are provisions in other laws and regulations providing protection from acts of sexual violence, including Law Number 12 of 2022 regarding Sexual Violence Crimes, Minister of Women Empowerment and Child Protection Regulation Number 1 of 2020 regarding Provision of Safe Houses for Women Workers in the Workplace which has been partially amended by the Minister of Women Empowerment and Child Protection Regulation Number 1 of 2023, and Minister of Education, Culture, Research and Technology Regulation Number 30 of 2021 regarding Prevention and Handling of Sexual Violence in Higher Education Environments. From a number of the aforementioned regulations, it is indicated that the state provides guarantees for protection against all actions that can reduce human degree and dignity, including acts of sexual violence in the workplace.

Based on the development of data in the Online Information System for the Protection of Women and Children (*Sistem Informasi Online Perlindungan Perempuan dan Anak* or SIMFONI PPA) at the Ministry of Women Empowerment and Child Protection, it is known that cases of sexual violence have increased in the last 3 (three) years. In relation to sexual violence, especially those which have occurred in the workplace, it can be shown that the data on cases and victims is relatively large. This condition is quite concerning as it will impact working conditions and the working relationship between workers/laborers and entrepreneurs.

Victims of sexual violence will generally experience psychological impacts, including feelings of shame, shock, self-blame, anger, frustration, confusion, depression and self-isolation. The condition of victims of sexual violence which could occur to workers/laborers, entrepreneurs or related parties will impact work



performance and create work relationships that are not conducive, thereby disturbing the comfort of working and doing business.

In 2011, the Ministry of Manpower issued Minister of Manpower and Transmigration Circular Letter Number SE.03/MEN/IV/2011 regarding Guidelines for the Prevention of Sexual Harassment in the Workplace. With the development of current conditions and challenges, this Circular Letter needs to be adjusted. Moreover, with the promulgation of Law Number 12 of 2022 regarding Sexual Violence Crimes, it is necessary to synchronize and strengthen the contents of this Circular Letter in the form of technical guidelines that can be used as a common reference in preventing and handling sexual violence by entrepreneurs/companies, workers/laborers, trade unions/labor unions, and other related parties in the workplace, as well as ministries and agencies carrying out government affairs in the field of manpower in the province/district/city, namely in the form of a Minister of Manpower Decree regarding Guidelines for the Prevention and Handling of Sexual Violence in the Workplace.

B. Purpose

1. Provide references in an effort to prevent, handle and protect against all forms of sexual violence in the workplace.
2. Create a work environment that is conducive, harmonious, safe, comfortable and free from acts of sexual violence in the workplace.

C. Scope

These guidelines include:

1. Matters related to sexual violence in the workplace which include forms, perpetrators, victims, and scope of occurrence of sexual violence in the workplace;
2. Prevention of sexual violence in the workplace which include the role of the parties and prevention efforts;
3. Complaints, handling and recovery of victims of sexual violence in the workplace; and
4. The task force for the prevention and management of sexual violence in the workplace including the formation, membership and duties and functions of the task force.

D. Understanding

1. Sexual Violence is any act that degrades, humiliates, harasses and/or attacks a person's body and/or reproductive function, due to unequal power relations and/or gender, which results in or can result in psychological and/or physical suffering including those which interfere with a person's reproductive health and has lost the opportunity to work safely and optimally.
2. Sexual Harassment is any unwanted sexual act, request to perform a sexual act, verbal or physical acts or gestures of a sexual nature, or any other behavior of a sexual nature, which makes a person feel offended, humiliated and/or intimidated so that the act is disturbing working conditions and environment.
3. Workplace is any room or field, closed or open, movable or fixed, where the workforce works, or which the workforce often enters for the purposes of business and where there is a source or sources of danger including all rooms, fields, courtyards, and surroundings which are parts of or are related to the Workplace.
4. Victims are people who experience physical, mental suffering, economic losses, and/or social losses as a result of a Sexual Violence crime.
5. Perpetrators are people who commit acts of Sexual Violence in the Workplace.
6. Prevention is any action or effort carried out to eliminate various factors that lead to the occurrence of Sexual Violence crimes and the recurrence of Sexual Violence crimes.
7. Recovery is any effort to restore the Victim's physical, mental, spiritual and social condition.
8. Worker/Laborer is any person who works by receiving wages or other forms of remuneration.

9. A Trade Union/Labor Union is an organization formed from, by, and for Workers/Laborers both in the Company and outside of the Company, which is free, open, independent, democratic and responsible for fighting for, defending and protecting the rights and interests of Workers/Laborers and improve the welfare of Workers/Laborers and their families.
10. Entrepreneurs are:
 - a. individuals, partnerships, or legal entities running a Company owned by themselves;
 - b. individuals, partnerships, or legal entities that independently run a Company that does not belong to them;
 - c. individuals, partnerships, or legal entities residing in Indonesia representing a Company as referred to in letters a and b, that is domiciled outside the territory of Indonesia.
11. Company is:
 - a. any form of business that is a legal entity or not, belongs to an individual, belongs to a partnership, or belongs to a legal entity, both privately owned and state-owned, which employs Workers/Laborers by paying wages or other forms of compensation;
 - b. social enterprises and other businesses that have a management and employs other people by paying wages or other forms of compensation.
12. Work Agreement is an agreement between Worker/Laborer and Entrepreneur or employer which contains working conditions, rights and obligations of the parties.
13. Company Regulation is a regulation made in writing by Entrepreneurs which contains terms of work and Company rules.
14. Collective Labor Agreement is an agreement that is the result of negotiations between a Trade Union/Labor Union or several Trade Unions/Labor Unions registered with the agency responsible for manpower affairs and Entrepreneurs, or several Entrepreneurs or associations of Entrepreneurs which contains terms of work, rights and obligations of both parties.
15. The Bipartite Cooperation Institution, hereinafter referred to as Bipartite Cooperation Institution, is a forum for communication and consultation on matters related to industrial relations in Companies whose members consist of Entrepreneurs and Trade Unions/Labor Unions that have been registered with the agency responsible for manpower affairs or Workers/Laborers elements.

CHAPTER II SEXUAL VIOLENCE IN THE WORKPLACE

A. Forms of Sexual Violence

1. In Law Number 12 of 2022 regarding Sexual Violence Crimes there are 9 (nine) forms of acts of Sexual Violence, namely:
 - a. Non-physical Sexual Harassment;
 - b. Physical Sexual Harassment;
 - c. forced contraception;
 - d. forced sterilization;
 - e. forced marriage;
 - f. sexual abuse;
 - g. sexual exploitation;
 - h. sexual slavery; and
 - i. electronic-based Sexual Violence.
2. Sexual Violence is an attitude/statement/action that demeans human dignity. Therefore, it can have a negative impact on both the victim and the work environment.
Below are some forms of sexual violence that often occur in the workplace:
 - a. Non-physical Sexual Harassment is a non-physical sexual act aimed at the body, sexual desires, and/or reproductive organs with the intention of demeaning a person's dignity based on sexuality and/or decency, including:

- 1) verbal or oral harassment which constitutes sexually suggestive comments, offensive jokes, insulting remarks about a person's private life or body parts or appearance;
 - 2) gesture or visual harassment which are body language and/or body movements that imply something sexual in nature, glaring, winking or whistling which is done repeatedly, gestures with fingers, and licking lips and glancing or staring lustfully;
 - 3) psychological or emotional harassment involving repeated and unwanted solicitations, invitations to flirt, unwanted requests for dates, insults or reproaches of a sexual nature.
- b. Physical Sexual Harassment, including physical sexual acts aimed at the body, sexual desires, and/or reproductive organs with the intention of demeaning a person's dignity based on sexuality, including kissing, patting, pinching, and touching the body lustfully.
- c. Electronic-based sexual violence, carried out by perpetrators without rights:
- 1) recording and/or taking sexually charged pictures or screenshots against the will or without the consent of the person who is the object of the recording or picture or screenshot;
 - 2) transmitting electronic information and/or electronic documents that are sexually charged against the will of the recipient aimed at sexual desire; and/or
 - 3) stalking and/or tracking using electronic systems against people who are objects in electronic information/documents for sexual purposes.

B. Perpetrators of Sexual Violence

Perpetrators of Sexual Violence in the Workplace in these Guidelines are the parties that are reported including Entrepreneurs, Workers/Laborers, and/or other related parties who are in the Workplace.

C. Victims of Sexual Violence

Victims of Sexual Violence in the Workplace include Workers/Laborers, Entrepreneurs, and/or other related parties who are in the workplace.

D. Scope of Sexual Violence Occurrence

The scope of the occurrence of Sexual Violence in the Workplace or related to the Workplace, for example in the transport of Workers/Laborers, or elsewhere.

CHAPTER III PREVENTION OF SEXUAL VIOLENCE IN THE WORKPLACE

A. Roles of Parties in Preventing Sexual Violence in the Workplace

1. Entrepreneurs, formulate and inform policies and ensure that acts of Sexual Violence do not occur.
2. Worker/Laborer, actively participates in efforts of Sexual Violence Prevention in the Workplace.
3. Trade Unions/Labor Unions, assist the Company in disseminating information on policies and participate in efforts of Sexual Violence Prevention in the Workplace to its members.
4. Other relevant parties who are at the Workplace, comply with the rules of the Sexual Violence Prevention policy applicable in the Workplace.
5. The Task Force for the Prevention and Handling of Sexual Violence in the Workplace (Task Force) which is formed in the Company, formulates and implements programs and activities that refer to Company policies regarding efforts of Sexual Violence Prevention in the Workplace.
6. Ministries and agencies which organize governmental affairs in the field of manpower in the district/city/province, carry out guidance and monitoring of the implementation of Sexual Violence Prevention in the Workplace.

B. Efforts to Prevent Sexual Violence in the Workplace

1. Regulating policies on the Prevention and handling of Sexual Violence in Employment Agreements, Company Regulations or Collective Labor Agreements.

Sexual Violence is a criminal act that can be subject to sanctions according to the provisions of laws and regulations. Sexual Violence is also a violation of norms in the Company that can be subject to sanctions in the form of a warning letter up to the termination of the employment relationship. Therefore, Entrepreneurs are obliged to regulate Company policies related to the Prevention and handling of Sexual Violence in the Workplace clearly and in detail, which should be outlined in Employment Agreements, Company Regulations, or Collective Labor Agreements.

2. Provide education to all parties in the Workplace.

Education about Sexual Violence to all parties is an important step in efforts to prevent and handle Sexual Violence especially in the Workplace. A deep understanding of Sexual Violence is important so that everyone can avoid any forms of Sexual Violence that may occur in the Workplace. Therefore, all parties must actively participate in conducting such education.

Entrepreneurs need to include information about Sexual Violence in their orientation, education, and training programs for Workers/Laborers. Meanwhile, Trade Unions/Labor Unions must convey information regarding Sexual Violence in their education and training programs, for their members.

3. Increase self-awareness.

Everyone in the Workplace must increase their awareness of the potential risk of Sexual Violence in order not to trigger the occurrence of Sexual Violence in the Workplace.

4. Provide adequate work facilities and infrastructure.

The availability of adequate work facilities and infrastructure can prevent the occurrence of Sexual Violence in the Workplace. For example: providing workspaces and rest areas with sufficient lighting, placement of surveillance cameras, separation of toilets according to gender, and etc.

5. Publicize the movement against Sexual Violence in the Workplace.

This is an invitation to prevent the occurrence of Sexual Violence in the Workplace in the form of writings, images or videos, among others, in the form of pamphlets, banners, and social media.

CHAPTER IV

COMPLAINTS, HANDLING, AND RECOVERY OF VICTIMS FROM SEXUAL VIOLENCE IN THE WORKPLACE

A. Reporting Sexual Violence in the Workplace

1. The process for reporting Sexual Violence in the Workplace, as outlined in these guidelines, involves lodging complaints to Companies, agencies and/or ministries that carry out government affairs in the field of manpower.
2. Parties who can report Sexual Violence in the Workplace are:
 - a. The victim;
 - b. The victim's family;
 - c. The victim's colleagues; and/or
 - d. Other related parties.
3. Complaints about acts of Sexual Violence in the Workplace can be submitted to:
 - a. The Task Force established in the Company;
 - b. The agency that organizes government affairs in the district/city/provincial manpower sector; and/or
 - c. The ministry that oversees governmental affairs in the manpower sector.
4. Complaints about incidents of Sexual Violence in the Workplace can be submitted either through online or offline methods.
5. The Task Force, or the corresponding governmental agency as mentioned in number 3, will record the complaint in their registry of complaints of Sexual Violence cases in the Workplace.
6. Apart from submitting to the Task Force or the specified governmental agency in number 3, complaints regarding incidents of Sexual Violence in the Workplace can also be directly reported to the police.

B. Addressing Sexual Violence in the Workplace

1. Complaints of Sexual Violence in the Workplace must be addressed with utmost seriousness, ensuring that the complaint is handled promptly and without discrimination.

2. The handling of Sexual Violence complaints, as submitted to the Task Force and/or the government agency as specified in letter A number 3, is carried out according to their authority and handled by:
 - a. The Task Force established in the Company;
 - b. The work unit that oversees industrial relations or manpower supervision at the district/city/province agency level administering government affairs in the field of manpower; and/or
 - c. The work unit in charge of industrial relations or manpower supervision within the ministry that organizes manpower affairs.
3. The handling of Sexual Violence in the Workplace by the Task Force and/or the relevant work unit, as outlined in number 2 as the party handling complaints is carried out as follows:
 - a. The party responsible for handling complaints collects information, among others, requests for information related to the complaint, applying the principle of the presumption of innocence, monitoring results from surveillance cameras (CCTV), and other sources of information.
 - b. Request for information as mentioned in letter a, can be made to the Victim and/or the complainant, the accused party, and other involved parties.
 - c. The results of the information collected are recorded in writing by the party handling the complaint.
 - d. Based on the results of the information gathered, the party handling the complaint may provide consideration to:
 - 1) The Victim, to report acts of Sexual Violence in the Workplace to the police; and/or
 - 2) The Company, to impose sanctions on the accused party in accordance with the provisions stipulated in the Employment Agreement, Company Regulation, or Collective Labor Agreement.

4. Support

The party handling complaints can provide assistance to the Victims in accordance with applicable laws and regulations.

5. Protection

Agencies and/or ministries that carry out government affairs in the field of manpower provide protection in the form of complaint services to Victims and/or accused parties in the event of violations of labor norms and/or industrial relations disputes by the Company, as a result of acts of Sexual Violence at the Workplace.

6. Imposition of sanctions by the Company

- a. Entrepreneurs may impose sanctions on the accused parties, including in the form of:
 1. written warning letters;
 2. transfer or assign the accused to other divisions/departments/work units;
 3. reduce or even remove part or all of their authority in the Company;
 4. temporary dismissal (suspension); and/or
 5. termination of the employment relationship.
- b. The imposition of sanctions by the Company must be in accordance with the form of Sexual Violence perpetrated by the accused party and based on the provisions stipulated in the Employment Agreement, Company Regulation, or Collective Labor Agreement.
- c. The sanctions imposed by the Company as referred to in letter a and letter b do not reduce the rights of the rights of the Victims to report the acts of Sexual Violence to the police, and perpetrators may be subject to criminal sanctions in accordance with provisions of laws and regulations.

C. Recovery for Victims of Sexual Violence in the Workplace

1. Victims of Sexual Violence have the potential to receive retaliation if the accused is the Victim's superior. To prevent such retaliation, the Company is responsible for:
 - a. ensure that the Victim does not receive retaliation from the accused party;
 - b. supervise working conditions and environment periodically so that there is no Sexual Violence in the Workplace; and

- c. guarantee that the Victim does not suffer any losses due to Sexual Violence in the Workplace, such as demotion, refusal of promotion which results in financial loss due to the refusal of work-related benefits, and so on.
2. Other Recovery Measures by the Company as a result of acts of Sexual Violence in the Workplace that can be carried out include:
 - a. restoring the right to sick leave or annual leave that is taken due to the procedures involved in handling Sexual Violence;
 - b. considering granting additional sick leave if the Victim requires trauma counseling;
 - c. removing negative evaluations from the Company's personnel department records due to the occurrence of Sexual Violence;
 - d. re-employing the Victim if they were unjustly terminated;
 - e. reviewing the implementations and decisions related to working relationships that disadvantage the Victim and/or the complaining party to ensure that such treatment or decision is not made as an act of retaliation; and/or
 - f. providing compensation such as medical expenses.

CHAPTER V

PREVENTION AND HANDLING OF SEXUAL VIOLENCE IN THE WORKPLACE TASK FORCE

A. Formation of the Task Force

1. Companies are required to establish a Prevention and Handling of Sexual Violence in the Workplace Task Force (Task Force).
2. For Companies with Bipartite Cooperation Institutions, the Task Force would be part of the organizational structure of the Bipartite Cooperation Institution.
3. For Companies without a Bipartite Cooperation Institution, the Task Force can be established through a Company Management Decree.
4. The Task Force for the Prevention and Handling of Sexual Violence in the Workplace Task Force operates within the scope of the Workplace by referring to the Prevention and Handling of Sexual Violence as set and regulated in terms of employment in the Company in the form of an Employment Agreement, Company Regulation, or Collective Labor Agreement.

B. Task Force Membership

1. Members of the Task Force are representatives from the Entrepreneurs and representatives of Workers/Laborers or Trade Unions/Labor Unions in the Company.
2. The number of Task Force members is odd, with a minimum of 3 (three) people.
3. The composition of the Task Force consists of:
 - a. chairperson who also serves as a member;
 - b. secretary who also serves as a member;
 - c. members.

C. Duties and Functions of the Task Force

1. Duties of Task Force members:
 - a. Develop and implement programs and activities in line with the Company's policies on the Prevention of Sexual Violence in the Workplace;
 - b. Receive Complaints of Sexual Violence in the Workplace from the Victim and/or the complainant;
 - c. Recording complaints of Sexual Violence in the Workplace in an orderly and meticulous manner;
 - d. Gather information related to the occurrence of Sexual Violence in the Workplace;
 - e. Provide advice to the Victim and the Company regarding further resolution of complaints of Sexual Violence in the Workplace; and
 - f. Offer support to the Victim
2. Function of the Task Force

The Task Force functions as the center for the Prevention and handling of Sexual Violence in the Company.

3. In addition to carrying out the duties and functions referred to in number 1 and number 2 above, the Task Force must:
 - a. uphold the norms and code of ethics set by the Company;
 - b. ensure the confidentiality of the identities of the parties involved in the Complaint and the handling of Sexual Violence in Workplace cases; and
 - c. maintain the independence and credibility of the Task Force.

CHAPTER VI CONCLUSION

These guidelines have been prepared as a reference for Entrepreneurs /Companies, Workers/Laborers, Trade Unions/Labor Unions, and other relevant parties in the Workplace, as well as ministries and agencies that carry out government affairs at the provincial/district/city level in the manpower sector, to implement the Prevention and Handling of Sexual Violence in the Workplace.

MINISTER OF MANPOWER
THE REPUBLIC OF INDONESIA,

[signed and stamped]

Ida Fauziah

