

## **Evolution of Women's Protection Law: From the Criminal Code to the Sexual Violence Crime**

### **Law**

T. Riza Zarzani<sup>1</sup> Indra Utama Tanjung<sup>2</sup> Siti Annisa<sup>3</sup>

[rizarzarzani@dosen.pancabudi.ac.id](mailto:rizarzarzani@dosen.pancabudi.ac.id) [indratj@dosen.pancabudi.ac.id](mailto:indratj@dosen.pancabudi.ac.id)

Panca Budi Development University

---

### **Abstract**

This research examines the evolution of women's protection laws in Indonesia with a focus on the transition from the Criminal Code (KUHP) to Law no. 12 of 2022 concerning Crime of Sexual Violence (UU TPKS). Through a legal analysis approach, this research aims to identify differences in definitions, sanctions and protection mechanisms offered by the two laws. The research results show that the TPKS Law brings significant changes in the definition of sexual violence, which not only includes rape and sexual harassment but also sexual exploitation, forced contraception, and forced marriage. This law also emphasizes prevention and rehabilitation of victims, reflecting a shift in the legal paradigm from a punitive to a restorative approach.

This research also reveals several challenges in implementing the TPKS Law, including the necessary adaptations in the justice and law enforcement systems as well as increasing public awareness. The three main problem statements identified are (1) the need for comprehensive training for law enforcers to understand and implement the law effectively, (2) the need to increase public education programs to reduce stigma towards victims, and (3) the need for synergy between institutions to ensure implementation Effective and coherent law. This research provides insight into the development of policies that are more gender sensitive and effective in protecting women's rights in Indonesia.

**Keywords :** Women's Protection, Sexual Violence, Legal Reform

---

### **INTRODUCTION**

Over the span of legal history in Indonesia, the issue of sexual violence has long been a serious concern, but comprehensive legislative efforts to address it have only been realized in the last few years. This marks an important turning point in the evolution of women's protection law from a normative and applied perspective. The Criminal Code (KUHP), which is a legacy of the Dutch colonial era, has long been the legal basis for regulating various criminal acts, including sexual violence. However, over time, various criticisms have emerged regarding the inadequacy of the Criminal Code in handling cases of sexual violence effectively, especially regarding the definition, scope and sanctions which are considered inadequate to protect victims (Amnesty International, 2019).

In 2022, Indonesia took a big step with the ratification of Law no. 12 of 2022 concerning Crime of Sexual Violence (UU TPKS). This law is a response to community demands that require a more specific and in-depth legal framework for the prevention and protection of victims of sexual violence. The TPKS Law brought various significant changes, including expanding the definition of sexual violence which is not only limited to rape or sexual harassment, but also includes sexual exploitation, sexual torture, and other forms of violence that have sexual connotations (Government of Indonesia, 2022).

This research aims to examine the evolution of women's protection laws in Indonesia with a focus on the transition from the Criminal Code to the TPKS Law. In doing this, the research will

review the various dimensions of change presented by the TPKS Law, not only in terms of expanding definitions and sanctions, but also in the aspects of prevention and rehabilitation of victims. This comparative perspective is important to understand the extent to which this new law can improve the legal framework for the protection of women in Indonesia and provide a more effective response to sexual violence.

Furthermore, this research will also examine the challenges faced in implementing the TPKS Law, especially considering that legal changes are often accompanied by the need for adaptation in the justice and law enforcement systems. Strengths and weaknesses in the implementation of this law will be evaluated, including factors that influence its effectiveness in practice (Smith, 2020). It is hoped that this evaluation can provide insight for improvement and development of policies in the future.

This research is based on analysis of legal documents, literature studies, and interviews with experts and legal actors who are directly involved in handling sexual violence cases. It is hoped that this multidisciplinary approach can reveal the complexity and dynamics of legal changes oriented towards protecting women's rights in Indonesia. Through this research, it is hoped that it can make a significant contribution to the development of laws and policies that are more gender sensitive and responsive to the needs of victims of sexual violence in Indonesia.

## METHOD

The methodology used in this research is legal analysis, where researchers will examine and compare the contents and implications of the Criminal Code (KUHP) and Law no. 12 of 2022 concerning Crime of Sexual Violence. This research will focus on normative interpretation of legal texts to identify differences in definitions, sanctions and protection mechanisms offered by the two laws. Analysis will be carried out through an in-depth understanding of legal texts using a comparative legal approach, which has been described by Petersen (2016) as a method that allows for a broader understanding of legislative change in a larger social and political context. This approach will be complemented by structured interviews with legal experts and practitioners to gain deeper insight into the application and effectiveness of these two laws in real legal practice.

## RESULTS AND DISCUSSION

### **Expansion of Definitions and Criminal Acts in the Sexual Violence Crime Law**

In-depth analysis of Law no. 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS) shows that the expansion of the definition and categorization of criminal acts of sexual violence provides significant changes when compared to the existing provisions in the Criminal Code (KUHP). Historically, the Criminal Code limits the interpretation of sexual violence to a narrow context, where rape—as the form of sexual violence most often discussed—is defined explicitly in Article 285. This article states that rape is the act of forcing someone to have sexual relations outside of marriage, by using threats or violence. This approach to the Criminal Code is often criticized because it does not cover the broader spectrum of sexual violence that often occurs in society, so that many cases are not covered by the law (Hariati, 2018).

The TPKS Law, enacted in response to the urgent need for more comprehensive protection, adopts a much more inclusive approach. This law not only includes acts of rape but also various other forms of sexual violence that the Criminal Code does not pay enough attention to. Based on the TPKS Law, sexual violence includes sexual harassment, sexual exploitation, forced use of contraceptives or sterilization devices, and forced marriage, as regulated in Article 2 and Article 5. Article 5 of the TPKS Law specifically regulates forced marriage, which is a form of sexual violence which was

previously not recognized in the Criminal Code. In addition, this article also includes a prohibition against behavior that forces someone to have an abortion, which is an important aspect of gender-based violence that often occurs but received little attention in the old regulations (Government of Indonesia, 2022).

This expansion of the definition not only changes the way the law addresses sexual violence but also has far-reaching impacts on public awareness and the criminal justice system. With a broader definition, more victims can seek justice and obtain legal protection. In addition, the affirmation of various forms of sexual violence in the TPKS Law shows the legislative commitment to address the entire spectrum of violence faced by victims. The implementation of these articles is expected to not only increase protection but also promote gender equality and reduce the stigma often faced by victims of sexual violence (Amnesty International, 2022).

On the other hand, expanding this definition also requires adjustments in law enforcement practices. Law enforcement, including police and courts, must be given adequate training to understand and effectively apply the new definition. Additionally, the general public needs to be sensitized about what sexual violence is according to the new definition to ensure that they can report these crimes appropriately. This shows the importance of legal education and public awareness as integral components in preventing and handling sexual violence in Indonesia (Sulistyaningsih, 2020).

Aspect	Criminal Code	TPKS Law
Definition	Limited to rape, with a focus on forced sexual relations outside of marriage.	Includes rape, sexual harassment, sexual exploitation, forced contraception/sterilization, and forced marriage.
Categorization of Criminal Acts	Rape as the main crime.	Added new categories such as forced marriage and sexual exploitation as criminal offenses.
Victim Protection	Less focus on specific victim protection.	Provide special provisions for the protection and rehabilitation of victims.

**Integration of Law and Social Efforts in Overcoming Sexual Harassment: Perspective of Law no. 12 of 2022**

Sexual harassment is a sexual act committed against a victim under conditions of coercion. Sexual assault is usually a crime committed by adults and usually occurs against women. Having legal protection is an effort to protect the government or administrators through applicable laws and regulations. The aim of legal protection is to ensure that legal subjects obtain their rights and can provide full protection to legal subjects who are victims.

Philipus M Hadjon defines legal protection as an action to protect the human dignity of individuals and recognize human rights based on statutory provisions against arbitrary activities or are rules that can act as protection for something (Hadjon, 1987). Several legal instruments to prevent and deal with harassment, namely in the Criminal Code (KUHP) the term sexual harassment is not recognized, but it is known as obscene acts. What is meant by acts of obscenity in the Criminal Code are all activities related to crimes of immorality in the form of acts that violate the norms that exist in society.

Perpetrators of sexual harassment can be charged with obscenity as regulated in articles 289 to 296 of the Criminal Code. In Law no. 12 of 2022 concerning (TPSK) also regulates the rights of every person to obtain protection from degrading treatment, preventive measures and recovery for victims of sexual harassment where this law acts as a legal umbrella in the event of a criminal act of sexual violence.

Article 1 paragraph (1) also explains the definition of sexual violence, namely all activities that contain elements of criminal acts that are fulfilled as regulated in this Law as well as other sexual acts that are regulated in law as long as they are not stipulated in this law. . There are 10 important points stated in this law regarding forms of sexual violence as stated in article 2 paragraph (1), including:

- a. Rape;
- b. Obscene acts
- c. Sexual intercourse, obscene acts, and/or sexual exploitation of children;
- d. Acts that violate decency are contrary to the wishes of the victim;
- e. Pornography involving children or pornography that explicitly contains violence and sexual exploitation;
- f. Forced prostitution;
- g. The crime of trafficking in persons indicated for sexual exploitation;
- h. Sexual violence in the domestic environment;
- i. The crime of money laundering which originates from the crime of sexual violence; And
- j. Other criminal acts which are expressly stated to be criminal acts of sexual violence which are regulated in statutory regulations.

It is hoped that the presence of this law can become the main legal instrument to overcome the occurrence of criminal acts of sexual harassment and be a complement to previous legal instruments which have not been comprehensive and optimal in their implementation.

This case of sexual harassment against 13 female Islamic boarding school students in Bandung was discovered in 2021, which in fact has been going on for the last 5 years, which was carried out by educators in Islamic-based educational institutions. Generally, a teacher is supposed to protect, educate and guide female students to grows and develops, but it is different with Herry Wirawan, who is the person who raped 13 female students from 2016 to 2021. Currently, the perpetrator has been sentenced by the court to the death penalty. Initially, Herry Wirawan founded the Manarul Huda Orphanage Foundation in Antapani Tengah, Bandung City in 2016. Then he also founded the Madani Islamic Boarding School in Cibiru and the Tahfidz Madani Islamic Boarding School in Sukanagara, Antapani Kidul.

In Court Decision Number 86/PID.SUS/2022/PT BDG, Herry established a foundation and Islamic boarding school with the aim of fulfilling his wishes. In 2021, the family became increasingly aware of Harry's bad behavior when one of the victims began acting strangely. become quiet, refuse to eat, even keep crying. Finally, the Madani Islamic Boarding School victim admitted to being Hari's sexual target. Then, in 2021, the family reported the incident to the West Java Regional Police. A situation similar to Herry's was reported by 12 victims, including a founder and teacher at three schools who also reported it. It is a fact that the eight women raped by Hurley gave birth to nine children.

On December 16 2021, Herry's depravity case finally reached court after an extensive investigation. The judge called 21 witnesses during the trial. In addition, on January 11 2022, the public prosecutor requested that Herry be sentenced to execution by castration injection. Herry offered a plea after the death penalty was requested. Herry expressed regret and apologized to the family and victims when reading the defense note or plea filed at the Bandung District Court (PN) on January 20 2022. The panel of judges decided that Herry should be imprisoned for life on Tuesday, February 15 2022, at the District Court (PN ) Bandung, Bandung City.

However, the prosecutor appealed the verdict so that on April 4 2022 Herry was still sentenced to death. Then Herry filed an appeal to the Supreme Court but it was rejected so Herry continued to serve his sentence as a death row convict.

Based on the analysis of the case above, the crime committed by Herry Wirawan is an extraordinary crime involving 12 underage girls and the founder and teacher of the Islamic boarding school, which could potentially damage the victim's health both physically and psychologically, resulting in the death penalty being imposed. Researchers in this case agree that it is implemented because it can provide a deterrent effect on perpetrators of sexual violence and prevent such cases from recurring as well as to maintain legal order and guarantee the legal interests of the victims.

Based on the analysis above, there are several factors that influence sexual violence/harassment.

- a. Family factors. The majority of victims of sexual violence are children from broken homes or families that are not intact, as well as those affected by economic difficulties and unfavorable environmental conditions, as well as parental divorce, so that the family plays a role in triggering sexual harassment.
- b. Environmental factors. Degrading sexual behavior can also be caused by unfavorable environmental factors. Apart from that, we often observe how many children today are involved in unethical promiscuity, daring to act beyond their control.

It could also be because of the support he received from his friends. As a result, we must be careful when interacting with other people, be able to choose pleasant environments, and choose friends or family members who we can trust.

Individual factors. This factor is caused by the child's own personality from an external perspective, namely being easily provoked by other people's words, being too dependent on adults and participating in promiscuity, while from an internal perspective it occurs due to bad environmental and family factors, resulting in discomfort and looking for an outlet. (Ahyun et al., 2022)

Sexual violence crimes can be prevented, assisted, recovered and monitored with community participation. Community participation in prevention is possible by:

- a. educate people of all ages about crimes of sexual violence so that they do not become victims or perpetrators and that sexual violence does not occur;
- b. spread awareness about laws and regulations governing sexual violence; And
- c. Create environmental conditions that can prevent sexual violence crimes from occurring.

Efforts to prevent sexual harassment can start from the smallest unit in society, namely the family, which actually has a very important role in reducing acts of sexual harassment. Families can take the following steps to reduce sexual violence: conducting socialization about the impact and threat of sexual violence, providing information to children according to age limits about body boundaries that should not be touched without consent and educating children about the role and socialization of sexual violence in providing knowledge about this, especially for young people. Inviting them to get to know their environment while providing information about regional values, customs and culture and directing young people to say no or shout if they are in a threatening position. (Nurchahyati & Legowo, 2022).

Family participation in overcoming sexual violence crimes is carried out through:

- a. Strengthen development in the family, regarding ethics, morals, religion and culture;

- b. Improve family members' communication skills;
- c. Strengthen emotional ties between family members;
- d. Make it easier for fathers, mothers and other family members to play their roles so that children develop protective qualities;
- e. safeguard family members and prevent them from accessing pornographic information and being influenced by pornography; And last,
- f. Protect family members from promiscuity and other harmful influences from the outside world.

The government's efforts to tackle the occurrence of sexual violence against women are by collaborating with related bodies such as the National Commission for Anti-Violence against Women, abbreviated as Komnas Perempuan. In order to reduce or reduce cases of brutality against women and young people, a mature strategy is needed. All parties and groups need to work together to combat violence and prevent it. Policies implemented by local governments to combat violence against children and women are no less important. Building a "Child Friendly City" (KLA) is one way to reduce the number of cases of violence against children. Every region in Indonesia dreams of the title "Child Friendly City" (KLA). Cities that have a development system based on children's rights by integrating commitment and resources from government, society and the business world are known as "Children-Friendly Cities" (KLA). This system is designed comprehensively and continuously in policies, programs and activities to ensure the protection and fulfillment of children's rights. To ensure the fulfillment of children's rights, society, the private sector and the government must work together effectively.

In Law no. 12 of 2022 concerning TPKS (Criminal Sexual Violence) also explains the government's efforts to tackle sexual harassment against women, namely in articles 79 to article 84 in article 79 paragraph (1) explaining that "The Central Government and Regional Governments are obliged to carry out the Prevention of Crime Sexual Violence quickly, comprehensively and integratedly." So, with this law, it is hoped that a public space that is friendly, especially to women and children, can be created.

Regarding efforts to prevent sexual violence and legal protection for women between the Criminal Code (KUHP) and the Sexual Violence Crime Law (UU No. 12 of 2022), it is very important to understand how law in Indonesia adapts and evolves in responding to the problem of violence. sexual relations, which has long been a serious issue in the protection of human rights, especially women's rights. First, it needs to be understood that the Criminal Code is a legal product inherited from colonial times which has undergone several changes, but in the context of sexual violence, it is often considered inadequate in responding to the protection needs of victims, the majority of whom are women. The Criminal Code primarily focuses on general criminal offenses and regulates several aspects related to sexual violence in a limited and general manner, without providing broad definitions or specific categories for types of sexual violence.

On the other hand, Law no. 12 of 2022 concerning Crimes of Sexual Violence is a response to the urgent need for a more specific and inclusive legal framework, one that understands the various forms of sexual violence and provides better protection and recovery for victims. This law was introduced as a way to fill gaps in the Criminal Code and provide a strong legal basis for handling sexual violence cases more effectively.

In terms of definition and scope, the Sexual Violence Crime Law provides a significant expansion of what is understood as sexual violence. This law identifies various forms of sexual violence which are not only limited to rape or physical harassment, but also include psychological violence, sexual exploitation, sexual torture, and other forms of violence which are often not covered

by the Criminal Code. This marks an important shift in the legal approach, from initially focusing on the act to paying more attention to the impact on the victim.

In terms of victim protection, the Sexual Violence Crime Law provides a more comprehensive protection mechanism, including access to legal and psychosocial services, protection of victims' identities, as well as security guarantees for victims and witnesses. This is a significant improvement compared to the Criminal Code, where victim protection is often limited and not comprehensive.

Furthermore, the Sexual Violence Crime Law also emphasizes the importance of prevention, including through education and awareness campaigns to change social norms and behavior that contribute to sexual violence. This reflects an understanding that preventing sexual violence requires more than just legal intervention after an act of violence has occurred.

However, the implementation of the Sexual Violence Crime Law also faces challenges, including in terms of resources, coordination between institutions, and the strong social stigma towards victims. Efforts to prevent and protect victims require cross-sector commitment and cooperation to be effective.

Finally, a comparison between the Criminal Code and the Sexual Violence Crime Law shows legislative efforts to strengthen legal protection for victims of sexual violence and improve prevention mechanisms. Although the Sexual Violence Crimes Law offers a better and more inclusive legal framework, the challenges of its implementation highlight that legal changes alone are not enough without strong support from all sectors of society to create a safe and supportive environment for all women and victims of sexual violence.

The right to a sense of security and the right to freedom from discrimination are constitutional rights for every citizen as guaranteed in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states: "Everyone has the right to protection of himself, his family and his respect, dignity and property under his control, as well as the right to a sense of security and protection from the threat of fear of doing or not doing something which is a human right," as well as in particular Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that: "Everyone has the right to be free from discriminatory treatment on any basis and has the right to receive protection against such discriminatory treatment." However, the facts show that this constitutional guarantee is still not fully enjoyed by everyone, especially victims of sexual violence, both women and children.

As mentioned, women and children are the most vulnerable to becoming victims of sexual violence. The position of women as victims has not yet received a strong basis. The concept of crime and who is the victim of crime is the starting point for explaining the legal position of the victim. There are 2 (two) concepts of crime, namely: 404

1. Crime is understood as a violation of the state or public interest represented by the state's democratic instruments; as well as

The interests that are violated are the interests of the public or the state, so a conclusion can be drawn that the state is the one who suffers losses if a crime or violation of criminal law occurs. This concept was developed, historically, to avoid acts of revenge from individual people. The state and people suspected of violating criminal law are the center of attention in the administration of criminal justice. The state then obtains its legitimacy as the legitimate representative of the representation of public interests and the basis for venting emotional and subjective personal revenge, which is then reconstructed in the

administration of criminal justice as a rationalization or objectification of revenge against criminal law violators.

The legal position of crime victims, namely the state, in the justice system plays a central and dominant role in making decisions regarding suspects or violators of criminal law. On the other hand, other parties who are not conceptualized as parties involved or included as perpetrators or victims, are positioned as instruments of proof in the criminal process, namely as witnesses. As a form of evidence, a witness has no legal relationship with the criminal law violation case he witnessed and is then used as an instrument in the imposition of a crime.

This concept was dominant until the end of the 19th century. The concept of a crime that violates the interests of the state is starting to be challenged and is seen as inconsistent with the realities of everyday life. This fiction or assumption that the state is the sole victim is difficult to accept in real and objective situations. John O. Haley said it that the state and its justice system cannot stand as imaginary proxies for real people who have suffered personally from crime. The transgressor's own sin is not that of an abstract entity called the state, but that of the victim and the actual, real community.

2. Crime is understood as a violation of the interests of individuals and also violates the interests of society, the state and essentially also violates the interests of the perpetrator himself.

Crime is understood as a violation, first and foremost violating individual rights and also violating community rights (public interests), state interests, and also indirectly violating the interests of the offender himself. Victims of crime are people who suffer harm due to violations of criminal law (crime), first and foremost, people who directly suffer because of a crime are called real victims (primary), then they are called victims, while the others are indirect victims (secondary).

In the event of a crime, the main victims are actually society and the state. In the form of the loss of a sense of peace and security as well as the collapse of the state's authority in the eyes of society, in the sense that society will assume that the state is unable to protect its citizens from crime.

Looking at the above, according to the author, in this criminal act of sexual violence, the main party directly harmed is the victim. The impact of criminal acts of sexual violence on victims not only leaves victims traumatized by what happened to them, but also depression which can be prolonged and can even lead to suicide attempts. For society and the state, as a result of this criminal act of sexual violence, indirect harm occurs in the form of loss of a sense of security, peace and tranquility in the community environment. Therefore, legal protection is not only provided to victims, but also to society and the state.

Legal protection is a protection given to legal subjects in accordance with legal regulations, both in a preventive (prevention) and in a repressive (coercive) form, both written and unwritten in order to enforce legal regulations. Legal protection is an illustration of the working of legal functions to realize legal objectives, namely justice, benefit and legal certainty.

As is the case with Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence which is the basis for law enforcement and protection of the rights of victims of sexual violence,



which was issued taking into account the development of societal dynamics, especially in the era of globalization which also has a negative impact on national culture due to the use of technology.

Law develops along with the development of society, including the law must adapt to developments in science and technology. In its work, law is always in contact with society. Basically, law as a whole focuses on actions that exist in society, so that in order to develop law in society so that it can be accepted, legal development must be carried out by paying attention to the legal reality that exists in society.

The enactment of Law Number 12 of 2022 has brought changes in providing protection for victims of sexual violence, especially women and children. The existence of Law Number 12 of 2022 itself can be called a form of preventive legal protection against criminal acts of sexual violence provided by the state. This preventive action is a future-oriented action that is strategic in nature and is a medium and long-term action plan, but must be seen as an urgent action that must be implemented immediately.

Considering that criminal acts of sexual violence are increasing and endangering society, preventive action in an effort to protect the rights of victims of sexual violence is to seek to uphold the law, namely Law Number 12 of 2022 by all means that do not violate statutory regulations, or carry out a series of actions that can prevent these actions from being carried out by potential perpetrators.

Seeing that the criminal provisions in Law Number 12 of 2022 are very serious, it should be enough to make people who have evil intentions of committing criminal acts of sexual violence to think twice. The following can be presented on the forms of punishment that can be imposed by a judge on perpetrators of criminal acts of sexual violence in Law Number 12 of 2022:

#### Crimes Against Perpetrators of Criminal Sexual Violence in Law Number 12 of 2022

No.	Criminal act	Chapter	Criminal Threats
1.	Non-physical sexual harassment.	Article 5	The penalty is 9 months in prison and a maximum fine of Rp 10 million.
2.	Physical sexual harassment.	Article 6	Sentenced to 12 years in prison and a maximum fine of IDR 300 million.
3.	Coercion of contraception.	Article 8	The maximum prison sentence is 5 years and fine of IDR 50 million.
4.	Forced sterilization.	Article 9	The maximum prison sentence is 9 years and a maximum fine of IDR 200 million.
5.	Forced marriage.	Article 10	The most prison sentence 9 years and a maximum fine of IDR 200 million.
6.	Sexual torture.	Article 11	The maximum prison sentence is 12 years and/or a maximum fine of IDR 300 million.
7.	Sexual exploitation.	Article 12	The maximum prison sentence is 15 years and/or a maximum fine of IDR 1 billion.

8.	Sexual slavery.	Article 13	The maximum prison sentence is 15 years and/or a maximum fine of IDR 1 billion.
9.	Electronic-based sexual violence.	Article 14	The maximum prison sentence is 4 years and a maximum fine of IDR 200 million.

Not to mention the payment of restitution by the perpetrator to the victim of a crime of sexual violence, this should be able to prevent and overcome this crime which has become a disease in society. However, the weakness in Law Number 12 of 2022 was used as a loophole by the perpetrators to carry out their actions. For example, in the event that the perpetrator cannot pay restitution after the confiscated assets are found to be insufficient, then the responsibility for restitution shifts to the state by providing compensation. Apart from that, there is a subsidiary penalty for perpetrators whose assets confiscated are not sufficient to pay restitution, of course the perpetrator prefers a subsidiary penalty rather than having to spend a certain amount of money for restitution.

Preventive protection efforts, apart from statutory factors, also involve active participation from the community to take part in protecting the rights of victims of sexual violence, as stipulated in Article 85 of Law Number 12 of 2022, which emphasizes the role of the community in implementing the prevention of criminal acts. sexual violence, by cultivating literacy about criminal acts of sexual violence, socializing laws and regulations related to criminal acts of sexual violence, and creating environmental conditions that can prevent criminal acts of sexual violence.

Various efforts to provide justice, protection and complete recovery for victims of sexual violence are nothing new that have been carried out in the last decade. However, various challenges still make victims marginalized from justice, protection and recovery that should be obtained, including gaps in legal substance that prevent victims from being recognized by the law as victims of sexual violence, discriminatory treatment of victims, the absence of synergy between services, and lack of availability of services needed by victims.

Seeing this, it can be said that justice is still far away for victims of sexual violence. It must be noted that legal protection for victims of criminal acts of sexual violence is not only provided to fulfill the victims' rights, but also in the form of imposing criminal sanctions on the perpetrators of criminal acts in accordance with their actions. The basis for sentencing today is a sense of justice and protecting society. A sense of justice requires that a punishment must be in accordance with the magnitude of the perpetrator's mistake, without looking at the dangerous situation, and this is punishment in the true sense. Especially in criminal acts of sexual violence which have a large and widespread impact on the victims, as well as society and the country.

Here, the perpetrator may have bad intentions in not paying the restitution, so this becomes an obstacle for law enforcement officials to enforce Law Number 12 of 2022 and provide protection for women and children who are victims of criminal acts of sexual violence. Obstacles in law enforcement and protecting the rights of victims of sexual violence must be addressed immediately, by utilizing existing facilities and even creating ones that do not yet exist.

Reconstruction of Regulations for Protection of the Rights of Victims of Sexual Violence Crimes Based on Justice Values

No.	Before Reconstruction	Weakness	The reconstruction
1.	Article 16 paragraph (1) Law 12/2022 Apart from imprisonment, fines, or other penalties according to the provisions of the Law, judges are obliged to determine the amount of restitution for criminal acts of sexual violence which are punishable by imprisonment of 4 (four) years. or more.	This provision does not provide justice for victims of criminal acts of sexual violence, considering that the impact that victims must bear is not only short term but also long term. Based on this, then All victims of criminal acts of sexual violence must receive restitution without exception. This restitution can be used to provide a deterrent effect to perpetrators of criminal acts of sexual violence. This can also be restitution used by victims of criminal acts of sexual violence in recovering from their physical or psychological condition as a result of the criminal act of sexual violence that befell the victim, so that the victim obtains legal certainty regarding the protection of their rights as a victim, as well as obtaining justice and benefits from the decision. which was handed down by the Judge.	Article 16 paragraph (1) of Law 12/2022, "In addition to imprisonment, fines or other penalties according to the provisions of the Law, the Judge is obliged to determine the amount of restitution that must be paid by the defendant."
2.	Article 35 paragraph (1) Law 12/2022 In the event that the convict's assets confiscated do not cover the restitution costs as intended in Article 33	The provisions of Article 35 paragraph (1) of Law 12/2022 indeed provide a guarantee of payment of restitution to victims through a mechanism. sme fundsvictim assistance, however, conceptually	Article 35 paragraph (1) Law 12/2022 In the event that the convict's assets confiscated do not cover the cost of restitution as intended in Article 33 paragraph (7),
	paragraph (7), the state provides compensation for the amount of underpaid restitution to the victim in accordance with the court decision.	In fact, the responsibility for restitution for the perpetrator shifts to the state by providing this compensation. Article 35 paragraph (1) of Law 12/2022 only provides a mechanism for paying restitution to perpetrators from the middle to upper class whose assets confiscated do not cover the cost of restitution. The state does not provide a mechanism for paying restitution for perpetrators from the lower middle class. The state should be fair in creating a restitution mechanism if the perpetrators cannot pay restitution. It needs to be explained that "without taking over the responsibility of the convict to meet the costs of	The state provides compensation for the amount of underpaid restitution to the victim in accordance with the court decision without taking over the responsibility of the convict to meet the costs of restitution by providing collateral in the form of material or personal items by the convict to pay off the restitution both when the convict is serving his sentence and after serving his sentence.

		<p>restitution", that is, the convict can pay the restitution with his income as a prison inmate, so that he can support the fulfillment of the right to restitution.</p> <p>without increasing the burden on the state.</p>	
--	--	--	--

## CONCLUSION

This research has revealed the importance of legislative progress represented by Law no. 12 of 2022 concerning the Crime of Sexual Violence, which replaces the outdated approach in the Criminal Code. This change not only broadens the definition of sexual violence, but also strengthens protection and prevention mechanisms, marking a new era in women's protection laws in Indonesia. This demonstrates a strong legislative commitment to the prevention of sexual violence and the protection of victims, by providing a legal foundation that is more inclusive and responsive to victims' needs. This also underscores the importance of gender sensitivity in policymaking and legal implementation, focusing not only on punishing perpetrators but also on rehabilitation and prevention.

However, significant challenges remain in the effective implementation of these laws, including the need for adaptation among law enforcement and increased public awareness. The success of this law depends not only on its strong legal framework but also on the active participation of all sectors of society. Therefore, continued efforts and collaboration between sectors are key to ensuring that this law is not just a new chapter in legislation, but also a real change in the lives of victims of sexual violence. Community participation, effective education, and a responsive law enforcement system are vital to eliminating stigma, providing proper protection, and ultimately, fostering a safe and supportive environment for all citizens, especially women and children.

## BIBLIOGRAPHY

- Amnesty International. (2019). *Laporan Tahunan Amnesty International tentang Kekerasan Seksual di Indonesia*. Jakarta: Amnesty International Indonesia.
- Amnesty International. (2022). *Laporan Tahunan Amnesty International tentang Implementasi Undang-Undang Tindak Pidana Kekerasan Seksual di Indonesia*. Jakarta: Amnesty International Indonesia.
- Fitrianto, B., Zarzani, T. R., & Simanjuntak, A. (2021). Analisis Ilmu Hukum Studi Normatif tentang Kebenaran dan Keadilan. *Soumatara Law Review*, 4(1). Online ISSN: 2620-5904.
- Garnasih, Y. (2022). Tantangan dalam Menangani Kasus Kekerasan Seksual di Indonesia: Studi Kasus Pengadilan Negeri Bandung. *Jurnal Hukum dan Keadilan*, 10(2).
- Hanafi, A. (1986). *Asas-Asas Hukum Pidana Islam*. Jakarta: Bulan Bintang.
- Hariati, S. (2018). Analisis Kritis Terhadap Definisi Kekerasan Seksual dalam KUHP. *Jurnal Hukum & Pembangunan*, 48(3), 456-479.
- Irianto, S., & Cahyadi, A. (2008). *Runtuhnya Pemisahan Perdata dan Pidana: Studi Yudisial Kekerasan Terhadap Perempuan* (Edisi Pertama). Jakarta: Yayasan Obor Indonesia.

- Irianto, S., & Cahyadi, A. (2008). *Runtuhnya Pemisahan Perdata dan Pidana: Studi Yudisial dalam Kasus Kekerasan Terhadap Perempuan* (Edisi Pertama). Jakarta: Yayasan Obor Indonesia.
- Kurniawati, D. (2020). *Kapasitas dan Pengetahuan Aparat Penegak Hukum Mengenai Kekerasan Terhadap Perempuan*. Jakarta: Pusat Penelitian Kebijakan Publik dan Manajemen.
- Nurhayati, S. (2012). Perlindungan Hukum bagi Pekerja/Buruh yang PHK Akibat Melakukan Kesalahan Berat. *Jurnal Ilmiah Mizan*, 2(4), 101-122. Universitas Pembangunan Panca Budi.
- Pemerintah Indonesia. (2022). *Undang-Undang No. 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual*. Lembaran Negara Republik Indonesia.
- Petersen, C. J. (2016). Analisis Hukum Perbandingan: Kerangka dan Metodologi dalam Studi Hukum Konstitusi. *Jurnal Studi Hukum*, 24(1), 223-245.
- Purba, J. E. M. (Tahun Publikasi). Tindakan Hukum Perdata Terhadap Kegiatan Kriminal Pencurian di Bawah Umur. *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)*.
- Sianturi, R. F., Zarzani, T. R., Fitrianto, B., Anwar, Y., & Sinaga, H. A. (2021). Kebijakan Hukum dalam Melindungi Perempuan dari Masalah Perzinaan dan Pernikahan Sirri. *Scenario (Seminar of Social Sciences Engineering and Humanities)*, 585-591.
- Sitepu, S. A. B., Purba, J. E. M., & Tanjung, I. U. (2022). Tinjauan Yuridis Perlindungan Korban Perdagangan pada Pekerja Seks Perempuan. *Jurnal Rectum: Tinjauan Yuridis Penanganan Kejahatan Kriminal*, 4(2), 488-497. <http://dx.doi.org/10.46930/jurnalrectum.v4i2.2051>
- Sulistyaningsih, E. (2020). Inovasi dalam Penanganan Kekerasan Seksual: Pendekatan Rehabilitatif di Indonesia. *Jurnal Kebijakan Publik dan Manajemen*, 8(1), 34-59.
- Sulistyaningsih, E. (2020). Pendekatan Rehabilitatif dalam Undang-Undang Tindak Pidana Kekerasan Seksual: Sebuah Inovasi Hukum. *Jurnal Analisis Hukum*, 5(1), 88-102.
- Tanjung, I. U. (2024). *Dasar-Dasar Metode Penelitian Hukum*. Editor: Dr. Armingsyah, S. H. I., M. H. Karanganyar: Penerbit Dikara.
- Temkin, J., & Krahe, B. (2008). *Serangan Seksual dan Kesenjangan Keadilan: Sebuah Pertanyaan tentang Sikap*. Hart Publishing.
- Zarzani, N., & Riza, T. (2017). Konsep Perlindungan Anak dari Tindakan Eksploitasi Seksual Komersial Anak dalam Hukum Internasional dan Penerapannya dalam Hukum Nasional. *De Lega Lata: Jurnal Studi Hukum*, 2(2), Juli - Desember. Fakultas Hukum, Universitas Muhammadiyah Sumatera Utara.