



## Criminal Law Policy for Overcoming Crimes of Sexual Violence in Indonesia

Fitri Hikmayasari; Joko Setiyono

Faculty of Law, Diponegoro University, Jl. Imam Bardjo SH No.5, Pleburan, Kec. Semarang Sel., Semarang City,  
Central Java 50241, Indonesia

E-mail: [Fitrihikmayasari11@gmail.com](mailto:Fitrihikmayasari11@gmail.com)

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### **Abstract**

Criminal law policy in combating sexual violence in Indonesia is an essential part of efforts to protect human rights and social welfare. This paper provides an analysis of the criminal law policies that have been implemented in Indonesia in response to sexual violence. Through normative and descriptive approaches, this article explains the evolution of criminal law related to sexual violence, including relevant laws and significant changes in law enforcement. Criminal law policy in Indonesia faces complex challenges, including issues of defining sexual violence, access to justice for victims, and increasing awareness and legal education in society. This analysis also highlights the efforts of the government, law enforcement agencies, and non-governmental organizations in strengthening the criminal law system to protect victims of sexual violence, impose strict sanctions on perpetrators, and promote the prevention of sexual violence. Through a deep understanding of existing criminal law regulations and continuous policy updates, it is hoped that Indonesia can continue to improve its response to sexual violence, ensure justice for victims, and create a safe and inclusive environment for all citizens.

**Keywords:** *Criminal Law Policy; Sexual Violence; Human Rights Protection*

### **A. Introduction**

Sexual violence against women and children is no longer just an individual problem but has become a national, even global and transnational concern. This is because sexual violence against women or girls is related to human rights.<sup>1</sup> This right is inherent from birth. The high rate of violence against women is an obstacle to a country's development. This situation can reduce women's self-confidence to actively participate in social activities. In fact, this can hinder women's lives in physical, socio-economic and political terms.

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<sup>1</sup> Suparlan, P. (2020). *Criminal Law: An Introduction*. Prenadamedia Group

Almost all countries experience the problem of sexual violence against women, requiring explicit regulations in national law, including Indonesia. According to the Secretary of the Ministry of Women's Empowerment and Child Protection, Pribudiarta N. Sitepu, there has been an increasing trend of violence against women and children in Indonesia from 2019 to 2021<sup>2</sup>. Forms of violence include physical violence reaching 39%, psychological violence 29.8%, and sexual violence 11.33%. This situation demands protection for women and children through various efforts such as prevention, strengthening services for victims of violence, and empowerment efforts such as rehabilitation. Efforts must be made to encourage women and children to report cases of violence they experience. Sexual violence can result in prolonged physical, mental, sexual, economic and social suffering for the victim (Judge MR, 2020). Therefore, legal regulations are needed that regulate the crime of sexual violence.

Sexual violence against women and children is not a new phenomenon in human history. Since ancient times, sexual violence has been a tool of power, oppression and control used by various parties, from state officials, military groups, to individuals. In many cultures, sexual violence against women is even considered "part of war" or a form of punishment against the enemy.

Lawrence M. Friedman stated that the effectiveness and success of law enforcement depends on three elements of the legal system, namely the structure of the law, the substance of the law and the legal culture. Eradicating crime problems is also part of law enforcement through crime prevention. Crime prevention is defined as an effort to control crime so that it is within the limits of societal tolerance. Crime prevention policies or efforts are essentially an integral part of efforts to protect society and efforts to improve community welfare.

There are 2 crime prevention efforts, namely through Penal and Non-Penal efforts. According to Barda Nawawi Arief, seen from the perspective of criminal politics, the most strategic policy is through penal means because it is more preventive in nature. Penal efforts are efforts to overcome crime using criminal means. The use/imposition of criminal sanctions is seen as a reaction to criminals as stipulated in the criminal law, from arrest, detention, prosecution, examination at trial until the imposition of a crime.

There are a number of factors that cause sexual violence against women and children. One of them is gender inequality which still dominates in many societies, where women and children are often considered as objects that can be controlled and manipulated. Apart from that, the patriarchal culture inherent in many societies also provides legitimacy for sexual violence as a form of expression of male dominance over women and children.

The impact of sexual violence on victims is extensive and often prolonged. Physically, victims can suffer serious injuries, infections, and even death. Emotionally, sexual violence can cause deep psychological trauma, including post-traumatic stress disorder (PTSD), anxiety, and depression (Judge MR, 2020). In addition, victims can also experience significant social and economic impacts, such as social isolation, stigmatization, and difficulties in obtaining work or education.<sup>3</sup>

Responses to sexual violence have evolved along with increased awareness of the importance of protecting victims and preventing violence. Many countries have implemented specific laws and policies that define sexual violence, provide legal protection for victims, and provide strict sanctions for perpetrators. At the international level, there are several important legal instruments, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the

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<sup>2</sup> Sudarto, A. (2018). Crime of Sexual Violence against Women. *Justisia Journal*, 7(3), 425-438

<sup>3</sup> Suparlan, P. (2020). *Criminal Law: An Introduction*. Prenadamedia Group.

Convention on the Rights of the Child (CRC), which provide a framework for protecting the rights of women and children.

However, the implementation of these policies and laws is often faced with various challenges, including a lack of resources, a lack of legal awareness and education in society, and a patriarchal culture that is still strong in some social contexts. Apart from that, there are also structural factors that contribute to the persistence of sexual violence, such as poverty, economic inequality and armed conflict.

Sexual violence against women and children is also a serious problem that requires in-depth attention. Although there are various laws and policies that have been implemented to protect victims and take action against perpetrators of sexual violence, challenges such as low case reporting rates, stigmatization of victims, and a slow justice system remain major obstacles.

Apart from that, sexual violence also often occurs outside the realm of formal law, such as in the context of the household, workplace or wider social environment. Therefore, a holistic approach involving all sectors of society, including government, non-governmental organizations, the private sector, and civil society, is needed to address this problem effectively. Efforts to prevent sexual violence are also an important focus in dealing with this problem. Inclusive and comprehensive sexual education, promotion of gender equality, and building community capacity in recognizing, preventing, and reporting cases of sexual violence are key steps in changing norms and behavior that support sexual violence. In facing global challenges such as human trafficking, sexual exploitation and sexual violence in armed conflict, international cooperation is also very important. Countries need to work together to develop holistic and coordinated strategies for preventing, protecting and enforcing laws against sexual violence.

Thus, a deep understanding of the contextual background of sexual violence against women and children is an important first step in formulating and implementing an effective response to end sexual violence and create a safe and inclusive environment for all.

The objective to be achieved in this article is the effectiveness of criminal law policies in dealing with criminal acts of sexual violence in Indonesia, and the factors that influence the implementation and enforcement of these policies.

### ***B. Formulation of the Problem***

1. How effective is criminal law policy in dealing with criminal acts of sexual violence in Indonesia?
2. What factors influence the implementation and enforcement of these policies?

### ***C. Research Methods***

This research is categorized into a type of normative legal research, this is based on the issues and/or themes raised as research topics. The research approaches used are Conceptual, Legislative, Comparative, namely research that focuses on rational, critical analytical and philosophical views, and ends with conclusions which aim to produce new findings as answers to the main problems that have been determined<sup>4</sup>. It will also be analyzed using a descriptive analytical method, namely by describing the applicable laws and regulations related to legal theory and positive law enforcement practices related to this problem.

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<sup>4</sup> Ishaq, *Legal Research Methods and Writing Theses, Theses and Dissertations*, Bandung: Alfabeta, 2017, p. 45

In this research, the method used is a normative approach using secondary data, especially primary legal materials such as Law no. 12 of 2022 concerning the Crime of Sexual Violence, the Criminal Code (KUHP), the Draft Criminal Code, and Law no. 23 of 2004 concerning the Elimination of Domestic Violence. Apart from that, secondary legal materials were also used in the form of literature such as books, journals and articles about sexual violence against women. Data analysis was carried out qualitatively, by examining in depth and thoroughly both legal regulations and related policies. The aim is to provide recommendations for making legal policies that are more effective in dealing with perpetrators of sexual violence against women.

## ***D. Results and Discussion***

### **1. The effectiveness of criminal law policies in dealing with criminal acts of sexual violence in Indonesia**

Criminal law policy regarding criminal acts of sexual violence against women is an important effort in upholding justice, protecting human rights, and preventing the occurrence of gender violence. In Indonesia, sexual violence against women is regulated by various laws, such as the Criminal Code (KUHP), the Law on the Elimination of Domestic Violence (PKDRT), and the Child Protection Law. This criminal law policy aims to provide strict sanctions for perpetrators of sexual violence, protect victims, and prevent the recurrence of violent acts.

Enforcement of the criminal law for sexual violence against women is based on the principles of justice and protection of human rights contained in the 1945 Constitution. Article 28I Paragraph (2) of the 1945 Constitution confirms that everyone has the right to a good and healthy living environment, including the environment which is free from all forms of violence, including sexual violence. This is the basis for the government to ensure effective law enforcement against perpetrators of sexual violence.

Criminal law policies against sexual violence also include prevention and protection efforts for victims. Apart from providing sanctions to perpetrators, the government must also provide support and access to health, psychological and legal services for victims. This is in line with the principle of protection for victims of sexual violence guaranteed by Article 28D Paragraph (1) of the 1945 Constitution.

Since Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS) was promulgated, the number of criminal acts of sexual violence is still high throughout Indonesia. The modus operandi used is also evolving. However, it is considered that the TPKS Law has not been implemented optimally and evenly by law enforcement officials (APH). The effectiveness of criminal law policy in dealing with criminal acts of sexual violence in Indonesia based on Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS), has several important steps needed to increase its effectiveness, including:

#### **a. Issuance of All Implementation Rules of the TPKS Law:**

To ensure that the TPKS Law can be implemented effectively, it is necessary to publish complete implementing regulations. Issue all necessary implementing regulations for Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS), so that they can be implemented optimally. It is necessary to publish all implementing regulations of the TPKS Law so that the provisions in the law can be implemented properly. Effective implementation requires clear guidelines for law enforcement officials.

b. Directed Socialization:

Information regarding the TPKS Law must be disseminated widely, especially to law enforcement officers (APH) and the general public, so that the preventive effect of the TPKS Law can be felt.

c. criminalization of new forms of sexual violence:

Apart from that, it is necessary to criminalize new forms of sexual violence through a revision of the Criminal Code or in the Draft Law on Sexual Violence.

Even though the TPKS Law has been passed, there are still challenges in its implementation, such as a lack of socialization and equal understanding among APH and the community. Apart from that, the modus operandi of criminal acts of sexual violence also continues to develop, which requires an adaptive, dynamic and effective legal response.

Further analysis shows that policies for handling sexual violence crimes, especially against children, are not yet fully effective. This is due to the lack of comprehensive research support regarding the effectiveness and long-term impact of implementing these regulations and there are still gaps in the TPKS Law, such as the issue of abortion due to sexual violence which has not been explicitly regulated in the Law. This shows that there is still room for improvement and adjustments in the legal framework to handle cases of sexual violence more effectively.

Overall, although the TPKS Law is a step forward in tackling criminal acts of sexual violence in Indonesia, further efforts are still needed to ensure effective and equitable implementation throughout the country. This includes increased outreach, APH training, and regulatory adjustments to close existing gaps. Although challenges in law enforcement for criminal sexual violence still exist, it is hoped that these steps can increase the effectiveness of dealing with criminal acts of sexual violence in Indonesia.

Therefore, to increase the effectiveness of criminal law policies in dealing with criminal acts of sexual violence in Indonesia, here are several solutions that can be considered:

a. Implementation of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS)

This law regulates the prevention, treatment, protection and restoration of the rights of victims of sexual violence. It is important to ensure that this law is implemented evenly and optimally by law enforcement officials.

b. Issuance of all implementing regulations for the TPKS Law and conducting targeted outreach.

c. Policy Coordination and Synchronization

Improve coordination and synchronization between ministries, institutions and regional governments to ensure effective and uniform handling throughout Indonesia.

d. Institutional Strengthening

Strengthen institutions involved in handling sexual violence cases, including increasing capacity and human resources.

e. Protection and Restoration of Victims' Rights

Providing adequate services for the treatment, protection and restoration of victims' rights, and ensuring that their rights are respected and fulfilled.

f. Reform of the TPKS Law

Carry out reforms to the TPKS Law to improve the resolution of sexual violence cases without compromising the rights of victims.

g. Prevention

Carry out more effective prevention efforts, including public education and awareness campaigns to reduce incidents of sexual violence.

h. Monitoring and Evaluation

Organizing ongoing monitoring and evaluation of the implementation of the TPKS Law to ensure that the law is enforced fairly and effectively.

i. Comprehensive Research

Conduct comprehensive research regarding the effectiveness and long-term impact of implementing policies for handling sexual violence crimes. This will help identify obstacles and improve existing policies.

j. International Cooperation

Intensifying cooperation with other countries in handling victims of sexual violence. Shared information and experiences can help improve the effectiveness of law enforcement.

By implementing these solutions, it is hoped that criminal law policies can be more effective in tackling criminal acts of sexual violence in Indonesia. Of course, all parties, including the government, law enforcement officials and the community, need to play an active role in ensuring the effectiveness of policies to combat sexual violence in Indonesia.

## 2. Factors that influence policy implementation and enforcement

Victims of sexual violence are often women who are trapped in various complex social dynamics. One of the main factors that causes women to become victims of sexual violence is the patriarchal culture that still permeates many societies. In this culture, women are often considered objects that can be controlled and manipulated by men, so that sexual violence is considered a form of expression of domination and control over them (Judge MR, 2020). Apart from that, gender inequality also plays a role in increasing women's vulnerability to sexual violence. A lack of equality in access to education, employment and life decisions makes women more vulnerable to exploitation and oppression. Stigma and discrimination against victims of sexual violence also become obstacles in reporting cases, because women are afraid of not being believed, blamed, or ostracized by society.

In addition, vulnerable socio-economic conditions such as poverty or lack of social support also increase the risk of sexual violence against women. In some cases, a culture of violence that demeans women's dignity and justifies violence against them also strengthens sexually violent behavior. Lastly, crises and conflicts such as economic crises or armed conflicts can increase the risk of sexual violence against women, because there is a decrease in protection and increased social instability which allows exploitation and violence to occur. All of these factors together create an environment that reinforces sexual violence against women, and it is important to identify and address these factors through a holistic approach involving cultural change, strengthening the law, economic empowerment, and inclusive gender education<sup>5</sup>

University of Indonesia Criminology Research Center. (2018) stated that gender inequality and patriarchal culture are the two main factors that cause sexual violence against women and children, namely as follows:

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<sup>5</sup> Suparlan, P. (2020). Criminal Law: An Introduction. Prenadamedia Group.

a. Gender Inequality:

Gender inequality creates hierarchies that disadvantage women and children in many aspects of life. In a society that is still dominated by patriarchal views, women and children are often treated as objects of lower value than men. This is reflected in various aspects of daily life, such as education, work and home life.

In the context of sexual violence, gender inequality causes women and children to be vulnerable to exploitation and oppression. They may have limited access to education and information about their rights, making them more vulnerable to abuse and manipulation. In addition, social structures that favor men and ignore the experiences and needs of women and children often make it difficult for them to report the sexual violence they experience or seek protection.

b. Patriarchal Culture:

Patriarchal culture is a system of values, norms, and practices that gives men power and control over women and children in society. In patriarchal cultures, men are considered to be the holders of undisputed power and authority, while women and children are expected to be submissive and obedient.

In the context of sexual violence, patriarchal culture provides legitimacy for acts of violence as a form of expression of male dominance over women and children. Women and children were considered the property of men and had little or no right to determine their own fate. This attitude creates an environment that makes it easier for sexual violence to occur, because perpetrators feel that they have the right to manipulate and control the victim according to their wishes.

Overall, gender inequality and patriarchal culture are interrelated and mutually reinforcing in creating an environment where sexual violence against women and children can occur. To overcome this problem, it is important to carry out deep cultural changes and fight for true gender equality, where women and children have the same rights as men and are respected as independent and valuable individuals (Sudarto, A. 2018).

This discussion focuses on the urgency of change and more effective law enforcement in accordance with the 1945 Constitution. This can be found in:

- a. Article 27 Paragraph (1) of the 1945 Constitution states that all citizens are jointly responsible for respecting human rights and encouraging the realization of social justice for all Indonesian people. Therefore, the government is responsible for ensuring the protection of women from all forms of violence, including sexual violence, in accordance with the principles of democracy and justice.
- b. Article 28 Paragraph (1) of the 1945 Constitution guarantees that every person has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law. This emphasizes the importance of an adequate legal system to tackle sexual violence. It is necessary to revise the law to be more firm and effective in taking action against perpetrators of sexual violence and protecting the rights of victims.
- c. In addition, Article 28I Paragraph (2) of the 1945 Constitution emphasizes that everyone has the right to a good and healthy living environment, which includes an environment that is free from all forms of violence. This underlines the need for efforts to prevent sexual violence through a holistic approach, including increasing public awareness, inclusive gender education, women's economic empowerment, and increasing access to health and legal services for victims.

However, the implementation of this criminal law policy still faces various challenges. Several factors such as low public awareness, minimal access to health and legal services, and a weak law enforcement system often become obstacles in handling cases of sexual violence. Therefore, there needs to be synergy between the government, legal institutions and society in increasing the effectiveness of criminal law policies.

Criminal law policies regarding criminal acts of sexual violence against women are an important part of efforts to protect human rights and ensure gender justice. Effective law enforcement and protection of victims must be based on the principles of justice, human rights and protection of victims as mandated in the 1945 Constitution.

### ***Conclusion***

In the context of overcoming criminal acts of sexual violence against women in Indonesia, criminal law policy plays a key role in upholding justice, protecting human rights, and preventing the recurrence of gender violence. Through various laws that regulate acts of sexual violence, such as the Criminal Code, PKDRT, and the Child Protection Law, the government seeks to provide strict sanctions to perpetrators, protect victims, and prevent acts of violence from occurring. So overcoming sexual violence against women requires a holistic approach involving prevention efforts, victim protection and effective law enforcement. In the context of the 1945 Constitution, criminal law policies must be based on the principles of justice, human rights and protection of victims. Only with synergy between all parties involved, Indonesia can overcome existing challenges and create a safe and fair environment for all citizens, without exception.

However, the implementation of this criminal law policy still faces significant challenges. Obstacles such as factors that influence this, such as patriarchal culture, gender inequality, low public awareness, minimal access to health and legal services, and a weak law enforcement system often hamper response efforts. Therefore, there needs to be coordinated efforts between the government, legal institutions and the community to increase the effectiveness of criminal law policies.

### ***Bibliography***

- Directorate General of Women's Empowerment and Child Protection, Ministry of Women's Empowerment and Child Protection. (2019). Handbook for the Prevention and Control of Sexual Violence Against Women and Children. The Ministry of Women's Empowerment and Child Protection.
- Hakim, MR (2020). Legal Protection for Victims of Sexual Violence from a Criminal Law Perspective. *Journal of Legal Dynamics*, 20(2), 257-268
- Indonesian Criminal Code (KUHP).
- Ishaq, Legal Research Methods and Writing Theses, Theses and Dissertations, Bandung: Alfabeta, 2017, p. 45
- Law of the Republic of Indonesia Number 12 of 2022 concerning Criminal Acts of Sexual Violence.
- Law of the Republic of Indonesia Number 23 of 2004 concerning the Elimination of Domestic Violence
- National Commission for Child Protection. (2019). Training Module for Handling Sexual Violence Against Children. National Commission for Child Protection.



Peter Mahmud Marzuki, *Legal Research*, Kencana Prenada Media Group, Jakarta, 2011, p. 22

Suparlan, P. (2020). *Criminal Law: An Introduction*. Prenadamedia Group.

Sudarto, A. (2018). Crime of Sexual Violence against Women. *Justisia Journal*, 7(3), 425-438.

The Ministry of Women's Empowerment and Child Protection. (2021). *2020 Annual Report: Protection of Children from Violence*. The Ministry of Women's Empowerment and Child Protection.

University of Indonesia Criminology Research Center. (2018). *Analysis of Factors that Influence Sexual Violence against Women in Indonesia: Case Study in Bogor City*. Research Report.

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