

A Synchronized Analysis of Norms and Structural Barriers to Enforcement of Law Number 12 of 2022 Concerning Sexual Violence

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Abstract: This study aims to analyse the criminalisation of sexual violence offences from the perspective of Law No. 12 of 2022 on Sexual Violence Offences (the Sexual Violence Offences Act) as a form of reform of national criminal law, and to assess its alignment with the principles of modern criminal law. The background to this research is based on the limitations of the old Criminal Code (KUHP), which has been unable to comprehensively accommodate various forms of sexual violence, particularly contemporary forms such as non-physical sexual harassment, sexual exploitation, forced marriage, and electronic-based sexual violence. This study employs a normative legal methodology, utilising legislative, conceptual and analytical approaches through a literature review of primary, secondary and tertiary legal sources. The results of the study indicate that the TPKS Act constitutes a progressive criminalisation policy that broadens the scope of sexual violence offences, strengthens victim protection through restitution, rehabilitation, and support, and shifts the orientation of criminal law from the protection of public morality towards the protection of human rights and the dignity of victims. From a normative perspective, the TPKS Act has fulfilled the principles of legality, proportionality and victim-oriented criminal law, although the principle of *ultimum remedium* has shifted towards *premium remedium* due to the serious nature of the offences. This study also found that the main obstacles lie in implementation, particularly regarding the capacity of law enforcement

Keywords: criminalisation, sexual violence, the TPKS Act

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officials, the legal culture of society, and the effectiveness of implementing regulations. Consequently, the success of the TPKS Law as an instrument of criminal law reform is largely determined by the alignment of legal norms and the optimisation of victim protection measures.

Abstrak: Penelitian ini bertujuan untuk menganalisis konstruksi kriminalisasi tindak pidana kekerasan seksual dalam perspektif Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual (UU TPKS) sebagai bentuk pembaruan hukum pidana nasional, serta menilai kesesuaiannya dengan prinsip hukum pidana modern. Latar belakang penelitian ini didasarkan pada keterbatasan Kitab Undang-Undang Hukum Pidana (KUHP) lama yang belum mampu mengakomodasi berbagai bentuk kekerasan seksual secara komprehensif, khususnya terhadap bentuk-bentuk kekerasan seksual kontemporer seperti pelecehan seksual non-fisik, eksploitasi seksual, pemaksaan perkawinan, dan kekerasan seksual berbasis elektronik. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan analitis melalui studi kepustakaan terhadap bahan hukum primer, sekunder, dan tersier. Hasil penelitian menunjukkan bahwa UU TPKS merupakan kebijakan kriminalisasi progresif yang memperluas ruang lingkup delik kekerasan seksual, memperkuat perlindungan korban melalui restitusi, rehabilitasi, dan pendampingan, serta merekonstruksi orientasi hukum pidana dari perlindungan kesusilaan menuju perlindungan hak asasi manusia dan martabat korban. Secara normatif, UU TPKS telah memenuhi prinsip legalitas, proporsionalitas, dan victim-oriented criminal law, meskipun prinsip ultimum remedium mengalami pergeseran menuju premium remedium karena sifat kejahatan yang serius. Penelitian ini juga menemukan bahwa hambatan utama terletak pada implementasi, terutama terkait kapasitas aparat penegak hukum, budaya hukum masyarakat, dan efektivitas regulasi pelaksana. Dengan demikian, keberhasilan UU TPKS sebagai instrumen reformasi hukum pidana sangat

Kata Kunci:

Kriminalisasi, Kekerasan Seksual, UU TPKS

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ditentukan oleh sinkronisasi norma dan optimalisasi implementasi perlindungan korban.

INTRODUCTION

Sexual violence in Indonesia is on the rise and becoming increasingly complex, affecting people of all ages and backgrounds. Children and young people, particularly girls, are the most vulnerable group, whether at home, at school or in other institutions. Cases of sexual violence against children continue to rise each year, with severe psychological, mental and social consequences for the victims.¹ Cultural factors such as the taboo surrounding discussions of sexuality and patriarchal norms exacerbate the situation, leading victims to rarely report incidents and be reluctant to seek help. Social stigma and fear of public reaction mean that many cases go unreported, so the available data is likely to be significantly lower than the actual figures.² Gender bias in patriarchal societies also complicates efforts to prevent and address sexual violence.³

Although Indonesia has a range of regulations concerning sexual violence, the existing laws are often overlapping, inconsistent, and fail to provide victims with adequate protection. The legal process tends not to favour victims, with minimal legal and psychological support, and a lack of consideration for the victims' suffering and needs in court rulings.⁴ The enactment of the Sexual Violence Crimes Act (UU TPKS) in 2022 was a step forward, but its

¹ D Afandi, "Medicolegal Study of Sexual Violence Cases in Pekanbaru, Indonesia: Prevalence, Pattern, and Indonesian Legal Framework," *Egyptian Journal of Forensic Sciences* 8 (2018): 1–10, <https://doi.org/10.1186/s41935-018-0067-5>.

² Y Wismayanti et al., "Child Sexual Abuse in Indonesia: A Systematic Review of Literature, Law and Policy.," *Child Abuse & Neglect* 95 (2019): 104034, <https://doi.org/10.1016/j.chiabu.2019.104034>.

³ N Rahayu et al., "Legal Policy of Sexual Violence in Indonesia," *Journal of Law, Policy and Globalization* 67 (2017): 174–84, <https://consensus.app/papers/legal-policy-of-sexual-violence-in-indonesia-rahayu-ekatihjana/a8635e2fc17e53fbb047bfa8a54f1323/>.

⁴ Nursiti Nursiti et al., "Sexual Violence in Indonesia (Rich Regulation – Poor Protection)" 12 (2020): 2003–11, <https://consensus.app/papers/sexual-violence-in-indonesia-rich-regulation---poor-nursiti-syahrin/5111a8a93d1d5481812f4c4b58889bb7/>.

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implementation still faces major challenges, such as budgetary constraints, inter-agency coordination, and cultural resistance.⁵ The protection and rehabilitation of victims require a strong commitment from the government and law enforcement agencies, as well as a shift in societal attitudes to prioritise human dignity and human rights.

Prior to the enactment of Law No. 12 of 2022 on Sexual Violence Offences (the Sexual Violence Offences Act), regulations concerning sexual violence in Indonesia were still very limited and not comprehensive. The Criminal Code (KUHP) only regulates certain forms of sexual violence, such as rape and indecent assault, as set out in Articles 281–295. However, these provisions are very limited in scope and do not cover the various forms of sexual violence emerging in society, including non-physical sexual harassment, online sexual violence, and other forms of gender-based sexual violence.⁶

The TPKS Act regulates and criminalises ten forms of sexual violence, including electronic sexual violence, and imposes strict criminal penalties both principal and additional even on corporations.⁷ In addition to criminal sanctions, this Act also emphasises prevention, protection, law enforcement and victim rehabilitation, and adopts the principles of gender-based justice and human rights.⁸

⁵ Wahidah Zein Br Siregar and Ella Syafputri Prihatini, “Passing the Sexual Violence Crime Law in Indonesia: Reflection of a Gender-Sensitive Parliament?,” *Politics and Governance* 12 (August 20, 2024), <https://doi.org/10.17645/pag.8245>.

⁶ Venny Zahara, Muhammad Arif Sahlepi, and Redyanto Sidi, “Comperative Legal Analysis Regarding Efforts To Prevent Sexual Violence And Legal Protection For Women In The Credit And Law Number 12 Of 2022 Concerning Actions Criminal Sexual Violence,” *International Journal Of Humanities Education and Social Sciences (IJHESS)*, 2024, <https://doi.org/10.55227/ijhess.v4i1.1211>.

⁷ T Santoso And Hariman Satria, “Sexual-Violence Offenses In Indonesia: Analysis Of The Criminal Policy In The Law Number 12 Of 2022,” *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 2023, <https://doi.org/10.22304/pjih.v10n1.a4>.

⁸ Zulkham Sadat Zuwanda and Andri Triyantoro, “The Role of Law of the Republic of Indonesia Number 12 of 2022 Concerning Sexual Violence Crimes in Handling Cases of Gender-Based Violence in Indonesia,” *West Science Law and Human Rights*, 2024, <https://doi.org/10.58812/wslhr.v2i04.1365>.

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The TPKS Act also broadens access to justice for victims, particularly women, through the development of criminal procedure laws that are more victim-centred, such as strengthening the rules of evidence and witness protection.⁹ However, implementation challenges remain, such as the need for secondary legislation, the need to strengthen the gender perspective among law enforcement officials, and harmonisation with other regulations.¹⁰

The criminalisation of sexual violence has been enshrined in various legal systems, yet regulations and their implementation are often incomplete and still face challenges in prioritising victims' interests. Many regulations remain limited in scope, and their implementation on the ground is often suboptimal in terms of protecting and supporting victims. In some legal systems, such as in Indonesia, the provisions on sexual violence in the Criminal Code (KUHP) are still limited to rape and indecent acts, whilst other forms of sexual violence such as sexual harassment and gender-based violence have not been adequately addressed. There is a need to broaden the concept of sexual violence in future regulations to make them more comprehensive.¹¹

The main legal issue in this study concerns how the criminalisation of sexual violence offences under Law No. 12 of 2022 on Sexual Violence Offences (the Sexual Violence Offences Act) was formulated in response to the limitations of previous regulations, which were deemed insufficiently comprehensive in addressing the forms, elements, and protection of victims of sexual violence. Legal issues arise regarding the expansion of the types of acts criminalised, the

⁹ i Kadek Et Al., "Juridical Review of Law Number 12 Of 2022 Concerning Criminal Acts of Sexual Violence in Accessibility of Justice For Women," *IBLAM LAW REVIEW*, 2022, <https://doi.org/10.52249/ilr.v2i3.107>.

¹⁰ Ashila Aulia Poetri and Indraswari Indraswari, "Content Analysis of Law Number 12/2022 on Sexual Violence Based on Due Diligence Framework," *Contemporary Public Administration Review*, 2024, <https://doi.org/10.26593/copar.v1i2.7683.61-93>.

¹¹ Elizabeth Siregar, Herry Liyus, and U Usman, "The Regulation on Sexual Violences in Criminal Code," *Proceedings of the 2nd Borobudur International Symposium on Humanities and Social Sciences, BIS-HSS 2020, 18 November 2020, Magelang, Central Java, Indonesia*, 2021, <https://doi.org/10.4108/eai.18-11-2020.2311744>.

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formulation of the perpetrator's criminal liability, and the orientation of victim protection, which emphasises not only punishment but also recovery, restitution, and prevention. On the other hand, the enactment of the TPKS Law has also raised questions regarding the compatibility of this criminalisation with the principle of legality, criminal policy, harmonisation with the Criminal Code and other sectoral regulations, as well as the effectiveness of its implementation within the Indonesian criminal justice system. Consequently, the legal issue addressed in this research focuses on a normative analysis of the basis, scope, and implications of the criminalisation of sexual violence under the TPKS Law as a reform of national criminal law aimed at substantive justice for victims.

Previous studies have generally characterised the Law on Sexual Violence Offences (UU TPKS) as a form of progressive legal reform, particularly in terms of expanding the scope of criminal offences and strengthening victim protection. However, the majority of these studies have remained limited to a normative description of the expansion of offences and victim protection mechanisms, without critically examining the consistency of the criminalisation policies established. This gap is evident in the lack of analysis regarding the potential for over-criminalisation, conflicts of norms with the National Criminal Code, and the imbalance between penal and non-penal approaches within the framework of modern criminal law policy. This article offers a new contribution by analysing the TPKS Act through the lens of criminal policy, specifically by systematically examining its alignment with the principles of *ultimum remedium*, proportionality, and victim protection. This analysis not only assesses the substance of the provisions but also evaluates the direction of criminalisation and its implications for the development of criminal law theory in Indonesia.

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METHODS

This study employs a normative legal research method, utilising the statutory approach, the conceptual approach, and the analytical approach. The statutory approach is used to examine Law No. 12 of 2022 on Sexual Violence Offences as the main object of the study, as well as to compare it with the Criminal Code and other relevant regulations. The conceptual approach is used to analyse the theory of criminalisation, criminal law policy, victimology, and modern criminal law principles through the thinking of experts such as Barda Nawawi Arief¹², Sudarto, Marc Ancel¹³, and Jan Remmelink¹⁴.

Legal research is one of the key elements in the development of legal science itself.¹⁵ The legal materials used consist of primary legal sources in the form of legislation, secondary legal sources in the form of books, academic journals and previous research findings, and tertiary legal sources in the form of legal dictionaries and legal encyclopaedias. The collection of legal materials was carried out through library research, whilst data analysis employed a qualitative-prescriptive method by interpreting legal norms, comparing concepts, and systematically drawing legal arguments.¹⁶

RESULTS AND DISCUSSION

The Legal Framework for the Criminalisation of Sexual Violence Offences in Law No. 12 of 2022: An Analysis from the Perspective of Modern Criminal Law Principles

¹² Barda Nawawi Arief, "Bunga Rampai Kebijakan Hukum Pidana:(Perkembangan Penyusunan Konsep KUHP Baru)," 2011.

¹³ Marc Ancel, *Social Defence: A Modern Approach to Criminal Problems*, vol. 199 (London: Psychology Press, 1998).

¹⁴ Jan Remmelink, "Hukum Pidana: Komentar Atas Pasal-Pasal Terpenting Dari KUHP Belanda Dan Padanannya Dalam KUHP Indonesia," *Jakarta: Gramedia Pustaka Utama*, 2003.

¹⁵ Agus Satory et al., "Metode Penelitian Hukum," *Penerbit Tahta Media*, 2024.

¹⁶ Peter Mahmud Marzuki, *Penelitian Hukum*, Cet. ke-15 (Jakarta: Kencana Prenada Media Group, 2021).

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Social developments, advances in digital technology and growing awareness of human rights call for a reformulation of criminal law policy that is more adaptable. Sexual violence can no longer be understood merely as a breach of public decency, but rather as a violation of the right to bodily autonomy, human dignity and individual sexual freedom.¹⁷ The enactment of the TPKS Act can be seen as a form of a new criminalisation policy aimed at broadening the scope of legal protection whilst addressing the social need for more comprehensive regulation.

In the theory of criminal law policy, criminalisation is the process of designating an act as a criminal offence on the basis of philosophical, sociological and legal considerations.¹⁸ Within this framework, the drafting of the TPKS Act stems from the philosophical need to uphold justice grounded in human dignity, the sociological need to address the high incidence of sexual violence, and the legal need to fill the regulatory gaps in previous legislation. Thus, the criminalisation provisions in the TPKS Act are not merely an addition of new offences, but also represent a shift in the paradigm of Indonesian criminal law towards a victim-oriented approach.¹⁹

The TPKS Act demonstrates that the legislature is seeking to make criminal law a more progressive means of protecting victims of sexual violence.²⁰ The TPKS Act represents a reform of national criminal law that adapts to social developments, human rights values and the need for substantive

¹⁷ Nursiti et al., “Sexual Violence in Indonesia (Rich Regulation – Poor Protection).”

¹⁸ Arief, “Bunga Rampai Kebijakan Hukum Pidana:(Perkembangan Penyusunan Konsep KUHP Baru).”

¹⁹ Elfa Murdiana and Alendra Nauval Mufti Rayhan, “Reformasi Hukum Pidana Kekerasan Seksual Dari KUHP Ke Keadilan Korban,” *Jurnal Supremasi* 15, no. 2 (2025): 63–82.

²⁰ Eko Nurisman, “Risalah Tantangan Penegakan Hukum Tindak Pidana Kekerasan Seksual Pasca Lahirnya Undang-Undang Nomor 12 Tahun 2022,” *Jurnal Pembangunan Hukum Indonesia* 4, no. 2 (2022): 170–96.

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justice.²¹ Its introduction not only fills a legal void but also marks a paradigm shift in Indonesia's criminal law towards a more modern, comprehensive, and victim-centred system.²²

The criminalisation provisions in the TPKS Act prioritise the protection of victims.²³ The legal interests protected are no longer limited to public morality, but encompass bodily integrity, sexual autonomy, human dignity and the right to feel safe. This shift is of great significance because, in modern legal protection theory, criminal law must be directed towards safeguarding the most essential legal interests (legal interest protection).²⁴ The provisions concerning non-physical sexual harassment, electronic sexual violence, sexual exploitation and forced marriage demonstrate that the TPKS Act adopts a more progressive approach to legal protection than previous legislation.²⁵

The framework for criminalisation in the TPKS Act reflects a modern criminal law policy that is rational, adaptive and focused on protecting the public. The TPKS Act demonstrates that criminalisation is not merely a process of labelling acts as criminal offences, but constitutes a national legal strategy for addressing social change and safeguarding fundamental legal interests. Its existence reinforces the position of Indonesian criminal law as an instrument of social protection that not only punishes perpetrators, but also restores victims and prevents the recurrence of sexual violence in the future.

²¹ Aryadi Almau Dudy et al., "Penguatan Literasi Hukum Hak-Hak Anak Korban Kekerasan Seksual Berdasarkan Undang-Undang Tindak Pidana Kekerasan Seksual," *Jurnal Pengabdian Masyarakat (Abdira) Vol 6*, no. 1 (2026).

²² Roby Satya Nugraha et al., "The Transformation of Indonesia's Criminal Law System: Comprehensive Comparison between the Old and New Penal Codes," *Reformasi Hukum*, 2025, <https://doi.org/10.46257/jrh.v29i1.1169>.

²³ Efen Nova, "Implikasi Yuridis Pembuktian Tindak Pidana Kekerasan Seksual Dalam Perspektif Undang-Undang Nomor 12 Tahun 2022 Bagi Pembenuhan Keadilan Korban," *Unes Journal of Swara Justisia* 9, no. 1 (2025): 208–19.

²⁴ Rimmelinck, "Hukum Pidana: Komentar Atas Pasal-Pasal Terpenting Dari KUHP Belanda Dan Padanannya Dalam KUHP Indonesia."

²⁵ Windy Widya Sistha, Irawan Harahap, and Rudi Pardede, "Perlindungan Hukum Terhadap Korban Kekerasan Seksual," *Collegium Studiosum Journal* 8, no. 1 (2025): 312–94.

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The Compatibility of Criminalisation under the TPKS Act with the Principles of Ultimum Remedium, Proportionality and Victim Protection

The principle of ultimum remedium in criminal law holds that criminal sanctions should be used as a last resort once other legal instruments such as administrative or civil sanctions, or non-criminal mechanisms have proven ineffective.²⁶ In the context of modern criminal law policy, this principle is intended to prevent over-criminalisation and avoid the excessive use of the state's repressive powers.²⁷ Criminal sanctions are applied proportionately and selectively only to acts that genuinely threaten fundamental legal interests.²⁸

Nevertheless, the application of the principle of ultimum remedium remains relevant as a corrective measure to ensure that criminal policy is not merely repressive.²⁹ For certain forms of behaviour that fall into a grey area or are linked to cultural factors, ignorance or complex social relationships, non-penal strategies are required, such as education, awareness campaigns, curriculum enhancement, counselling and restorative mechanisms. Through a combination of penal and non-penal approaches, the TPKS Act can fulfil a dual function: firmly protecting victims through criminal law, whilst simultaneously preventing crime through preventative and educational measures in line with the ideal of ultimum remedium.

²⁶ Pande Komang Surya Mahesa and Ayu Putu Laksmi Danyathi, "Penerapan Prinsip Ultimum Remedium Dalam Kebijakan Kriminalisasi Di Indonesia: Tinjauan Teoritis Dan Praktis," *Jurnal Media Akademik (JMA)* 3, no. 9 (2025).

²⁷ Siti Khumairoh Kusuma Arum and Khilmatin Maulidah, "Pembaruan Hukum Pidana Melalui Penerapan Prinsip Insignifikansi: Kajian Dalam KUHP Baru Indonesia," *Jurnal Hukum Ekualitas* 1, no. 1 (2025): 57–69.

²⁸ Andi Istiqlal Assaad, "Hakikat Sanksi Dalam Perspektif Hukum Pidana Indonesia Dan Hukum Pidana Islam," *Al-Ishlah: Jurnal Ilmiah Hukum* 20, no. 2 (2017): 50–64.

²⁹ Karolus Charlaes Bego et al., "Paradigma Baru Hukum Pidana Nasional: Analisis Normatif Terhadap Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana," *Jurnal Kolaboratif Sains* 8, no. 11 (2025): 7482–90.

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When compared with the approaches taken in some countries that have adopted victim-oriented criminal law, the emerging trend is to combine criminalisation with diversion and restorative justice mechanisms in a measured way. This model positions criminal law as part of a broader protection system, rather than as the sole instrument. In the Indonesian context, the TPKS Act has not yet fully and systematically integrated this approach, leaving scope to develop a criminal policy model that is more adaptive and responsive to the complexities of sexual violence.

From a normative perspective, the TPKS Act can be seen as having sought to uphold the principle of proportionality by differentiating between types of criminal offences based on the level of violence and the impact of the act. For example, forms of sexual violence involving coercion, threats or unequal power dynamics are punishable by more severe penalties than acts that do not involve direct physical violence.³⁰ This distinction reflects the legislature's recognition that not all sexual offences involve the same degree of culpability (schuld) or cause the same level of harm, and therefore require a graduated criminal response.

The application of the principle of proportionality in the TPKS Act still requires ongoing evaluation to prevent overcriminalisation, particularly in cases involving relatively minor offences or the complexity of specific social relationships. The risk of overcriminalisation arises when almost every form of behaviour related to sexuality is criminalised without adequate distinction regarding context, intent, and the actual level of harm to the victim.³¹ Law enforcement guidelines, context-sensitive judicial interpretation, and the

³⁰ Nur Amelinda Kharia, "Tinjauan Viktimologis Tindak Pidana Kekerasan Seksual Dalam Bentuk Fisik Dan Non Fisik Di Lingkungan Perguruan Tinggi (Studi Kasus Universitas Hasanuddin Tahun 2022)" (Universitas Hasanuddin, 2023).

³¹ Namira Wulandari Nawawi, "Tinjauan Yuridis Terhadap Pengaturan Kompensasi Bagi Korban Tindak Pidana (Perbandingan Tindak Pidana Pelanggaran Hak Asasi Manusia Yang Berat, Terorisme, Dan Kekerasan Seksual)= Juridical Review on the Regulation of Compensation for Victims' of Crime (Comparison of Gross Violation of Human Rights, Terrorism, and Sexual Violence)" (Universitas Hasanuddin, 2023).

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strengthening of non-penal mechanisms (such as education, limited mediation, or administrative measures) are required to ensure that criminal law truly becomes a proportional, fair, and effective instrument in combating sexual violence.

Although the TPKS Act has demonstrated normative progress, the broad scope of criminalisation also raises serious issues within the framework of criminal policy. Firstly, attention must be paid to the potential for over-criminalisation resulting from the expansion of categories of criminal offences, which is not always accompanied by clear boundaries regarding the degree of culpability and the level of harm caused by the act. Secondly, there is a potential for a conflict of norms with the National Criminal Code, particularly regarding the regulation of offences against public decency, which still maintains a moralistic approach, thereby potentially giving rise to dual interpretations in judicial practice. Thirdly, the dominance of a penal approach in the TPKS Act risks shifting the function of the ‘ultimum remedium’, such that criminal law is no longer used as a last resort but becomes the primary instrument without adequate selectivity. In this context, a more balanced model of criminalisation is required, systematically integrating non-penal approaches, including through restorative, educational and preventative mechanisms.

In addition to restitution, the TPKS Act also provides for mechanisms for medical, psychological and social rehabilitation for victims.³² These three forms of rehabilitation reflect a holistic approach to the impact of sexual violence, which harms not only the body but also the victim’s mental well-being and social standing. This guarantee of rehabilitation affirms that victim protection does not end with a court ruling, but continues through efforts to restore the victim’s dignity, sense of security, and ability to resume a decent social life. This demonstrates the state’s commitment to addressing the real

³² Rizki Andayani, Tofik Yanuar Chandra, and Mardi Candra, “Penerapan Restitusi Sebagai Bentuk Perlindungan Hukum Terhadap Perempuan Korban Tindak Pidana Kekerasan Seksual,” *CENDEKIA: Jurnal Penelitian Dan Pengkajian Ilmiah* 2, no. 2 (2025): 212–25.

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suffering experienced by victims. Social stigma, feelings of shame and fear of retaliation from the perpetrator often prevent victims from seeking help or reporting the incident.³³ Victims are entitled to protection from the police, legal assistance, healthcare, and social rehabilitation.³⁴

Research Findings

Based on the findings of the study, Law No. 12 of 2022 on Sexual Violence Offences (the TPKS Law) represents a progressive reform of national criminal law in response to the evolution of modern sexual offences in Indonesia. The UU TPKS not only introduces new categories of criminal offences but also reforms the orientation of the national criminal law system, shifting from a classical approach limited to traditional offences against public decency towards a more comprehensive, adaptive, and victim-centred legal framework. Whilst the old Criminal Code focused primarily on rape and sexual assault, the TPKS Act broadens the scope of criminalisation to include non-physical sexual harassment, electronic sexual violence, forced contraception, forced marriage, sexual exploitation, and other forms of sexual violence. This expansion demonstrates that the TPKS Act has successfully filled a legal void whilst aligning national criminal law with the emergence of new forms of crime, thereby reinforcing the role of the law as an instrument of social protection grounded in human rights and the dignity of victims.

From a normative perspective, the TPKS Act has largely complied with the principles of modern criminal law, particularly the principles of legality, victim protection and proportionality, through clearer definitions of offences,

³³ Muhammad Kurniawan Budi Wibowo, Aditya Fajri Kurnia Pradana, and Muhammad Luthfi Dwi Pramukti, "Edukasi Hukum Dan Kesadaran Psikologis KDRT Melalui Penyuluhan Interaktif Bagi Masyarakat Cawas Klaten," *Jurnal Medika: Medika* 5, no. 1 (2026): 139–46.

³⁴ Aditya Fajri Kurnia Pradana, Danny Trisno Susetyo, and Asri Purwanti, "Peningkatan Kesadaran Hukum Perempuan Terhadap Kekerasan dalam Rumah Tangga dan Masalah Sosial Modern Melalui Sosialisasi di Kelurahan Ngringo, Kabupaten Karanganyar," *Jurnal Indonesia Mengabdi* 4, no. 3 SE-Articles (December 1, 2025): 33–39, <https://doi.org/10.55080/jim.v4i3.1665>.

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victim-centred protection, and penalties commensurate with the seriousness of the offence. Furthermore, this study found a shift from the principle of ultimum remedium towards premium remedium, as sexual violence is viewed as a serious crime against the body, dignity, and human rights, thereby positioning criminal law as an instrument of active protection. However, the main obstacle to the TPKS Act does not lie in its normative substance, but rather in its implementation, such as the limited capacity of law enforcement officials, gender bias, social stigma, the harmonisation of secondary legislation, and the availability of victim recovery services. Consequently, the success of the TPKS Act is determined not only by the quality of its progressive provisions, but also by the state's effectiveness in implementing them to ensure tangible legal protection for victims of sexual violence.

These implementation issues highlight a gap between the normative design of the law and the reality of law enforcement. In practice, law enforcement officials still face limitations in understanding the construction of new offences, particularly those based on power dynamics and non-physical violence. Furthermore, the lack of optimal harmonisation of implementing regulations leads to procedural uncertainty in the handling of cases. This situation demonstrates that the effectiveness of the TPKS Act is determined not only by the comprehensiveness of its provisions, but also by institutional readiness and legal culture. Criminal law reform in the field of sexual violence must be understood as a process that simultaneously encompasses the renewal of legal substance, structure and culture.

CONCLUSION

Based on the findings of the research and discussion regarding the criminalisation of sexual violence offences from the perspective of Law No. 12 of 2022 on Sexual Violence Offences, several conclusions can be drawn. The Sexual Violence Crimes Act (UU TPKS) was enacted as a legal response to the limitations of the provisions in the old Criminal Code (KUHP), which had been

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unable to comprehensively accommodate various forms of sexual violence. Whereas the old Criminal Code was more oriented towards classic sexual offences such as rape and indecent assault, the Sexual Violence Crimes Act expands the scope of criminalisation to include non-physical sexual harassment, electronic-based sexual violence, sexual exploitation, forced contraception, forced marriage, and other forms of sexual violence. Thus, the TPKS Law does not merely add new types of criminal offences, but reconstructs the orientation of criminal law from moral-based protection towards rights-based protection, focusing on the protection of human dignity, bodily integrity, and the rights of victims. From a criminal law policy perspective, the TPKS Act reflects a criminal policy that is rational, adaptive, and responsive to developments in modern sexual offences, whilst aligning with the principles of legality, *lex specialis*, and victim-oriented criminal law.

Normatively, the TPKS Act has fulfilled the principle of legality through the formulation of clearer and more comprehensive offences; it has fulfilled the principle of proportionality through the differentiation of criminal penalties based on the severity of the offence; and it has placed victims at the centre of protection through mechanisms of restitution, rehabilitation, support and recovery. However, the principle of *ultimum remedium* in the context of the TPKS Law has undergone a transformation because sexual violence is categorised as a serious crime against human rights, meaning that criminal law is no longer merely a last resort, but rather an instrument of active protection (*premium remedium*). This shift is theoretically justifiable because the destructive nature of sexual violence not only harms individual victims but also has a broad impact on social order. Although the normative substance of the TPKS Law is relatively adequate, the greatest obstacles lie in its implementation, particularly regarding the readiness of law enforcement officials, the legal culture of society, the harmonisation of implementing regulations, and the effectiveness of the victim recovery system.

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In theory, the findings of this study indicate that the TPKS Act represents a paradigm shift from classical criminal law towards a model of criminal policy oriented towards victim protection. However, this shift also has consequences in the form of an expansion of criminalisation, which must be controlled to ensure it remains consistent with the principles of proportionality and ultimum remedium. The future development of Indonesian criminal law must emphasise a balance between penal and non-penal approaches, whilst strengthening the integration of legal substance, institutional structure and legal culture. In this way, criminalisation policies will not only be responsive to evolving crime patterns, but will also continue to guarantee justice, legal certainty and the sustainable benefits of the law.

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