

CHAPTER I

INTRODUCTION

A. BACKGROUND

Sexual violence is a persistent and deeply troubling problem in many parts of the world, including Indonesia. Its impact resonates not just on an individual level, but also across broader issues of humanity, justice, and legal rights.¹ In Indonesia, the government has addressed this problem through Law Number 12 of 2022 on the Crime of Sexual Violence (UU TPKS). This law lays out a comprehensive legal basis for prosecuting sexual crimes and safeguarding victims. It clearly defines what constitutes sexual violence, detailing acts that are punishable under the law (Articles 4 to 18), and it emphasizes the protection of victims' rights (Articles 66 to 70).²

The UU TPKS marks a significant step forward for Indonesia's legal system. Beyond simply defining and criminalizing sexual violence, it lays out specific measures to protect those who have been affected. Victims are entitled to medical care, psychological counseling, legal aid, and compensation, along with the assurance of confidentiality and protection from stigma during legal proceedings. By setting out these safeguards, the law clearly centers the needs

¹ Asit Defi Indriyani, Rachma Dini Fitri, "Human Rights in Indonesia's Constitution: Human Rights Violations in Sexual Violence", *Journal UINKhas*, Vol. 15, No. 02, October 2022, page 201. Accessed on July 5, 2025, at 16.31.

² Prianter Jaya Hairi, Marfuatul Latifah, "Implementasi Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual", *dpr.go.id*, Vol. 14, No. 2, Nov, 2023, page 164. Accessed on July 5, 2025, at 17.20.

and rights of victims, recognizing them as individuals who deserve both substantive and procedural protection.³

While the TPKS Law references restorative justice, it does not allow it as a way to settle sexual violence cases outside of court. Instead, the focus is on ensuring that victims receive proper remedies, such as reparations and restitution. Article 23 makes it clear that out-of-court settlements are not permitted, since they could compromise justice and leave victims unprotected. Unfortunately, there are still instances where law enforcement misapplies this principle, dismissing cases in the name of 'restorative justice' and ultimately failing to uphold the law's intent.⁴

In practice, this misuse has manifested in coerced reconciliations, monetary compensation, or even forced marriages between victims and perpetrators. Such approaches ignore the trauma and rights of victims, leaving them vulnerable to secondary victimization. Therefore, UU TPKS firmly establishes that restorative justice cannot serve as a settlement model in sexual violence cases, but solely as a guarantee of victims' recovery and redress.⁵

Ideally, the UU TPKS should function as an effective instrument to break the cycle of sexual violence in Indonesia, especially as it includes provisions on prevention. However, its implementation still faces significant challenges, particularly in terms of public outreach and dissemination of information.⁶ On

³ Pandu Irawan Riyanto, Anselmus A. Y. Barung, "Law on Sexual Violence Crime (TPKS): Abolishing Restorative Justice and Prioritising Victims' Rights", *Journal UGM*, Vol. 12, No. 1, 2026, page 58. Accessed on September 22, 2025, at 14.25.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Prianter Jaya Hairi, Marfuatul Latifah, *Loc. Cit.*

the other hand, the Indonesian Criminal Code (KUHP) also regulates acts of sexual violence, although its coverage is more limited compared to the UU TPKS. Within the KUHP, sexual violence is primarily prosecuted under provisions on indecent acts, as stipulated in Articles 289 to 296.

For example, Article 289 of the KUHP prescribes criminal penalties for anyone who, through violence or threats of violence, forces another person to commit or allow the commission of an indecent act, with a maximum imprisonment of nine years. Article 290 further stipulates a maximum imprisonment of seven years for perpetrators who commit indecent acts against victims who are unconscious, helpless, or under fifteen years of age, as well as against individuals who are persuaded to engage in indecent acts or sexual intercourse outside of marriage. However, the KUHP is considered insufficient in comprehensively regulating sexual violence crimes, as it lacks provisions on victim protection and prevention measures, focusing mainly on punishing offenders.⁷

For example, the United North Sumatra Alliance (Aliansi Sumatera Utara Bersatu) described several cases of sexual harassment against girls that occurred in Simalungun Regency, North Sumatra. In one case, the victim, identified as AH, was explicitly abused (photographed nude by the perpetrator holding the victim's genitals) on May 12, 2024, and an official report was filed with the Simalungun Police on May 14, 2024. In another case reported to have occurred between 2022 and 2024 in Simalungun, the child victims, aged 8 and 12,

⁷ *Ibid*, page 166.

identified as NI and SIF, experienced repeated sexual violence by their neighbors.⁸

Although the cases were reported to the police in September 2024, the majority of cases were handled under the Child Protection Law, not the Child Protection and Victim Protection Law. The perpetrators were sentenced to prison terms of between 5 and 6 years, but not through the legal system specifically regulated by the Child Protection and Victim Protection Law. This shows that there is a neglect of the TPKS Law by law enforcement officers. Officers such as the police, prosecutors, and judges prefer to apply the old law (Child Protection Law), without using the TPKS Law as the main reference that provides more comprehensive protection including the definition of non-physical sexual violence and the victim's right to restitution and recovery.⁹

Sexual violence has been shown to cause not only physical harm but also psychological effects on victims, including post-traumatic stress disorder (PTSD), depression, and anxiety, as recognized in various psychological and legal studies.¹⁰ Victims of sexual violence often experience deep-seated trauma, feelings of worthlessness, and in some cases, suicidal ideation. In many social contexts, they are stigmatized as having been "defiled" and are perceived as having failed to uphold personal or familial honor and dignity.¹¹

⁸ Sumut idn times, "ASB Soroti 3 Kasus di Simalungun Tak Pakai UU Kekerasan Seksual", https://sumut.idntimes.com/news/sumatera-utara/asb-soroti-3-kasus-di-simalungun-tak-pakai-uu-kekerasan-seksual-00-fj96j-780zvh?utm_. Accessed on July 30, 2025, at 21.31.

⁹ *Ibid.*

¹⁰ Saskirana Athaputri Calysta, "Dinamika Psikologis Korban Kekerasan Seksual", *unair.ac.id*, page 6. Accessed on July 5, 2025, at 18.03.

¹¹ Rukman, Yeni Yeni Huriyani, Lily Suzana binti Haji Shamsu, "Stigma terhadap Perempuan Korban Kekerasan Seksual", *journal.uinsgd.ac.id*, Vol. 3, No. 3, 2023, page 447. Accessed on July 5, 2025, at 18.20.

In addition, the legal process often exacerbates the psychological condition of victims, particularly due to the lack of trauma-informed sensitivity among law enforcement officers.¹² In legal practice, there is often a discrepancy between what ought to be (*das sollen*) and what actually occurs in reality (*das sein*). This reflects the gap between the law as written in statutes (*law in the book*) and its implementation in practice (*law in action*).¹³

Building on this, repeated interrogations, accusatory questions, and the lack of trauma-informed behavior from law enforcement can significantly worsen the psychological state of victims. These experiences often result in emotional disturbances such as self-blame, anxiety, humiliation, and a growing sense of distrust. As a consequence, many victims choose to withdraw from the legal process or avoid seeking additional support. This kind of treatment intensifies the trauma they experience and weakens public confidence in the criminal justice system's ability to protect and uphold victims' rights in cases of sexual violence.¹⁴ This phenomenon constitutes a form of revictimization.

Various manifestations of such treatment may discourage victims from reporting the crimes they have experienced.¹⁵ In victimology studies, this

¹² Hj. Suzanalisa, S.H., M.H., "Perlindungan Hukum Terhadap Korban Tindak Pidana Kekerasan Seksual Dalam Sistem Peradilan Pidana", *Garuda Kemdikbud*, 2017, page 16. Accessed on June 22, 2025, at 13.00.

¹³ Gde Alex Marind Bujana, I Gusti Ngurah Nyoman Krisnadi Yudiantara, "Urgensi Mediasi Penal Sebagai Instrumen *Restorative Justice* Dalam Upaya Alternatif Penyelesaian Perkara Pidana", *Jurnal Kertha Wicara*, Vol. 11, No. 10, 2022, page 2. Accessed on July 11, 2025, at 09.46.

¹⁴ David Brain Siregar, et al., "Dampak Reviktifikasi Terhadap Penyintas Kekerasan Seksual dalam Proses Penyidikan", *Pattimura Law Study Review*, Vol. 1, No. 1, Agustus, 2023, page 25. Accessed on June 22, 2025, at 12.00.

¹⁵ Bintara Sura Priambada, "Kajian Viktimologi Tentang Perlindungan Hukum Bagi Korban Kejahatan Seksual", *Bajang Journal*, Vol.4, No.5, Januari 2025, page 800. Accessed on July 2, 2025, at 23.05.

reflects the reality that victims of sexual violence often endure layered suffering. They not only experience trauma from the violence itself but also face numerous obstacles in their pursuit of justice.¹⁶ One of the key obstacles is that victims are often positioned merely as witnesses or instruments of evidence to support the prosecution of the accused, rather than being recognized as legal subjects with their own rights and legitimate interests in the judicial process.¹⁷

Despite the increasing recognition of victims' rights within Indonesia's legal framework, in practice many victims of sexual violence still remain unable to fully claim the rights guaranteed to them throughout the criminal justice process. Although the UU TPKS, and UU PSK outline rights to information, participation, legal assistance, restitution, and recovery, these rights often fail to materialize at the procedural level. One of the core problems lies in the fact that victims are still treated primarily as supporting instruments for proving the guilt of the accused, rather than as rights-bearing subjects whose interests must be protected at every stage of the case.¹⁸

As a result, victims frequently encounter major obstacles, such as lack of access to legal counsel, inadequate information about case progress, failure of investigators or prosecutors to facilitate applications for restitution, and poor coordination with the Witness and Victim Protection Agency (LPSK). In many instances, victims are never informed about their right to request protection,

¹⁶ Soerjono Soekanto, "Faktor-Faktor yang Mempengaruhi Penegakan Hukum", (Jakarta: Rajawali Pers, 2014) page 92.

¹⁷ Ni Putu Rai Yuliantini, "Kedudukan Korban Kejahatan Dalam Sistem Peradilan Pidana Di Indonesia Berdasarkan Kitab Undang-Undang Hukum Acara Pidana (KUHP)", *ResearchGate*, Vol. 1, No. 1, February 2014, page 88. Accessed on June 22, 2025, at 08.00.

¹⁸ Pandu Irawan Riyanto, *Op. Cit.*, page 65.

psychological support, or compensation, and law enforcement officers rarely initiate these mechanisms on the victims' behalf.¹⁹

Moreover, procedural rights that should be automatic under UU TPKS, such as the right to confidentiality, the right to be accompanied during examination, and the right to avoid face-to-face confrontation with the perpetrator are inconsistently implemented. These shortcomings illustrate that the recognition of victims' rights in legislation has not yet translated into a functional and enforceable reality in criminal proceedings, leaving victims vulnerable, unsupported, and frequently excluded from decisions that directly affect their pursuit of justice.²⁰

This situation cannot be separated from the limitations of the current legal framework. Although the Law on the Crime of Sexual Violence (UU TPKS) represents a significant milestone in addressing sexual violence, its effectiveness remains highly dependent on the support of other legal instruments, such as Law Number 1 of 1946, as amended by Law Number 1 of 2023 concerning the Indonesian Criminal Code (KUHP), and Law Number 8 of 1981 concerning the Indonesian Criminal Procedure Code (KUHAP). Unfortunately, the existing KUHAP still places greater emphasis on safeguarding the rights of suspects or defendants, while protection for victims is often limited to administrative aspects, such as the right to compensation,

¹⁹ Hari Purwadi, et al "Regulatory Framework on Compensation in the Restoration of Victims of Sexual Violence", *E-Journal UNDIP*, Vol. 20, No. 2, 2024, page 392-400. Accessed on November 24, 2025, at 20.37.

²⁰ Pandu Irawan Riyanto, *Op. Cit.*, page 72-73.

without adequate mechanisms to ensure meaningful participation or comprehensive recovery for victims.²¹

In this context, Law Number 13 of 2006, as amended by Law Number 31 of 2014 on the Protection of Witnesses and Victims (UU PSK), provides a legal basis for the establishment of the Witness and Victim Protection Agency (LPSK). While this law marks an important development in strengthening victim protection, its implementation continues to face various challenges in practice, particularly due to limited resources and the lack of effective coordination among law enforcement agencies.²²

Interestingly, as part of the ongoing reform of the criminal justice system, Indonesia has drafted a new Criminal Procedure Code (RKUHAP). According to expert opinions shared in an academic podcast titled "*Criminal Procedure Code Bill in the Spotlight*", hosted by Prof. Topo Santoso and featuring Prof. Dr. Rena Yulia, S.H., M.H. and Dr. Chairul Huda, S.H., M.H., as speakers, Prof. Rena explained that the RKUHAP begins to incorporate provisions that are more supportive of victims, which were previously absent from the existing KUHAP. According to her, the RKUHAP not only introduces a formal definition of a victim but also expands the scope of victims' rights, going even further than what is currently regulated under the Protection of Witnesses and

²¹ Edi Yunara, Taufik Kemas, "The Role of Victimology in the Protection of Crime Victims in Indonesian Criminal Justice System", *Indonesia Journal of Law*, Vol. 03, No. 01, February 2024, page 66. Accessed on June 30, 2025, at 21.00.

²² Mursito, "Perkembangan Perlindungan Hukum Bagi Korban Dalam Tindak Pidana", *Journal Cattleyadf*, Vol. 5, No. 02, 2024, page 136. Accessed on July 4, 2025, at 22.47.

Victims (UU PSK).²³ Although, as of now, there are no academic journals that explicitly examine the RKUHAP, considering that the draft is still under deliberation, this thesis will further analyze the provisions related to victims' rights contained within the proposed code.

Based on expert opinions and the review of the 2025 Draft Criminal Procedure Code (RKUHAP), the Indonesian criminal justice system is undergoing a gradual shift from a purely offender-oriented approach toward a more victim-centered direction. The draft introduces several provisions that reflect restorative justice principles and aims to strengthen victims' procedural protection.²⁴ However, the extent to which these provisions can effectively safeguard victims still requires deeper analysis, which will be examined in the subsequent chapters.

In line with the growing global attention to victims' rights, the victim-centered approach has become increasingly prominent within modern legal systems. This development reflects a growing awareness of the importance of recognizing victims' roles and rights throughout the legal process. The victim-centered approach has been embedded in international norms and instruments since the 1980s, influenced by the long history of civil rights advocacy in the United States.²⁵

²³ “Criminal Procedure Code Bill in the Spotlight”, *youtube*, <https://www.youtube.com/watch?v=YV4l7i1eJ0k>, May 3, 2025. Accessed on July 7, 2025, at 21.22.

²⁴ Final Draft RKUHAP, <https://icjr.or.id/wp-content/uploads/2025/03/RUU-KUHAP-20-Maret-2025.pdf>, March 20, 2025. Accessed on July 10, 2025, at 10.00.

²⁵ Indung Wijayanto, Cahya Wulandari, “Victim Participation in the Criminal Justice Process: A Comparative Study Between Indonesia and Russia”, *journal.dpr.go.id.*, June 30, 2024, page 2. Accessed on July 10, 2025, at 10.17.

Serious attention to victims' rights began to emerge alongside the rise of the Crime Victims' Rights Movement in the 1970s, which evolved from the earlier Civil Rights Movement that took place between 1955 and 1968. Initially aimed at eliminating racial discrimination and social segregation while promoting equality between white and Black communities, the civil rights movement eventually gave rise to broader struggles for civil justice, including advocacy for stronger protections for victims within the justice system.²⁶

To enrich the perspective and examine how the victim-centered approach is applied in practice, it is valuable to look at how the European Union, particularly the Netherlands, provides legal protection for victims of sexual violence. This approach is reflected in various policies and legal reforms that place victims at the center of the criminal justice process. One example is the development of compensation mechanisms through the Victim Trust Fund, which aims to provide more effective compensation and support for victims' recovery.²⁷ In addition, the influence of social movements such as #MeToo has driven more progressive legal reforms in addressing cases of sexual harassment, strengthening both legal protection and access to justice for victims.²⁸

The emphasis on a victim-centered approach in the Netherlands has been further reinforced by the adoption of EU Directive 2012/29/EU, which serves

²⁶ *Ibid.*

²⁷ Regina Rahma Antika, Subekti, "Perlindungan Hukum Terhadap Korban Eksploitasi Seksual Melalui Sistem Victim Trust Fund (Study Perbandingan Hukum Negara Indonesia dan Negara Belanda)", *Recidive*, Vol. 13, No. 2, 2024, page 230-231. Accessed on 28 June, 2025 at 19.24.

²⁸ Stephanie Burnett, "Melihat Upaya Eropa Mengakhiri Kekerasan terhadap Perempuan", <https://www.dw.com/id/melihat-upaya-eropa-mengakhiri-kekerasan-terhadap-perempuan/a-57493212>. May 11, 2021. Accessed on June 28, 2025, at 19.29.

as the foundation for European Union member states to establish minimum standards for the protection and rights of crime victims. These rights include access to case-related documents, the opportunity to deliver a victim impact statement, and the application of penal protection orders to safeguard victims from further intimidation or violence.²⁹ The Netherlands has implemented various policies that explicitly prioritize the protection and participation of victims of sexual violence. Victims have the right to receive automatic updates on the progress of legal proceedings, proactive legal assistance free of charge, and privacy protection through restrictions on the inclusion of personal data in case documents.³⁰

Based on these developments, this thesis focuses on examining the position and protection of victims of sexual violence within the Indonesian criminal justice system, particularly in relation to legal protection, access to justice, and the recognition of victims' procedural rights. This includes a study of how the RKUHAP accommodates victim-related provisions found in Law Number 13 of 2006 on the Protection of Witnesses and Victims, including access to legal assistance, state compensation, and the protection of victims' privacy. In addition, this research draws on comparative insights from the Netherlands to enrich the understanding of victim-centered approaches in criminal procedure.

²⁹ Nieke A. Elbers, Sonja Meijer, Iris M. Becx, Arlette J.J.G. Schijns, and Arno J. Akkermans, "The Role of Victims' Lawyers in Criminal Proceedings in the Netherlands," *European Journal of Criminology*, Vol. 19, No. 4, 2022, page 830–848. Accessed on June 21, 2025, at 13.00.

³⁰ Alice K. Bosma, Marc S. Groenhuijsen "Victims Participation rights in the post-sentencing phase: The Netherlands in comparative perspective", *Sage Journals*, Vol. 12, No. 2, June 2021, page 129-133. Accessed on June 28, 2025, at 20.10.

Furthermore, this study compares the victim protection systems under the criminal procedure laws of Indonesia and the Netherlands to identify relevant practices that could be adopted to strengthen the victim-centered approach in Indonesia. Through this evaluation, the research aims to formulate concrete recommendations for reforming criminal procedural policies to be more responsive to the needs of victims and to provide comprehensive protection in cases of sexual violence.

It is important to emphasize that the term victim-centered used in this research refers to the regulatory orientation within the criminal procedural framework, not merely the practical approach of law enforcement. Therefore, this thesis focuses on examining how procedural laws, particularly the KUHAP and RKUHAP, incorporate victim-centered legal protection.

B. PROBLEM FORMULATION

1. To what extent do the current Indonesian legal frameworks sufficiently protect victims of sexual violence throughout the criminal proceeding process?
2. How is the comparison on the regulation of legal protection for victim of sexual violence in Indonesia and the Netherlands?

C. RESEARCH OBJECTIVE

1. To analyze the extent to which Indonesian legal provisions ensure effective legal protection for victims of sexual violence.
2. To analyze the comparative framework of victim protection in the criminal justice systems of Indonesia and the Netherlands, and to

identify elements of the Dutch model that may be relevant for adoption to strengthen Indonesia’s victim-centered criminal justice approach.

D. ORIGINALITY OF RESEARCH

This research demonstrates its originality through a clearly defined problem that sets it apart from previous studies on the protection of victims of sexual violence. Most existing research has primarily focused on the implementation of the Law on the Crime of Sexual Violence (UU TPKS) or the role of the Witness and Victim Protection Agency (LPSK) in providing victim protection. In contrast, this study specifically examines aspects of criminal procedural law through a comparative analysis between Indonesia’s Criminal Law (RKUHAP) and the Dutch criminal procedure system which has not been widely discussed.

Writers’ Names	Titles	Problem Formulations	Differences from Your Thesis
Maskur et al.	Legal Protection of Victims of Sexual Violence in Indonesia. ³¹	What legal protections exist under Indonesian criminal law for victims of sexual violence? How do current laws function and what gaps remain?	Focuses only on Indonesia; examines substantive legal protections rather than detailed procedural protections. Does not compare with foreign systems. Does not analyze RKUHAP or propose procedural reforms.
Sidayang et al.	Addressing Gender-Based Violence: Comparative Analysis of International	How does Indonesia’s legal framework on GBV align with international standards? What gaps	Broader focus on GBV and international norms, not specifically sexual violence procedures. Less detailed on

³¹ Muhammad Azil Maskur, et al., “Legal protection of the victims of sexual violence crime based on perspective of Indonesian positive criminal law”, *Internasional Journal of Law*, Vol. 9, No. 1, 2023, page 44-48. Accessed on September 23, 2025, at 18.25.

	Legal Frameworks and Practices. ³²	exist in practice and implementation?	criminal procedure; does not compare with one specific foreign system. More policy- and practice-oriented, not procedural-law-oriented.
Regina Rahma Antika & Subekti	Perlindungan Hukum Terhadap Korban Eksploitasi Seksual Melalui Sistem Victim Trust Fund (Perbandingan Indonesia–Belanda). ³³	How the Victim Trust Fund system protects victims of sexual exploitation in Indonesia and the Netherlands; what mechanisms exist and how they compare.	Narrower scope focused on victim compensation through Trust Fund; not on overall criminal procedure or victim-centered procedural rights. Comparative element exists but limited to compensation systems. Not focused on RKUHAP or broader procedural reform.
My Thesis	<i>Victim-Centered Legal Protection in Sexual Violence Cases in Indonesia and the Netherlands (with Emphasis on RKUHAP)</i>	How Indonesian criminal procedure protects victims of sexual violence; how this compares with Dutch procedural law; what reforms are needed for a more victim-centered system.	Only thesis that directly compares criminal procedural law with the Netherlands; uniquely evaluates RKUHAP draft; deeply procedural; offers specific reform proposals not addressed by the other writings.

Therefore, although the issue of victim protection in sexual violence cases has been addressed in earlier legal studies, this research presents a distinct

³² Stince Sidayang, et al., “Addressing Gender-Based Violence: Comparative Analysis of International Legal Frameworks and Practices”, <https://scispace.com/pdf/addressing-gender-based-violence-comparative-analysis-of-1klukfx2.pdf>, Vol. 1, No. 03, June 2023, page 147-157. Accessed on September 23 2025, at 18.36.

³³ Regina Rahma Antika, Subekti, *Op. Cit.*, page 229-238.

contribution through its comparative approach to criminal procedure and its analytical focus on reforming the criminal justice system based on victim protection principles, making it original and free from any element of plagiarism.

E. LITERATURE REVIEW

1. Legal Protection

According to Setiono, legal protection refers to actions or efforts aimed at safeguarding the community from arbitrary actions by authorities that do not comply with legal regulations, in order to achieve order and tranquility, thus allowing individuals to enjoy their dignity as human beings.³⁴ C.S.T. Kansil defines legal protection as various legal measures provided by law enforcement officials to ensure safety, both mentally and physically, from disturbances and various threats from any party.³⁵

Legal protection is also closely linked to the recognition of legal rights and the existence of clear legal procedures. It presupposes that the law must not only be accessible and fair but also enforced impartially to avoid discrimination or selective application of justice. In this context, the principle of equality before the law and the protection of fundamental rights are critical in assessing whether a legal system is functioning justly. Therefore, legal protection plays an

³⁴ Setiono, "*Rule of Law (Supremasi Hukum)*", (Surakarta: Universitas Sebelas Maret), Page 3.

³⁵ C.S.T. Kansil, "*Pengantar Ilmu Hukum dan Tata Hukum Indonesia*", (Jakarta: Balai Pustaka, 2003), page 102.

essential role in the legal system, serving both as a manifestation of state responsibility and a reflection of legal consciousness within society.³⁶

Ideally, the protection of victims of sexual violence should not be limited to formal recognition in statutory provisions but must be realized through accessible, effective, and trauma-sensitive mechanisms.³⁷ Victims should receive immediate medical and psychological assistance, accompanied by psychosocial and legal support, to ensure their recovery and reintegration into society.³⁸

Law enforcement officers must also adopt a victim-centered approach by avoiding revictimization, respecting the dignity and privacy of victims, and ensuring their active participation throughout the legal process. This means that protection must extend beyond the courtroom, encompassing long-term recovery, restitution, and safeguards against stigmatization. Only by ensuring that these protections are implemented substantively and procedurally can the state fulfill its responsibility to uphold justice and restore the rights of victims of sexual violence.³⁹

³⁶ Lon L. Fuller, “The Morality of Law”, (New Haven: Yale University Press, 1969), page 33–39.

³⁷ Office of the United Nations High Commissioner for Human Rights (OHCHR), “Protection of victims of sexual violence:Lessons learned”, <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/ReportLessonsLearned.pdf>, 2019, page 3. Accessed on September 22, 2025, at 18.16.

³⁸ *Ibid*, page 13.

³⁹ Shruti Gattan, “Victim-Centered Approaches In The Criminal Justice Process: Empowering and Protecting Crime Victims”, *Indian Journal of Integrated Research in Law*, Vol. V, No. I, 2025, page 779. Accessed on September 22, 2025, at 18.28.

2. Sexual Violence

Sexual violence refers to any act or behavior of a sexual nature committed against an individual without that person's consent. Forms of sexual violence may include attempts to engage in sexual acts, coercion or persuasion to participate in sexual activities, and threats with sexual connotations. Such inappropriate or aggressive acts carried out without the victim's consent have the potential to cause harm, both physically and psychologically, and can significantly affect the overall quality of the victim's life.⁴⁰

According to Law No. 12 of 2022 concerning the Crime of Sexual Violence, sexual violence crimes encompass all acts that fulfill the criminal elements as stipulated under the law. Article 4 specifies that sexual violence includes non-physical sexual harassment, physical sexual harassment, forced contraception, forced sterilization, forced marriage, sexual torture, sexual exploitation, sexual slavery, and electronic-based sexual violence.

The role of law enforcement and judicial authorities under the UU TPKS is to ensure that every stage of the criminal process upholds the principles of human rights, respect, and dignity of the parties involved, especially the victim. Investigators, public prosecutors, and judges are required to conduct examinations of witnesses, victims, suspects, or defendants without intimidation, without justifying or blaming the victim's lifestyle, morality, or sexual experience, and without asking misleading or traumatizing questions

⁴⁰ Nafilatul Ain, Anna Fasilitul Mahmudah, Alifia Maghfiroh Putri Susanto³, Imron Fauzi, "Analisis Diagnostik Fenomena Kekerasan Seksual Di Sekolah", *Journal Pendidikan Dasar dan Keguruan*, Vol. 07, No. 02, 2022, page 49-50. Accessed on July 27, 2025, at 12.37.

unrelated to the sexual violence crime. Article 23 UU TPKS further emphasizes that cases of sexual violence cannot be resolved outside the court process, except for cases involving child perpetrators as stipulated by law. This provision aims to ensure that justice for victims is achieved through formal legal mechanisms, preventing any form of coercion, intimidation, or settlement that may undermine the victim's rights and dignity.

3. Criminal Procedural Law

Criminal procedural law regulates how the processes of investigation, prosecution, trial, and execution of criminal judgments are carried out by the state. In Indonesia, the primary legal framework is the Criminal Procedure Code (Law No. 8 of 1981), which emphasizes fundamental principles such as due process, the presumption of innocence, equality before the law, and the protection of the rights of all parties involved (suspects, defendants, witnesses, and victims).⁴¹

F. OPERATIONAL DEFINITION

1. Legal protection

Legal protection refers to the safeguards granted to legal subjects through legal instruments, both preventive and repressive in nature, and includes written and unwritten law. This protection reflects the role of law in ensuring justice, order, certainty, utility, peace, and security for the

⁴¹ Arni Yusuf, "Strategic issues in the reform of the criminal procedure code towards an inclusive and effective criminal justice system", *Researchgate*, Vol. 07, No. 1, 2025, page 106. Accessed on July 27, 2025, at 13.56.

broader public interest.⁴² Legal protection for victims emphasizes the state's responsibility to ensure victims are not only treated fairly during the criminal justice process but also given access to restitution, compensation, and psychological recovery.⁴³

2. Victims

According to Article 1 point 4 of Law Number 12 of 2022 concerning the Crime of Sexual Violence, a victim is defined as a person who experiences sexual violence and or a person who witnesses such violence and suffers physical, psychological, sexual, and or economic and social harm as a result.

3. Sexual Violence

Sexual violence can be understood as any form of act that degrades, humiliates, or negatively affects a person's body, carried out without that individual's free consent. Such acts often occur due to power imbalances and gender relations, placing the victim under pressure and unable to give conscious consent. The impact of sexual violence is not limited to physical suffering but also includes psychological trauma, economic loss, as well as social, cultural, and political effects. Sexual violence does not always take the form of direct violence but can also manifest indirectly through social constructs and stereotypes that harm the victim. If an act contains sexual

⁴² Rahayu, "Pengangkutan Orang" (Studi tentang perlindungan hukum terhadap barang bawaan penumpang di PO. Rosalia Indah)", <https://eprints.ums.ac.id/5064/1/C100030159.pdf>, 2009, page 5. Accessed on July 14, 2025, at 00.30.

⁴³ Edi Yunara, Taufik Kemas, *Op. Cit.*, page 64.

elements, is carried out solely based on the perpetrator's will, is motivated by certain intentions, is unwanted by the victim, and causes suffering, then such an act can be categorized as sexual harassment.⁴⁴ The sexual violence in this research refers to the crime of sexual violence regulated in Law Number 12 of 2022 on the Crime of Sexual Violence.

G. METHOD OF RESEARCH

1. Type of Research

This thesis applies normative juridical research, which focuses on the study of legal norms and their application based on legal theories and concepts. This method aims to analyze laws not only as written texts (law in the book) but also in connection with their practical implications (law in action). Through normative research, this study examines the consistency, adequacy, and coherence of criminal procedural law in protecting victims of sexual violence.⁴⁵

2. Research Approach

This research uses three approaches, namely:

a. Statutory Approach

This approach involves the examination of legal instruments such as Criminal Procedure Code (KUHAP), Law on the Crime of Sexual Violence (UU TPKS), and the Law on the Protection of

⁴⁴ Irfawandi, et al., "Analisis Jenis-Jenis dan Penyebab Kekerasan Seksual di Lingkungan Kampus", *Journal Pendidikan Indonesia*, Vol. 04, No. 04, April 2023, page 385-386. Accessed on July 27, 2025, at 14.40.

⁴⁵ Jonaedi Efendi, Johnny Ibrahim, "Metode Penelitian Hukum Normatif dan Empiris", (Jakarta: Kencana, 2017), page 123.

Witnesses and Victims (UU PSK) to evaluate whether their provisions adequately protect victims of sexual violence.

It also helps identify normative conflicts and determine whether new legal frameworks address the evolving needs of victims protection.⁴⁶

b. Conceptual Approach

The conceptual approach in legal research originates from doctrines and legal scholarship to form relevant concepts, principles, and legal arguments⁴⁷. This approach relies on legal doctrines and scholarly opinions to develop relevant concepts, principles, and arguments concerning victim protection.

c. Comparative Approach

This approach compares legal provisions in Indonesia with those of another country.⁴⁸ This approach compares the legal frameworks of Indonesia and the Netherlands, particularly regarding the protection of victim of sexual violence. The comparison aims to identify best practices that could be adopted to strengthen victim protection mechanisms within Indonesia's legal system.

⁴⁶ Annisa Fianni Sisma, "Menelaah 5 Macam Pendekatan dalam Penelitian Hukum", <https://katadata.co.id/berita/nasional/634ecdc698b51/menelaah-5-macam-pendekatan-dalam-penelitian-hukum>, Oct 18, 2022. Accessed on July 11, 2025, at 16.40.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

3. Object of Research

1. The Indonesia regulation of legal protection for victims of sexual violence.
2. The comparative criminal procedure system of the Netherlands as a model for evaluating and strengthening victim protection, in Indonesia.

4. Sources of Legal Materials

a. Primary Legal Materials

Primary legal materials refer to binding sources of law, such as legislation, official legislative records, and court decisions.⁴⁹ The primary materials used in this thesis include:

1. Law Number 8 of 1981 on Criminal Procedure (KUHAP);
2. Indonesian Criminal Code (KUHP) 2023;
3. Law Number 12 of 2022 on the Crime of Sexual Violence (UU TPKS);
4. Law Number 13 of 2006 as amended by Law Number 31 of 2014 on the Protection of Witnesses and Victims (UU PSK);
5. Government Regulation of the Republic of Indonesia Number 27 of 2024 concerning Coordination and Monitoring of the Implementation of Prevention and Handling of Victims of Sexual Crimes
6. Bill of Criminal Procedure Code (RKUHAP);
7. EU Directive 2012/29/EU on Minimum Standards on the Rights, Support, and Protection of Victims of Crime (as a comparative reference);
8. *Wetboek van Strafvordering* (Dutch Criminal Procedure Code);

b. Secondary Legal Materials

⁴⁹ Prof. Dr. Peter Mahmud Marzuki, S.H., M.H., LL.M., “Penelitian Hukum”, (Jakarta: Kencana, 2017), page 181.

Secondary legal materials are obtained from various legal literature that provides interpretation, explanation, and analysis of the primary sources of law. These include legal textbooks, academic journals, scholarly articles, papers, and relevant research reports.

c. Tertiary Legal Materials

Tertiary legal materials are used to support both primary and secondary materials.⁵⁰ This research refers to law dictionaries, the Great Dictionary of the Indonesian Language (KBBI), and legal encyclopedias to provide clear terminological understanding of concepts such as “victim of sexual violence,” “legal protection,” and “victim-centered approach.”

5. Data Collection Technique

Data were collected through library research and document study by identifying, classifying, and analyzing relevant legal materials from both Indonesian and Dutch sources. The researcher reviewed legislation, academic commentaries, and scholarly publications to obtain comprehensive data related to victim-centered legal protection in sexual violence cases.

6. Data Analysis

The collected data were analyzed qualitatively using descriptive, analytical, and comparative methods. The analysis process included

⁵⁰ Soerjono Soekanto dan Sri Mamudji, “*Penelitian Hukum Normatif: Suatu Tinjauan Singkat*”, (Jakarta: Rajawali Pers, 2011), page 13.

interpreting legal norms, evaluating their consistency with victim-centered principles, and comparing similarities and differences between Indonesia's and the Netherlands' criminal procedural systems. The final stage involved drawing conclusions and formulating recommendations to strengthen victim-centered legal protection within Indonesia's criminal justice framework.

H. THESIS FRAMEWORK

This research is structured into four main chapters, as outlined below:

1. CHAPTER I – Introduction

This chapter includes the background of the study, research questions, research objectives, originality of the research, operational definitions, literature review, research methodology, and thesis structure.

2. CHAPTER II – General Overview and Theoretical Framework

This chapter discusses the relevant theories used in this research, also elaborates on the fundamental concepts of legal protection for victims of sexual violence and the legal position of victims within the criminal justice system.

3. CHAPTER III – Analysis and Discussion

This chapter presents the author's analysis of legal protection for victims of sexual violence in the Bill of Criminal Procedure Code (RKUHAP) and the Law on the Protection of Witnesses and Victims (UU PSK), and compares it with the Dutch criminal procedure system, particularly regarding victims' rights, state compensation, victim impact

statements, and penal mediation. This analysis aims to identify legal gaps and opportunities for improving Indonesia's criminal justice system.

4. CHAPTER IV – Conclusion

This chapter contains the conclusions drawn from the analysis in the previous chapters, as well as the author's recommendations for criminal procedural law reform that prioritizes the interests of victims of sexual violence.