

THE EFFECTIVENESS OF LEGAL PROTECTION FOR CHILDREN VICTIMS OF SEXUAL VIOLENCE AFTER THE ENACTMENT OF LAW NUMBER 12 OF 2022 CONCERNING THE CRIME OF SEXUAL VIOLENCE

by

Muhammad Ansori Lubis¹, Yusuf Hanafi Pasaribu², Syawal Amry Siregar³

¹Universitas Islam Sumatera Utara

^{2,3} Universitas Pembinaan Masyarakat Indonesia

Email: ansoriboy67@gmail.com

ABSTRACT

Sexual violence against children is one of the most damaging forms of human rights violations for the future of the nation's generations, and the number of cases in Indonesia does not show a significant downward trend even though the country has special legal instruments. The ratification of Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) is expected to be a legal breakthrough that fills the regulatory gap regarding the prevention, handling, protection, and recovery of victims, especially children. This article aims to examine the extent to which the TPKS Law is effective in protecting child victims of sexual violence in the first three years of its implementation (2022-2025), by examining the gap between normative-juridical protection and factually felt by victims in the field. This study uses a normative juridical method with a statute approach and a conceptual approach, supported by a literature study on official data from state institutions as well as national and international literature for the last five years. The results of the study show that the TPKS Law has normatively expanded the definition of sexual violence, introduced a mechanism for mandatory restitution, psychological assistance, and the establishment of a Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA), but its implementation is still hampered by the lack of implementing regulations in the early days, limited capacity of law enforcement officials, and the low ratio of cases that continue to the judicial process. The issuance of Government Regulation Number 30 of 2025 as an implementing regulation is also studied as an indicator of strengthening the effectiveness of advanced legislation. The novelty of this research lies in the synthesis of cross-year data trends (2022-2025) that have not been found in previous studies which are generally based on single-decision studies, resulting in a longitudinal and contextual map of legal effectiveness on the condition of child victims in Indonesia. This article recommends accelerating the harmonization of implementing regulations at the regional level and strengthening institutional capacity as a prerequisite for the effectiveness of the TPKS Law as a whole.

Keywords: Legal Effectiveness; Child Protection; Sexual Violence; Law Number 12 Of 2022; Child Sacrifice

EFEKTIVITAS PERLINDUNGAN HUKUM ANAK KORBAN KEKERASAN SEKSUAL PASCA BERLAKUNYA UNDANG-UNDANG NOMOR 12 TAHUN 2022 TENTANG TINDAK PIDANA KEKERASAN SEKSUAL

ABSTRAK

Kekerasan seksual terhadap anak merupakan salah satu bentuk pelanggaran hak asasi manusia yang paling merusak masa depan generasi bangsa, dan angka kasusnya di Indonesia tidak menunjukkan tren penurunan yang berarti meskipun negara telah memiliki instrumen hukum khusus. Pengesahan Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual (UU TPKS) diharapkan menjadi terobosan hukum yang mengisi kekosongan pengaturan mengenai pencegahan, penanganan, perlindungan, dan pemulihan korban, khususnya anak. Artikel ini bertujuan mengkaji sejauh mana UU TPKS efektif melindungi anak korban kekerasan seksual dalam tiga tahun pertama pemberlakuannya (2022-2025), dengan menelaah kesenjangan antara perlindungan yang bersifat normatif-yuridis dan perlindungan yang secara faktual dirasakan korban di lapangan. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan (statute approach) dan pendekatan konseptual, didukung studi kepustakaan atas data resmi lembaga negara serta literatur nasional dan internasional lima tahun terakhir. Hasil kajian menunjukkan bahwa UU TPKS secara normatif telah memperluas definisi kekerasan seksual, memperkenalkan mekanisme restitusi wajib, pendampingan psikologis, dan pembentukan Unit Pelaksana Teknis Daerah Perlindungan Perempuan dan Anak (UPTD PPA), namun implementasinya masih dihambat oleh minimnya peraturan pelaksana pada masa-masa awal, keterbatasan kapasitas aparat penegak hukum, serta rendahnya rasio kasus yang berlanjut ke proses peradilan. Terbitnya Peraturan Pemerintah Nomor 30 Tahun 2025 sebagai peraturan pelaksana turut dikaji sebagai indikator penguatan efektivitas hukum tahap lanjut. Novelty penelitian ini terletak pada sintesis tren data lintas tahun (2022-2025) yang belum banyak ditemukan pada penelitian terdahulu yang umumnya berbasis studi putusan tunggal, sehingga menghasilkan peta efektivitas hukum yang bersifat longitudinal dan kontekstual terhadap kondisi anak korban di Indonesia. Artikel ini merekomendasikan percepatan harmonisasi peraturan pelaksana di tingkat daerah dan penguatan kapasitas kelembagaan sebagai prasyarat efektivitas UU TPKS secara utuh.

Kata Kunci: Efektivitas Hukum; Perlindungan Anak; Kekerasan Seksual; Undang-Undang Nomor 12 Tahun 2022; Korban Anak

INTRODUCTION

Children are vulnerable legal subjects and are entitled to special protection from the state, family, and society, as mandated by Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. However, sexual violence against children is still an unresolved structural problem. Data from the National Commission on Anti-Violence against Women (Komnas Perempuan) recorded 8,234 cases of sexual violence during the reporting year, with domestic violence, violence in personal relationships, and molestation as the most dominant modes (Komnas Perempuan, 2023). This phenomenon is exacerbated by the findings of the Legal Aid Institute of the Indonesian Women's Association for Justice (LBH APIK) which recorded a decrease in the number of reports of sexual violence cases from 570 reports in 2022 to 303 reports in 2024, while

of this number only five cases have been successfully processed to the court using the provisions of the TPKS Law (Rechtsvinding, 2025).

Globally, a UNICEF study shows that one in five girls and one in seven boys in the world has experienced sexual violence in childhood, and the majority of perpetrators are known to the victim (European Parliamentary Research Service, 2025). These findings are in line with the pattern that occurs in Indonesia, where sexual violence against children occurs mostly within the scope of family and kinship relationships, thus creating its own psychological and social barriers for victims to report (Sebastian, 2022). This condition is what prompted the formation of a legal umbrella that is *lex specialis*, namely Law Number 12 of 2022 concerning the Crime of Sexual Violence, which was passed on May 9, 2022 as an answer to the legal vacuum that has so far only relied on the Criminal Code and the Child Protection Law which are considered not comprehensive to regulate the prevention, handling, protection, and recovery of victims (Republic of Indonesia, 2022; Andriansyah, Saraswati, & Cahyaningtyas, 2023).

The urgency of this research lies in the gap between the normative expectations brought by the TPKS Law and the reality of its implementation in the field. Data from the Witness and Victim Protection Agency (LPSK) does show an increase in protection applications related to sexual violence from 672 cases in 2022 to 1,063 cases in 2024, which can be read as an indicator of increasing public legal awareness (Rechtsvinding, 2025). However, the increase in the number of applications is not followed by an improvement in the quality of equivalent legal services, as reflected in the limited child-friendly examination room facilities, the lack of legal and psychological assistants, and the non-optimal functioning of UPTD PPA in various regions (Rechtsvinding, 2025). Previous studies on the TPKS Law have generally focused on analyzing single court decisions in certain jurisdictions, such as the study of Decision Number 431/Pid.Sus/2023/PN.Smg in Semarang (Researchgate, 2025) or the effectiveness of handling by the Jayapura Police PPA Unit (Moffu, 2026), so there have not been many studies that present a longitudinal picture of legal effectiveness from the promulgation of the TPKS Law to the issuance of its implementing regulations.

Based on this background, this research is formulated into three problem formulations. First, how is the construction of legal protection norms for child victims of sexual violence in Law Number

12 of 2022 compared to the previous regulation? Second, to what extent is the effectiveness of the implementation of the TPKS Law in providing real protection for child victims of sexual violence in the range of 2022 to 2025 from the perspective of legal effectiveness theory? Third, what factors hinder the optimization of legal protection for child victims of sexual violence after the enactment of the TPKS Law, and what is the role of Government Regulation Number 30 of 2025 as an implementing regulation in answering these obstacles?

LITERATURE REVIEW

a) The Concept of Legal Protection for Children Victims of Sexual Violence

Legal protection for children who are victims of sexual violence is basically derived from the principle of the best interest of the child which is a universal principle in the 1989 Convention on the Rights of the Child. This principle was then adopted into the national legal system through Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which requires the state, families, and communities to provide special protection to children victims of violence, including sexual violence (Republic of Indonesia, 2014). Prior to the birth of the TPKS Law, legal protection for victims of sexual violence relied heavily on general criminal provisions that were partial and did not specifically regulate the recovery mechanism and restitution rights of victims, thus leaving a prolonged legal vacuum (Mawarni, Hidayati, & Rokhim, 2023).

Comparative studies in the Southeast Asian region show that countries with specific legal products on sexual violence, such as the Anti-Trafficking Law in Indonesia, tend to have a more integrated victim protection framework than countries that still rely on general criminal law, although implementation gaps remain a common challenge in the region (Rijadi, Mahmudah, & Jamil, 2025). A comparison with India through the Protection of Children from Sexual Offences (POCSO) Act also strengthens the argument that the mere existence of special laws does not automatically guarantee the effectiveness of child protection if it is not accompanied by strengthening the institutional capacity of law enforcement and consistent implementation monitoring mechanisms (Sinha & Singh, 2025).

b) Substantial Content of Law Number 12 of 2022

The TPKS Law comprehensively regulates the prevention of all forms of sexual violence, the handling, protection, and restoration of victims' rights, coordination between the central government and local governments, and international cooperation so that the prevention and handling of victims can be carried out effectively, including community involvement in realizing an environment free from sexual violence (Republic of Indonesia, 2022). Some of the breakthroughs brought by the TPKS Law include the expansion of the type of sexual violence crime, the obligation to provide restitution to victims, the establishment of UPTD PPA as an integrated service, and the regulation of victim assistance funds financed by the state if the perpetrator is unable to pay restitution (Antoni, Hosnah, & Simanjuntak, 2024). For child victims in particular, the TPKS Law strengthens the right to psychological recovery and the right to mandatory restitution, which previously tended to be an additional option in judicial practice (Andayani, Achmad, & Flambonita, 2021).

c) Legal Effectiveness Theory as a Knife of Analysis

To assess the success of a legal product, this study uses a legal effectiveness theory framework that emphasizes five interrelated factors, namely the substance of the law itself, law enforcement officials, supporting facilities and facilities, community legal awareness, and the legal culture that surrounds it. These five factors are relevant to be used to dissect why a regulation that is normatively progressive can still face obstacles to implementation in the field. In the context of victim-based law enforcement, the procedural justice approach is also relevant to use, considering that the legitimacy of law enforcement officials in the eyes of victims is greatly influenced by the extent to which the legal process is carried out in a fair, transparent, and respectful manner (Mazerolle et al., 2021). The victimology approach is also used to understand the risk of victimization that can be experienced by child victims in the judicial process if the legal system is not designed in a child-friendly manner (Rock, 2021; Nastyupulu & Koswara, 2025).

The restorative justice approach has also become an important academic discourse after the enactment of the TPKS Law, especially in discussing the limits of its application to cases of sexual violence against children, considering that the principle of restorative justice must be placed carefully so as not to reduce the victim's right to recovery and sense of justice (Pali & Lünemann, 2023). In addition, a systematic study of the handling of domestic violence and kinship relationships confirms the importance of a coordinated multi-agency response between

police forces, social services, and health workers to break the chain of recurrent violence, a relevant lesson adapted into strengthening the UPTD PPA in Indonesia (Kourti et al., 2023).

RESEARCH METHODS

This study uses normative legal research methods with a statute approach, a conceptual approach, and a limited case approach to enrich the analysis. The legislative approach is used to examine the consistency of norms between Law Number 12 of 2022, Law Number 35 of 2014, and Government Regulation Number 30 of 2025 as implementing regulations. The conceptual approach is used to dissect the concepts of legal effectiveness and child protection of victims based on evolving legal doctrines, while the case approach is used secondary through the review of court decisions that have been published and reviewed in the literature as an illustration of the implementation of norms (Neuman, 2021).

The legal materials used consist of primary legal materials in the form of related laws and regulations, secondary legal materials in the form of books, national journals, and international journals published in the last five years (2021-2026), as well as tertiary legal materials in the form of official data from state institutions such as Komnas Perempuan, the Witness and Victim Protection Institute, and legal aid institutions that are published publicly. The data collection technique is carried out through library research by searching journal databases, official websites of state institutions, and online legal repositories. Data analysis is carried out qualitatively with descriptive-analytical techniques, namely explaining the norms and data obtained and then analyzing them using the framework of legal effectiveness theory to answer the formulation of research problems.

RESULTS AND DISCUSSION

a) Construction of Child Protection Norms in the TPKS Law: Progress from Previous Arrangements

Compared to Law Number 35 of 2014 which is general, the TPKS Law presents a number of significant normative advances for child victims of sexual violence. First, the TPKS Law expands the scope of sexual violence crimes to nine types, including electronic-based sexual violence that has so far escaped the conventional criminal law arrangements. This expansion is important

considering that digital-based sexual violence against children has shown a significant increasing trend in the last two years, according to Komnas Perempuan records (Rechtsvinding, 2025). Second, the TPKS Law requires restitution to the victim as part of a court decision, no longer as an additional option that depends on a separate application, so as to normatively strengthen the position of the victim's child to obtain economic recovery for the impact of the violence he or she has experienced (Antoni, Hosnah, & Simanjuntak, 2024).

Third, the TPKS Law introduces a state-financed victim assistance fund mechanism if the perpetrator is proven to be unable to pay restitution, a breakthrough that answers long-standing criticism that victims' restitution rights often cannot be executed due to the perpetrator's economic incapacity. Fourth, the TPKS Law requires the establishment of UPTD PPA at the district/city level as an integrated service center that integrates complaint services, outreach, case management, and legal and psychological assistance for victims (Republic of Indonesia, 2022). Normatively, these four breakthroughs place the TPKS Law as a significant advance compared to the previous legal regime which was considered fragmentary and oriented towards the punishment of perpetrators only, rather than the recovery of victims (Guardians of Innocence; Andriansyah, Saraswati, & Cahyaningtyas, 2023).

b) Implementation Effectiveness: The Gap Between Norms and Reality

Even though the normative construction is progressive, the data on the implementation of the TPKS Law in the 2022-2025 range shows a more complex picture. On the one hand, the number of protection requests to LPSK related to sexual violence has increased significantly from 672 cases in 2022 to 1,063 cases in 2024, an indication of the increasing trust and legal awareness of victims and their families to access available protection mechanisms (Rechtsvinding, 2025). However, on the other hand, data from LBH APIK actually shows a downward trend in the number of reports of sexual violence cases from 570 reports in 2022 to 303 reports in 2024, with only five cases successfully processed to court using the provisions of the TPKS Law in the same period. The disparity between these two data institutions actually shows that the increase in legal awareness is not necessarily directly proportional to the success of the legal process at the judicial level, which indicates that there are structural barriers at the law enforcement stage, not at the victim awareness stage to report.

Case studies at the regional level reinforce these findings. The Sukabumi Regency Women's Empowerment and Child Protection Office (DP3A) recorded 85 cases of sexual violence against children throughout 2023 and 48 cases until mid-2024, but faces constraints on limited human resources and budgets, victims' fear of social stigma, distrust of the legal system, and threats from perpetrators who hinder the reporting process (Researchgate, 2025). A study of Decision Number 431/Pid.Sus/2023/PN.Smg at the Semarang District Court also confirms that the success of legal protection for child victims is highly dependent on the readiness of local judicial institutions in providing a child-friendly process and minimizing the risk of victimization during the trial (Researchgate, 2025). In line with that, an evaluation of the performance of the Women and Children Service Unit (PPA) of the Jayapura City Resort Police shows that the effectiveness of handling cases in the field is greatly influenced by the availability of trained personnel and cross-agency coordination, a factor that is consistently cited as the main obstacle in various regions (Moffu, 2026).

These findings are relevant to be read through the lens of legal effectiveness theory, where the main weakness of the implementation of the TPKS Law in the early days did not lie in the substance of the norms, but in the factors of law enforcement officials who did not fully understand the new provisions, as well as the factors of facilities and facilities in the form of child-friendly examination rooms, legal assistants, and psychological counseling services that were still limited in many areas (Rechtsvinding, 2025). This condition is in line with the findings of the international literature that the existence of special laws on child protection alone does not automatically guarantee the effectiveness of protection if it is not accompanied by simultaneous strengthening of institutional capacity, as found in the evaluation of the implementation of the POCSO Act in India (Sinha & Singh, 2025) and in a comparative study of the Southeast Asian region (Rijadi, Mahmudah, & Jamil, 2025).

c) Research Novelty: A Longitudinal Map of Legal Effectiveness

The novelty of this research lies in three aspects that distinguish it from previous studies. First, most of the research on the TPKS Law that has been published is a single case study that focuses on one court decision or one specific jurisdiction, so the resulting picture tends to be local and difficult to generalize. This study presents a synthesis of cross-year data (2022-2025) from various state institutions and legal aid institutions simultaneously, resulting in a longitudinal map

of legal effectiveness, rather than just a snapshot of a specific point in time.

Second, this study integrates the analysis of Government Regulation Number 30 of 2025 as the implementing regulation of the TPKS Law into the framework of legal effectiveness, an aspect that has not been widely reached by previous research considering that the regulation was relatively recently issued. The presence of this implementing regulation is important to read as an indicator that the state is gradually responding to the implementation gaps identified in the first three years of the implementation of the TPKS Law, especially related to the technical strengthening of the operational UPTD PPA and the cross-agency coordination mechanism (Rechtsvinding, 2025). Third, this study places the disparity of data between state institutions (LPSK and LBH APIK) as a separate analytical finding, namely that the increase in the number of protection applications is not directly proportional to the increase in the number of cases settlement in court, a pattern that indicates the existence of structural barriers at the law enforcement stage that have so far received less explicit attention in the existing literature.

Thus, the contribution of this research is not only to describe the norms of the TPKS Law, but to offer a reading framework that the effectiveness of the law on the protection of child victims of sexual violence in Indonesia needs to be assessed gradually and continuously, in line with the cycle of issuing implementing regulations and strengthening institutional capacity, rather than being assessed statically based solely on the text of the law.

d) Inhibiting Factors and the Role of Government Regulation Number 30 of 2025

Based on the above discussion, a number of factors can be identified that hinder the optimization of legal protection for child victims of sexual violence after the enactment of the TPKS Law, namely: (1) the delay in the issuance of implementing regulations in the early days of the implementation of the law, which caused law enforcement officials in the regions to not have adequate technical guidance; (2) the limited capacity and understanding of law enforcement officials to the new provisions in the TPKS Law; (3) the lack of supporting facilities and facilities such as child-friendly examination rooms, legal assistants, and psychological services in many areas; and (4) social factors in the form of stigma and victim's distrust of the legal system that hinder case reporting (Researchgate, 2025; Rechtsvinding, 2025).

The issuance of Government Regulation Number 30 of 2025 as the implementing regulation of

the TPKS Law can be read as the state's response to the first inhibiting factor, namely the lack of technical regulation that had occurred in the first three years of the law's enactment. However, the mere existence of implementing regulations is not enough to answer the second to fourth obstacles, which are structural and require budget commitments and institutional capacity strengthening in a sustainable manner at the regional level (Rechtsvinding, 2025). Therefore, the effectiveness of the TPKS Law in the future will be largely determined by the extent to which local governments allocate adequate resources for UPTD PPA and organize continuous training for law enforcement officials and victim support personnel.

CONCLUSION

Law Number 12 of 2022 concerning the Crime of Sexual Violence normatively presents significant progress in the construction of the law on the protection of child victims of sexual violence in Indonesia, through the expansion of the definition of criminal acts, restitution obligations, victim assistance funds, and the establishment of the UPTD PPA. However, the effectiveness of its implementation in the 2022-2025 period still faces a real gap between normative expectations and the reality on the ground, as reflected in the data disparity between the increase in protection applications to LPSK and the decrease in the number of reports that have been successfully processed to the courts. The factors of law enforcement officials, supporting facilities and facilities, as well as social factors in the form of stigma and mistrust of victims are the main obstacles to the optimization of legal protection, while the issuance of Government Regulation Number 30 of 2025 is a positive first step but it is not enough without being accompanied by strengthening institutional capacity at the regional level in a sustainable manner. This study recommends that the central and regional governments accelerate the harmonization of implementing regulations at the provincial and district/city levels, increase budget allocation and training of law enforcement officials from a child's perspective, and build a continuous monitoring system on the achievement of the implementation of the TPKS Law so that legal protection for child victims of sexual violence can be felt substantively, not just as a normative formality.

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