

Article

From Morality to the Body: Questioning the Reorientation of Rape in the Indonesian Criminal Code

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Abstract

This study examines the paradigm shift in the legal classification of rape under the Indonesian Criminal Code, particularly its reclassification from a crime against morality under Article 285 of the former Criminal Code to a crime against the body under Article 473 of the new Criminal Code. It investigates whether this reclassification is theoretically justified and examines its implications for the legal protection of rape victims. Employing normative legal research, the study combines statutory, conceptual, and comparative approaches to analyze the formulation of rape in both criminal codes. The findings reveal that although the new classification strengthens the protection of victims by recognizing rape as an offense against bodily interests, it does not fully reflect the normative essence of rape within the Indonesian legal and socio-cultural context. From a conceptual and anthropological perspective, rape constitutes not only a violation of bodily integrity but also an assault on personal dignity, honor, and the moral values upheld by society. Accordingly, classifying rape solely as a crime against the body risks narrowing its legal meaning and overlooking its broader moral and social dimensions. The study therefore argues for a more integrative legal approach that protects both bodily integrity and the victim's moral dignity in the future development of Indonesian criminal law.

Keywords

Indonesian Criminal Code, legal anthropology, legal classification, rape, victim protection

Abstrak

Penelitian ini mengkaji pergeseran paradigma dalam klasifikasi hukum tindak pidana perkosaan dalam Kitab Undang-Undang Hukum Pidana Indonesia, khususnya perubahan dari tindak pidana terhadap kesusilaan sebagaimana diatur dalam Pasal 285 KUHP Lama menjadi tindak pidana terhadap tubuh sebagaimana diatur dalam Pasal 473 KUHP Baru. Penelitian ini bertujuan untuk mengkaji apakah reklasifikasi tersebut memiliki dasar teoretis yang memadai serta implikasinya terhadap perlindungan hukum bagi korban perkosaan. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan peraturan perundang-undangan, konseptual, dan komparatif untuk menganalisis pengaturan tindak pidana perkosaan dalam kedua kodifikasi tersebut. Hasil penelitian menunjukkan bahwa meskipun klasifikasi baru memperkuat perlindungan korban dengan menempatkan perkosaan sebagai tindak pidana terhadap tubuh, pengaturan tersebut belum sepenuhnya mencerminkan hakikat normatif tindak pidana perkosaan dalam konteks hukum dan sosial budaya Indonesia. Dari perspektif konseptual dan antropologis, perkosaan tidak hanya merupakan pelanggaran terhadap tubuh, tetapi juga merupakan serangan terhadap martabat, kehormatan, dan nilai-nilai moral masyarakat. Oleh karena itu, penggolongan perkosaan semata-mata sebagai tindak pidana terhadap tubuh berpotensi mempersempit makna hukumnya serta mengabaikan dimensi moral dan sosial yang melekat pada tindak pidana tersebut. Penelitian ini merekomendasikan pendekatan hukum yang lebih integratif untuk melindungi integritas tubuh sekaligus martabat korban dalam pengembangan hukum pidana Indonesia.

Kata Kunci

Antropologi hukum, klasifikasi hukum, Kitab Undang-Undang Hukum Pidana, perkosaan, perlindungan korban

INTRODUCTION

Indonesia has three main legal systems, namely Islamic law, Western law, and customary law, which play a role in shaping and influencing the national legal system (Wirawan, 2024). As a state based on the rule of law that adheres to the principle of codification, Indonesia still implements various legislative regulations originating from Dutch colonial legislation. In the development of its law, Indonesia has sought to carry out the decolonization of legislation, resulting in gradual changes in several legal regulations in Indonesia. Decolonization is a strategic step to shape the legal system through the amendment of legislation that is more nationalist and in accordance with the values of Pancasila embraced by Indonesian society (Antony & Situmeang, 2025).

Criminal law is established by the government as one of the instruments to regulate the life of society (Rozi, 2019). Criminal Law is one of the public laws with the Criminal Code as its main codification book, which has undergone decolonization. As other academics know, the Indonesian Criminal Code, namely Law No. 1 of 1946, is the result of absorption from the *Wetboek van Strafrecht (WvS)*, which was the criminal law book applicable during the colonialism Era

(Darmawan, Nugraha, & Sihombing, 2024). This is carried out with the hope of forming a more adaptive criminal law that carries a nationalist nuance and abandons the Dutch culture that is not in accordance with the conditions of Indonesian society (Sukma, 2025). Against this backdrop, Indonesia enacted Law No. 1 of 2023 (hereinafter the New Criminal Code), replacing Law No. 1 of 1946 (hereinafter the Former Criminal Code). In general, several aspects have not undergone fundamental changes, such as the application of the Principle of Legality, the principle of non-retroactivity, territoriality, and other principles. On the other hand, there have been several substantive changes. The National Criminal Code no longer distinguishes between the terms Crime and Violation, which now both fall under a single term, namely Criminal Act. The use of the phrase 'whoever' has been replaced with 'every person,' which means it can only be applied to individuals (Moise, 2023). In addition, there are also several changes in the concept of a crime or additions to the formulation of offenses. One of them is the offense of adultery, which was previously applicable only to married individuals, but can now also be applied to unmarried couples living together as husband and wife, a situation referred to as cohabitation. Another new aspect is the recognition of customary law or living law as a law acknowledged within the National Criminal Code (Anggraini, Akli, & Sumiadi, 2025).

One of the significant reforms introduced by the New Criminal Code concerns the legal classification of rape. The qualifications for actions included under the crime of rape in Indonesia have evolved and are no longer limited to intercourse and gender. Initially, under the old Penal Code, rape was confined to attempts at intercourse with threats or violence committed by a man against a woman. Now, under the National Penal Code, acts that can be categorized as rape do not always have to involve intercourse, but can also be committed by a woman against a man, or within the scope of the same gender (Susilowati & Frans, 2024).

From another perspective, the criminal act of rape in the old Penal Code (KUHP) is regulated in Article 285 as a Crime against Decency. Meanwhile, in the National Penal Code, the criminal act of rape is placed in Chapter XXII as a Crime against the Body under Article 473. This indicates that according to the National Penal Code, rape is no longer categorized as a Crime against Decency but rather as a Crime against the Body. The placement of rape within the chapter on Crimes against the Body is based on the view that rape primarily constitutes an offense against the victim's bodily integrity rather than a violation of societal norms of decency or morality (Sabina, Prameswari, & Maychellina, 2023). This reclassification reflects a victim-centered approach that recognizes rape as an infringement of the victim's individual rights and bodily autonomy, rather than merely an offense against public morality. In addition, rape is an act that can physically harm, potentially causing someone to suffer from minor injuries to loss of life; generally, in Indonesia, rape is more identified as a reprehensible act that contradicts the moral conscience of society (Slamet, Setiawati, & Kholifah, 2023). This study argues that the

reclassification of rape in the Indonesian Criminal Code reflects a broader paradigm shift in the legal conception of rape, from a morality-based offense to one centered on the protection of bodily interests. This paradigm shift raises the question of whether such reclassification is theoretically justified within the Indonesian legal and socio-cultural context.

The classification of the crime of rape in the Indonesian Criminal Code as a criminal offense against the body warrants critical re-examination, even though the change in the placement of this crime is understood as a development in criminal law more oriented towards the protection of human rights. This study argues that the paradigm shift in the Indonesian Criminal Code has the potential to narrow the legal understanding of rape by conceptualizing it primarily as an offense against the victim's body. As a result, the legal protection afforded to the moral, social, and dignity-based dimensions of rape may receive less recognition within the criminal law framework. Accordingly, this study examines whether the reclassification of rape under the new Criminal Code is theoretically justified and whether it adequately reflects the normative essence of rape in the Indonesian legal and socio-cultural context.

Several previous studies have examined the legal regulation of rape and sexual violence from different perspectives. Existing research has primarily focused on victim protection through victimology (Lambang & Wahyuningsih, 2025), the application of human rights principles (Ilhami & Leksono, 2022), feminist perspectives on criminal law reform (Zulfiko, 2022; Lidinillah, 2025), and the compatibility of criminal sanctions for sexual violence with human rights standards (Aldino & Krisna, 2023). Collectively, these studies have enriched the discourse on sexual violence law by emphasizing victim protection, gender equality, and human rights. However, limited attention has been paid to the legal and theoretical implications of reclassifying rape from a crime against morality to a crime against the body under the Indonesian Criminal Code. In particular, no previous study has critically examined whether this reclassification adequately reflects the normative essence of rape within Indonesia's legal, cultural, and anthropological context. This study seeks to fill that gap by analyzing the theoretical justification for the paradigm shift and its juridical implications for the enforcement of Indonesian criminal law. Specifically, it addresses two research questions: (1) what theoretical justification underlies the classification of rape as a crime against the body under the Indonesian Criminal Code; and (2) what juridical implications arise from this reclassification for the enforcement of Indonesian criminal law.

METHOD

This study employs normative legal research using statutory, conceptual, and comparative approaches to examine the legal classification of rape under the former and the new Indonesian Criminal Codes. The statutory approach focuses on analyzing the relevant provisions governing rape, particularly Article 285 of the Former Criminal Code and Article 473 of the New Criminal Code. Through grammatical interpretation, the study examines the legal

meaning and normative essence of classifying rape as a crime against the body. The conceptual approach is used to analyze the legal concept of crimes against the body and its relationship to the offense of rape, while the comparative approach compares the formulation, constituent elements, and scope of regulation under both criminal codes to identify the legal implications of the reclassification.

RESULTS AND DISCUSSION

Comparison of Rape in the Old Criminal Code with the National Criminal Code

In Article 285 of Law No. 1 of 1946 or the Old Penal Code, rape originates from the word 'perkosa,' which means force, strong, powerful, mighty. Article 285 states, 'Anyone who by violence or threat of violence compels a woman to have sexual intercourse with him outside of marriage, shall be punished for committing rape with imprisonment for a maximum of twelve years.'

In Article 285 of the old Criminal Code, rape is classified as part of Crimes Against Decency and can only be charged against a man; it cannot be charged against a woman. According to a grammatical interpretation adopted in this study, the phrase "sexual intercourse" requires penetration of the male genitalia into the female genitalia. The act must be committed through violence or the threat of violence, the victim must be a woman who does not consent to the intercourse, and the perpetrator and the victim must not be married to one another. If penetration has not occurred, it is not considered rape but falls under the criminal act of molestation (Dinar Mahardika & Erwin Aditya Pratama, 2020). It can also be interpreted that the offense of rape is conceptualized as a material offense because it is not based on the act committed, but rather on the consequences of the act committed. The legal interest intended to be protected here is the honor and dignity of a woman (Azam, 2023).

Rape can be defined as subjugating by force, assaulting, violating, or attacking with violence. Meanwhile, to commit rape can be understood as the method, process of carrying out, or act of raping, in this case with violence (M. Munandar Sulaeman, 2010). The main element inherent in the crime of rape is violent behavior associated with sexual relations carried out in an unlawful manner (L.M. Williams, , & S. Toney, 2023). The presence of this element of violence is the element that distinguishes rape from other sexual offenses regulated in the Criminal Code (Kristiani, 2014). Then in the National Criminal Code (Republik Indonesia, 2023), In general, its interpretation is not much different; however, it is referred to as sexual violence and is expanded by adding several other acts which are now also qualified as the offense of rape into eleven articles. The added types of acts include, among others like:

- 1) By violence or threat of violence as the main form;
- 2) By consent, because the person is mistaken about their spouse, child (under 18 years), a person in an unconscious/incapacitated state, or a person with mental disabilities, by promising something, abusing authority, or deception;

- 3) By inserting the genitals into another person's anus or mouth, another person's genitals into the perpetrator's anus or mouth, or body parts other than the genitals or objects into another person's genitals or anus;
- 4) Forcing a child to commit the acts above;
- 5) Causing serious injury up to death;
- 6) Committed against a biological child, stepchild, or someone under one's guardianship;
- 7) Committed jointly.

The most fundamental difference is that in the National Criminal Code, rape is classified as a Crime against the body, where the legal interest protected is the Body. The subjective element is intent, and the objective element is sexual intercourse or other acts, accompanied by other circumstances such as being committed against an adult or a child, whether a child with disabilities, a child as a victim, or forcing a child to become a perpetrator, or being committed by inserting genitalia or other body parts into the genitals, mouth, or anus (Tarigan & Rosmalinda, 2025). The act is almost always committed with violence or the threat of violence, without the consent of the victim. The element of coercion from the perpetrator, or the compulsion experienced by the victim, is an absolute requirement, which means that this intercourse is not consensual or voluntary. The offense of rape bears similarities to the offense of indecent acts; the difference lies in that in the offense of rape, intercourse is intended, whereas in the offense of indecent acts, intercourse is not required. However, in the offense of rape, elements of indecent acts are always present (Franjić, 2021).

As a comparison, under Article 285 of the old Criminal Code, the offense of rape was included in Chapter XIV, namely as a crime against decency. Its elements are coercion (violence or threat of violence), sexual intercourse, and a woman as the victim. The main philosophical value of its legal protection is based on the honor and decency of society. This serves as protection of public morality and social decency while affirming that rape is not only considered a physical injury but also a violation of human sanctity and honor. In essence, the old Criminal Code viewed rape as a form of violation against moral and social norms, not biological ones (Ma'shumiyyah, 2023).

In the National Criminal Code, rape is formulated in Article 473, from paragraph (1) to paragraph (11), and is classified as a crime against the body. The elements of the offense have been expanded, where the legal subjects who can be held accountable as perpetrators are no longer limited to men; women can now also be qualified as perpetrators. Anyone can be a victim, not just women. The types of actions have also evolved, not only involving sexual intercourse between the perpetrator and the victim, but also including coercing someone to engage in sexual intercourse or to commit lewd acts against another person. For ease of comparison, the main differences are summarized in Table 1.

Table 1 Comparison of the Formulations of Crime of Rape

No	Aspect	Former Criminal Code (Article 285)	New Criminal Code (Article 473)
1	Legal Interest	Morality and Womens honor	Pyshical integrity of the Body
2	Legal Protection Paradigm	Social Moral, Womens dignity	Pyshical, Biological, referring to Human Rights
3	Perpetrator	Only adult Men	Men and Women
4	The Victim	Only Women	Men, Women, Adults, Children
5	Concept	Violation against Moral Values and Decency	Violation of Human Rights and Gender Equality

Based on the table, rape in the old Criminal Code is classified as a Crime against decency. The offense of rape is only applicable to men, not women. This is because the old Criminal Code held the view that only men could exert coercion and threats to have sexual intercourse with women, so if a woman were to coerce or threaten a man into sexual intercourse, there would be no criminal provisions for it (D, Sa'it, Dewi, Wijaya, & Ristanti, 2020). This is reinforced from a historical and cultural perspective of Indonesia at that time, which was still dominated by a patriarchal culture where men tended to be more dominant over women. Furthermore, rape also requires that sexual intercourse has occurred, where intercourse here is understood as the penetration of a male genital into a female genital, so if penetration does not occur, it cannot be categorized as rape. In this regard, it can be concluded that according to the old Criminal Code, the crime of rape could only be committed by a man against a woman by means of penetration accompanied by violence or threat of violence. If committed against a man or the same gender, it cannot be called rape (Cong, 2025)

The National Penal Code views rape as a crime against the body, because objectively, the part that is harmed is the body, and it emphasizes the physical violence committed by the perpetrator. The issue of rape is no longer seen solely as a matter of morality (moral offence), but it also involves issues of anger and violence which are considered violations and denials of human rights (Fatur Rahman, Afifah, & Sari, 2024). The expression indicates that the considerations and mindset of the drafters of the National Penal Code in formulating the crime of rape as a criminal law policy are no longer limited solely to the issue of moral enforcement, but have already extended to other matters, namely those related to the protection of human rights (Lala, Suparman, Purnawan, & Abdullah, 2023). Therefore, the National Criminal Code also stipulates in its paragraph (11) that all acts of rape are considered sexual violence. The term sexual violence refers to actions that can

be categorized as abnormal sexual relations and behaviors, causing harm and serious consequences for the victims (Abdul Wahid & Muhammad Irfan, 2001).

The difference with the old Criminal Code is that the National Criminal Code expands the definition of rape, where in its articles (Article 473 paragraphs (1) to (11)) rape is not only limited to the coercion of sexual intercourse carried out by a man against a woman, nor is it limited to the penetration of a man's genitals into a woman's genitals (L.M. Williams dkk., 2023). Then in verse (3) the coercion carried out by the perpetrator here is not only to make the victim willing to be sexually assaulted, but also coercion to make the victim willing to commit a sexual act with the perpetrator, such as the victim being forced by the perpetrator to act indecently toward the perpetrator, not only the perpetrator forcing indecent acts on the victim. Further provisions in other verses state that the perpetrator can be charged with the criminal act of rape if the perpetrator forces another person to have sexual intercourse with someone else, not always directed at the perpetrator themselves.

Next, regarding children. The child referred to here is a person who is under 18 years old. In verse (2) letter b, it is stated that any sexual intercourse carried out on a child is considered rape, even if the child/victim consents voluntarily and without coercion or threat. Furthermore, the definitions in the National Criminal Code are not limited to sexual penetration by the genitals but can also involve the use of tools or objects. For example, inserting fingers or hands into the victim's genitals or anus, or using instruments or objects that are not body parts, such as sex toys, blocks, and other foreign objects. Rape under the National Criminal Code is defined as other forms of sexual violence committed in various ways, including against other men (*homosexual acts*), or committed by a woman against another woman (*lesbian*) (Bintoro & Simangunsong, 2023).

The Relationship Between Crimes Against the Body and Morality Crimes

The classification of offenses is carried out to facilitate legal scholars as well as legal practitioners in determining and understanding categories of similar criminal acts. Such classification can influence readers, especially if they wish to conduct interpretation in a systematic manner. This categorization is usually based on the state's perspective regarding the legal interests that the law aims to protect, such as victims or values (Situmorang, 2023). Typically, classification begins with the main type of criminal act, which generally carries a lighter penalty, followed in the subsequent articles or paragraphs by similar criminal acts that include aggravating factors, and so on, progressively ascending to more severe and ultimately the most severe. For example, the offense of Assault starts with the basic form of the crime, then minor assault, premeditated assault, serious assault, and premeditated serious assault. Subsequently, it continues with other unrelated criminal offenses. However, it is not impossible that there might be insertions within the paragraphs of an article originating from unrelated offenses.

Conceptually, sexual violence and indecency violations are related, similar, and equated, although not exactly the same. Both originate from violations of human dignity, but differ in terms of the primary legal protection focus. Sexual violence is understood as an act that involves the use of force or threats to compel someone to engage in sexual acts without consent, resulting in physical injury, psychological trauma, and emotional suffering for the victim. The primary focus of sexual violence is the violation of the individual's bodily integrity and sexual autonomy, making the approach personal and victim-oriented (Djawie & Pakan, 2023).

Meanwhile, moral offenses are generally understood as actions that contravene the norms of decency and the moral values present in society. In this case, moral crimes are not only viewed as violations against specific individuals but also as disturbances to the moral order and sense of propriety within the community. Thus, the legal interest protected in moral crimes does not solely refer to the body or individual freedom, but also respects the dignity and collective moral values that are upheld and honored in society. The relationship is understood in that sexual violence represents the most extreme form of moral violation, as it encompasses a breach of moral norms as well as acts of violence against the body and the desires of the victim. Every form of sexual violence, in essence, always contains a moral violation because it undermines the humanity, honor, and dignity of the victim. However, not all moral violations can be categorized as sexual violence, because there are certain actions, such as indecent behavior in public places, that violate societal ethics without involving coercion or physical violence against others.

The main difference between sexual violence crimes and moral crimes lies in the focus of their legal protection. Sexual violence crimes focus on protecting the integrity of the body, sexual freedom, and the human rights of the individual victim, with the primary orientation on the suffering and rehabilitation of the victim. In contrast, moral crimes place greater emphasis on protecting honor and dignity, as well as public decency, with an orientation towards societal moral order and individual protection. Rape substantially falls between these two categories because it involves elements of moral violation while also constituting sexual violence.

The Justification of the Rape Crime as a Criminal Offense Against the Body

Criminal law is established with the aim of protecting human interests, both individual and group. The term 'human' here refers to the victims of criminal acts. The basis for the enforcement of criminal law is the existence of legal interests of the victims that are violated and that the state seeks to protect (Rambe, Sihombing, & P, 2024). For example, in the offense of theft, the unlawful taking of another person's property causes financial loss to the victim and gives rise to criminal liability. The protected legal interest in this offense is therefore the victim's property. In some cases, however, a single criminal act may infringe upon more than one legal interest. For instance, where theft is accompanied by murder, the protected legal interests are both the victim's property and the victim's life.

Crimes against decency refer to actions that violate the norms of decency or morality prevailing in society. These actions not only harm social values but also contravene laws regulating decency in social interactions. It can also be interpreted that public indecency is an act that violates norms or values of decency and is carried out in places that can be seen, accessed, or directly affect others. Such actions usually involve breaches of moral principles, customs, or laws that protect the politeness and honor of the community (Agustina & Purnomo, 2024). Because it originates from conscience and the sense of decency, the legal interest that is protected is the sense of decency, due to the presence of moral aspects that are intended to be preserved. The concept of decency in positive law is not merely social morality, but a value that protects honor and dignity (Saputra & Nugraha, 2023). The understanding and boundaries of morality are quite broad and can vary according to the prevailing views and values in society. Moreover, essentially every criminal act inherently involves a violation of moral values, and it can even be said that law itself is, in essence, the minimal standards of moral values (Mintarsih & Mahdami, 2021).

While crimes against the body are offenses that attack or harm a person's physical being, through acts of violence, abuse, or other actions that cause injury, pain, disability, or even death. Crimes against the body are based on everyone's right to obtain protection for their body and life (Tiedemann, 2023). Conceptually, crimes against the body fall under the category of crimes against the person (Siregar & Halomoan, 2023). The focus is not on honor or freedom, but on the biological and physical aspects of humans, namely the body as an object of legal protection. The legal interest protected against crimes related to the body is legal protection from harm in the form of pain or injury.

As argued in the Introduction, this study contends that the reclassification of rape under the New Criminal Code reflects a paradigm shift in the protected legal interest, from the protection of public morality to the protection of victims' bodily integrity. This shift forms the basis for examining whether the new classification adequately reflects the normative essence of rape within the Indonesian legal and socio-cultural context. Decency is no longer the fundamental value of criminal law, but rather physical violence and coercion (Urbatsch, 2021). The existing literature presents two competing approaches to the legal classification of rape. One approach maintains that rape should remain classified as a crime against morality, whereas the other argues that it should be classified as a crime against the body. To assess the theoretical justification for each approach, this study undertakes a comparative analysis of their principal arguments (Ilhami & Leksono, 2022):

1) Bodily integrity theory

The body is part of the fundamental human rights, such as human dignity. In the National Criminal Code, the victim is seen as an individual whose bodily rights are violated, not merely as a symbol of decency, and the victim's body has autonomy that must be protected.

2) Victimological Approach

Through psychological and victimological approaches, rape leaves

physical and psychological trauma as severe as abuse and the mental suffering of the victim. This perspective tends to view rape as a violation of morality or ethical sense that originates from the human conscience.

3) *The Approach from Human Rights Perspective*

Rape is a violation that attacks individual human rights in terms of bodily freedom, security, and protection from violence. These rights are guaranteed as fundamental rights that should not be limited in any situation, so any action that imposes one's will on sexual aspects by using threats or violence as a means is a desecration of human dignity.

4) *Sexual autonomy theory*

protecting honor and sexual autonomy, not just the physical body. Rape not only injures the body but also damages the sanctity of social relations and moral values, so it must be seen as a violation of norms of decency and morality that concerns aspects of protection of public decency and the dignity of the victim.

On the other hand, this study identifies several reasons why rape may be more appropriately classified as a crime against morality, as provided under the Former Criminal Code. These reasons are summarized as follows:

1) *Philosophical Aspect*

Ontologically, or in terms of its essence, rape is the coercion to perform sexual penetration, which is unwanted by one party, namely the victim, through the use of violence, which can demean a person's dignity. It can be interpreted that rape is sexual violence through domination over the body and will of the victim by force, where the victim is not regarded as a subject but as an object, thereby reducing their honor or dignity as a human being (Fatur Rahman, Afifah, & Sari, 2024). Violence is not directed at sexual elements, but at domination, power, and control. Rape not only injures a person's body but also damages a person's dignity, honor, and purity. The body serves as a medium; the essence of the violation lies in the element of degrading human and moral values. In the context of Pancasila as the foundational values of the state and citizenship, the criminal act of rape is contrary to the second principle, namely Just and Civilized Humanity, because it deviates morally (Yuningsih, Nurjaya, Djatmika, & Ruba'i, 2020).

2) *Anthropology and Sociological Aspect*

Indonesian society is a religious society, so in the formulation of laws, including criminal law, religious values have an influence within it (Rozi, 2025). The values present in that society are one of the factors that shape the law, because one of the sources of material law originates from the sense of law within the community (Angrayni, 2014). The perception of Indonesian society still regards the crime of rape as a moral disgrace, not merely a physical injury. Its impact is heavier psychologically and socially, encompassing feelings of shame, social stigma, and loss of self-esteem. With the paradigm shift towards viewing it as a crime against the body,

there is a potential for a reduction in meaning and dehumanization. The change in the meaning of the offense could shift the social understanding of honor and decency (Rinwigati, 2022).

3) *Psychological Aspect*

By classifying rape as a violation against decency, the law acknowledges the psychological and moral suffering of the victim. Treating it purely as a crime against the body can overlook the psychological trauma and social stigma that should be addressed within the legal protection of decency (Piha, 2024). Physical trauma has a chance of healing, although it takes time depending on the severity of the trauma, but psychological trauma is not the same as physical trauma. Psychological trauma has a lower chance of recovery compared to physical trauma. That's why as a result of trauma many rape victims experience depression and mental illness, which can lead them to attempt suicide or even engage in social deviance. For example, because a woman was raped and her honor was taken away, it can lead her to become a prostitute because she feels she no longer has self-worth. Rape causes long-term psychological damage.

Theoretically, rape is an attack that targets the victim's body as the primary point of sexual violence, but the impact it causes is not limited to biological aspects. Rape also leads to psychological trauma, degrades dignity, and has social consequences in the form of stigma and marginalization against the victim, so assessing rape solely as a physical crime can overlook the complexity of the victim's suffering, which is multi-perspective. The theoretical justification of rape as a crime against the body can be accepted when viewed from the perspective of victimology, which focuses on legal protection for the victim. In this approach, the body is not only considered a physical object, but also as a medium to understand the overall experience of violence, mental trauma, and the need to heal, including the social dimension and the sense of security lost by the victim.

The Legal Implications of Rape as an Offense Against the Body

The regulation of rape as a sexual violence offense has a significant legal impact on law enforcement and victim protection, because the criminal law system according to the National Penal Code now prioritizes the protection of the body, sexual freedom, and the human rights of sexual violence victims. Within the Indonesian socio-cultural context, rape is widely understood as a serious violation of moral values and personal dignity. In the Basic Theory of Law as a Tool of Social Engineering, it is stated that law can engineer or construct society. In this regard, the classification of a criminal act in legislation can also serve this purpose. By categorizing rape as an offense against the body, there is a concern that it may reduce its meaning, or even 'normalize' rape crime.

An analogy may be drawn from the offense of gambling. In the National Criminal Code and the old Criminal Code, Gambling is categorized as an offense against morality and contrary to public decency, so offenders, in

addition to being criminally prosecuted, would also face moral sanctions from society. However, in its current development, gambling has expanded into digital forms or online gambling, which now seems to be considered 'normal' by society due to the ease of access. Based on this, it can be concluded that technological development can reduce certain elements within criminal acts. This has prompted the establishment of more comprehensive protection and rehabilitation systems throughout the legal process.

This is reflected in the implementation of laws regarding sexual violence crimes, which are considered a significant step in ensuring victims' rights and fulfilling a sense of security as well as legal certainty (Purwanti, Wijaningsih, & Mahfud, 2023). However, although the legal basis has been strengthened, there are still obstacles in the comprehensive enforcement of the law, which includes law enforcement officers' understanding of victims' rights as well as existing social stigma. Therefore, continuous efforts are needed to enhance understanding in this regard. In addition to strengthening the orientation toward victim protection, the regulation of rape as a sexual violence offense also has legal implications, especially concerning aspects of evidence and the treatment of victims in the criminal justice process. This approach signals to law enforcement that they should not only assess evidence based on the presence of physical injuries, but also take into account the elements of lack of consent, power dynamics, and the psychological impact experienced by the victim. This research underlines that a victim-oriented legal approach is better able to enhance the fulfillment of justice and reduce revictimization, although in practice it still faces the obstacles of legal culture and social stigma attached to victims of sexual violence (Lestari, S, & Noor, 2025).

CONCLUSION

This study demonstrates that the reclassification of rape from a crime against morality under the former Indonesian Criminal Code to a crime against the body under the new Criminal Code represents a significant shift in the legal paradigm governing sexual violence. While the new formulation strengthens the protection of victims by recognizing rape as an offense against bodily interests, it does not fully capture the normative essence of rape within the Indonesian legal and socio-cultural context. From a conceptual and anthropological perspective, rape in Indonesia has historically been understood not merely as a violation of bodily integrity but also as an assault on personal dignity, honor, and the moral values embedded in society. Consequently, classifying rape solely as a crime against the body risks narrowing the legal understanding of the offense and reducing its broader moral and social dimensions. Such a shift may also generate juridical consequences by weakening the symbolic recognition of rape as a grave moral wrong and by placing it conceptually alongside other bodily offenses, despite its distinct psychological, social, and ethical impacts on victims. Accordingly, this study argues that the legal regulation of rape should adopt a more integrative approach. Protection of bodily integrity should remain a fundamental objective of criminal law, but it should be complemented

by recognition of the moral dignity and honor violated through the offense. Such an approach would better reflect Indonesia's socio-cultural values while simultaneously strengthening victim protection. In this respect, future development of the Indonesian Criminal Code should consider a conceptual and anthropological framework that accommodates both dimensions rather than privileging one at the expense of the other. This recommendation is also consistent with the broader objective of developing a national criminal law that reflects Indonesia's legal identity and living values. This study has several limitations. It relies primarily on normative legal sources and therefore does not comprehensively examine comparative legal developments or empirical perspectives concerning the legal meaning of rape. Future research should incorporate empirical, anthropological, hermeneutic, and interdisciplinary approaches to develop a more comprehensive understanding of the legal, social, and cultural dimensions of rape within the Indonesian legal system.

REFERENCES

- Abdul Wahid, & Muhammad Irfan. (2001). *Perlindungan terhadap korban kekerasan seksual: Advokasi atas hak asasi perempuan*. Bandung, Indonesia: PT Refika Aditama. Retrieved from <https://lib.ui.ac.id/detail?id=20132422&lokasi=lokal>
- Agustina, A., & Purnomo, S. (2024). Tindak pidana kesusilaan di media sosial. *Legal Spirit*, 8(1), 35–44. <https://doi.org/10.31328/lv.v7i2.5047>
- Aldino, H., & Krisna, L. A. (2023). Pemidanaan pelaku kekerasan seksual menurut pandangan peradilan pidana. *Jurnal Hukum Samudra Keadilan*, 18(Khusus), 183–196. <https://doi.org/10.33059/jhsk.v18iKhusus.8196>
- Anggraini, S. D., Akli, Z., & Sumiadi, S. (2025). Analisis perbandingan pengaturan tindak pidana perzinahan dalam KUHP lama dan KUHP baru (Undang-Undang No. 1 Tahun 2023). *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh*, 8(3). <https://doi.org/10.29103/jimfh.v8i3.21965>
- Angrayni, L. (2014). *Pengantar ilmu hukum*. Pekanbaru, Indonesia: Suska Press.
- Antony, & Situmeang, A. (2025). Dari kolonial ke konstitusional: Dekolonialisasi hukum pidana Indonesia dengan KUHP Nasional. *Proceedings Series on Social Sciences & Humanities*, 23, 141–148.
- Azam, M. A. (2023). Legal interpretations of women, rape & Criminal Law (Amendment) Act, 2013. *Research and Analysis Journal*, 6(1), 16–22. <https://doi.org/10.18535/raj.v6i1.385>
- Bintoro, A. M., & Simangunsong, F. (2023). Pertanggung jawaban tindak pidana pelaku pemerkosaan sesama jenis (homoseksual) dalam perspektif hukum pidana. *Journal Evidence of Law*, 2(3), 135–143. <https://doi.org/10.59066/jel.v2i3.385>
- Cong, Y. (2025). Research on the gender-neutralization of rape crime. *Literature Language and Cultural Studies*, 2(2), 55. <https://doi.org/10.63313/LLCS.9076>
- D, L. P. T., Sa'it, A., Dewi, I. O., Wijaya, L. R. S., & Ristanti, Y. (2020). Gender

- stereotype in the formulation of crime of rape: A comparison of Criminal Code and Draft Criminal Code. *Unram Law Review*, 4(2), 174–183. <https://doi.org/10.29303/ulrev.v4i2.104>
- Darmawan, I., Nugraha, R. S., & Sihombing, A. L. (2024). The development of punishment in Indonesian criminal law. *Jurnal Akta*, 11(4), 1198–1212. <https://doi.org/10.30659/akta.v11i4.41309>
- Dinar Mahardika, & Erwin Aditya Pratama. (2020). *Perlindungan hukum terhadap korban perkosaan dalam perspektif psikologi hukum*. Yogyakarta, Indonesia: Tanah Air Beta.
- Djawie, M. F. A. S., & Pakan, V. D. (2023). Higher education and sexual violence: Affirming the rights of victims in Indonesian legal system. *Law Research Review Quarterly*, 9(3), 317–342. <https://doi.org/10.15294/lrrq.v9i3.65950>
- Faturohman, Afifah, H., & Sari, M. (2024). Perlindungan hak asasi manusia (HAM) terhadap wanita yang menjadi korban pemerkosaan dan tindak pidana pemerkosaan. *Hukum Inovatif: Jurnal Ilmu Hukum Sosial Dan Humaniora*, 1(2), 34–48. <https://doi.org/10.62383/humif.v1i2.78>
- Franjić, S. (2021). Criminological aspects of rape. *Forensic Science Today*, 7(1), 001–005. <https://doi.org/10.17352/fst.000021>
- Ilhami, A. N., & Leksono, A. B. (2022). Perlindungan hukum terhadap korban yang mengalami peristiwa kekerasan seksual dalam perspektif hak asasi manusia. *Jurnal Ilmiah Publika*, 10(2), 398–406. <https://doi.org/10.33059/publika.v10i2.7836>
- Kristiani, M. D. (2014). Kejahatan kekerasan seksual (perkosaan) ditinjau dari perspektif kriminologi. *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 3(3). <https://doi.org/10.24843/JMHU.2014.v03.i03.p02>
- Lala, A., Suparman, E., Purnawan, A., & Abdullah, A. (2023). Sexual violence on women in the view of legal and human rights in Indonesia. *International Journal of Environmental, Sustainability, and Social Science*, 4(2), 596–600. <https://doi.org/10.38142/ijesss.v4i2.539>
- Lambang, R. B. D., & Wahyuningsih, S. E. (2025). Legal protection for victims of sexual violence evaluation of the implementation of the law on sexual violence crimes. *Jurnal Hukum Khaira Ummah*, 20(2), 1128–1145. <https://doi.org/10.30659/jhku.v20i2.46186>
- Lestari, E. D., S, A. A. S. G., & Noor, R. S. (2025). Sexual violence crimes and legal protection for victims: Law Number 12 of 2022 on sexual violence crimes and the reality of handling sexual violence cases in Indonesia. *Journal of Law, Politic and Humanities*, 5(6), 4683–4694. <https://doi.org/10.38035/jlph.v5i6.2196>
- Lidinillah, E. (2025). Reframing violence: A philosophical comparison of physical and non-physical sexual violence in Indonesian criminal law. *El-Aqwal: Journal of Sharia and Comparative Law*, 123–138. <https://doi.org/10.24090/el-aqwal.v4i2.14012>

- Mintarsih, M., & Mahdami, L. (2021). The legal status of Mut'ah marriage in Indonesia. *Jurnal Penelitian Hukum De Jure*, 21(3), 397–408. <https://doi.org/10.30641/dejure.2021.V21.397-408>
- Moise, A. E. (2023). Punishments in the crimes against patrimony matter. *Technium Social Sciences Journal*, 40, 644–648. <https://doi.org/10.47577/tssj.v40i1.8591>
- Piha, O. (2024). My body is my temple? Comparing sexual crimes and property crimes in a human rights tradition. *German Law Journal*, 25(1), 1–16. <https://doi.org/10.1017/glj.2023.97>
- Purwanti, A., Wijaningsih, D., & Mahfud, M. A. (2023). Reflection on Indonesian regulations regarding the prevention and enforcement of sexual violence online. In *Proceedings of the 1st International Workshop on Law, Economics and Governance, IWLEG 2022, 27 July 2022, Semarang, Indonesia*. Semarang, Indonesia: EAI. <https://doi.org/10.4108/eai.27-7-2022.2326246>
- Rambe, R. F. A. K., Sihombing, M. A. A., & P, N. W. (2024). Implikasi perlindungan hak asasi manusia dalam hukum pidana. *Jurnal Ilmiah Penegakan Hukum*, 11(1), 24–31. <https://doi.org/10.31289/jiph.v11i1.11182>
- Republik Indonesia. (2023). *Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana Nasional*.
- Rinwigati, P. (2022). Defining rape in Indonesia: A never-ending struggle. In L. I. Nurtjahyo & M. A. Wicaksono (Eds.), *Gender-based violence in South-East Asia: Policy in practice* (pp. 51–68). Singapore: Springer Nature. https://doi.org/10.1007/978-981-19-2492-7_4
- Rozi, Z. B. P. (2019). Perkembangan delik zina dalam yurisprudensi hukum pidana. *Veritas et Justitia*, 5(2), 286–301. <https://doi.org/10.25123/vej.v5i2.3612>
- Rozi, Z. B. P. (2025). Pidanaan terhadap pelaku kawin mut'ah (kawin kontrak) dari perspektif hukum Islam. *Jurnal Hukum Lex Generalis*, 6(6), 252–286. <https://doi.org/10.56370/jhlg.v6i6.1287>
- Sabina, V., Prameswari, F., & Maychellina. (2023). The crime of rape: An analysis from the feminist legal theory perspective. *Journal Equitable*, 8(3), 389–406. <https://doi.org/10.37859/jeq.v8i3.5812>
- Saputra, T., & Nugraha, Y. A. (2023). Criminal policy Lokika Sanggraha dalam perspektif hukum pidana Indonesia. *Iblam Law Review*, 3(2), 72–78. <https://doi.org/10.52249/ilr.v3i2.132>
- Siregar, S., & Halomoan, P. (2023). Pertanggungjawaban pelaku tindak pidana yang mengakibatkan kematian seseorang. *Yurisprudencia: Jurnal Hukum Ekonomi*, 8(2), 176–189. <https://doi.org/10.24952/yurisprudencia.v8i2.6279>
- Situmorang, S. (2023). Analysis of substantial criminal law studies. *Enigma in Law*, 1(1), 1–5. <https://doi.org/10.61996/law.v1i1.11>
- Slamet, H. S., Setiawati, E., & Kholifah, S. (2023). Rape culture in Indonesia / *Wacana Journal of Social and Humanity Studies*. Retrieved from <https://wacana.ub.ac.id/index.php/wacana/article/view/948>

- Sukma, D. P. (2025). Analisis Kitab Undang-Undang Hukum Pidana sebagai pembaharuan hukum nasional. *Journal of Innovation Research and Knowledge*, 4(8), 5315–5326. <https://doi.org/10.53625/jirk.v4i8.10557>
- Sulaeman, M. M. (2010). *Kekerasan terhadap perempuan*. Bandung, Indonesia: PT Refika Aditama.
- Susilowati, C. M. I., & Frans, M. P. (2024). Legal reform in addressing sexual violence in Indonesia: An analysis of the implementation of Law No. 12 of 2022 on sexual violence crimes. *Revista Direito e Sexualidade*, 183–202. <https://doi.org/10.9771/rds.v6i2.63279>
- Tarigan, T. L. B., & Rosmalinda. (2025). Kekerasan seksual terhadap anak penyandang disabilitas. *Adagium: Jurnal Ilmiah Hukum*, 3(1), 1–14. <https://doi.org/10.70308/adagium.v3i1.55>
- Tiedemann, P. (2023). Human rights concerning the protection of physical and mental integrity. In P. Tiedemann (Ed.), *Philosophical foundation of human rights* (pp. 141–158). Cham, Switzerland: Springer International Publishing. https://doi.org/10.1007/978-3-031-32292-1_8
- Urbatsch, R. (2021). Physical formidability and acceptance of police violence. *Evolution and Human Behavior*, 42(5), 431–440. <https://doi.org/10.1016/j.evolhumbehav.2021.03.008>
- Williams, L. M., & Toney, S. (2023). Rape and sexual assault. In *Encyclopedia of Mental Health* (3rd ed., pp. 24–35). Oxford, England: Academic Press. <https://doi.org/10.1016/B978-0-323-91497-0.00165-X>
- Wirawan, V. (2024). Delik hukum dalam perspektif filsafat hukum islam. *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance*, 4, 2467–2476. <https://doi.org/10.53626/bureau.v4i3.434>
- Yuningsih, H., Nurjaya, I. N., Djatmika, P., & Ruba'i, M. (2020). Philosophical foundation of chemical castration for offenders of sexual violence against children. *Sriwijaya Law Review*, 4(2), 62–78. <https://doi.org/10.28946/slrev.Vol4.Iss2.297.pp62-78>
- Zulfiko, R. (2022). Paradigma sexual consent dalam pembaharuan tindak pidana kekerasan seksual. *Pagaruyuang Law Journal*, 5(2), 104–122. <https://doi.org/10.31328/plj.v5i2.3151>