



POWER RELATIONS AND CRIMINAL LAW CHALLENGES IN ADDRESSING SEXUAL VIOLENCE IN INDONESIAN EDUCATIONAL INSTITUTIONS

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Abstract

Sexual violence in educational institutions has emerged as a persistent and complex problem in Indonesia, reflecting the intersection of unequal power relations, institutional culture, and gaps in legal enforcement. This paper examines the issue from a criminal law perspective, focusing on case studies involving universities, Islamic boarding schools, and private tutoring settings. Using a normative juridical approach, the study analyzes legal documents, judicial decisions, and secondary literature to evaluate how Indonesian criminal law addresses sexual violence in education. The findings show that, although Indonesia has recently adopted progressive legislation and established institutional mechanisms such as task forces for prevention and handling, the implementation remains fragmented and often fails to provide adequate protection to victims. Case studies, including the widely discussed Agni case at Universitas Gadjah Mada and the high-profile Herry Wirawan case, highlight recurring patterns of institutional reluctance, victim blaming, and weak accountability structures. Comparative insights from Title IX in the United States and the Sexual Offences Act in the United Kingdom demonstrate that mandatory reporting obligations, trauma-informed procedures, and institutional accountability frameworks are crucial in bridging the gap between legal norms and practice. This study concludes that Indonesia requires a more integrated criminal law policy that strengthens enforcement, mandates institutional responsibility, and prioritizes victim-centered approaches to effectively address sexual violence in educational settings.

Keywords: *criminal law; power relations; sexual violence; victim protection*

INTRODUCTION

Sexual violence in educational institutions has become one of the most urgent legal and social concerns in Indonesia over the past decade. The problem extends beyond isolated criminal acts and reflects deeper structural inequalities, entrenched cultural norms, and institutional weaknesses that perpetuate impunity. Schools, universities, and religious boarding schools are expected to be safe spaces for intellectual and moral development, yet many have instead become environments where students are exposed to exploitation and abuse. The enactment of Law No. 12 of 2022 on the Crime of Sexual Violence (Undang-Undang Tindak Pidana Kekerasan Seksual, hereinafter UU TPKS) marked a milestone in criminal law reform, aiming to close legal gaps and provide a comprehensive framework for prevention, protection, and prosecution.

Several high-profile cases illustrate the scale and complexity of the problem. The Agni case at Universitas Gadjah Mada exposed vulnerabilities during community service programs and highlighted slow institutional responses, which became a



subject of national debate. Cases involving lecturers at UPN Veteran Yogyakarta and Universitas Negeri Semarang demonstrated that internal disciplinary actions through the Sexual Violence Prevention and Handling Task Force (Satgas PPKS) often fell short of achieving full criminal accountability [11]. The case of Herry Wirawan, a leader of an Islamic boarding school in Bandung who sexually abused thirteen female students, resulted in a death sentence and was prosecuted under the UU TPKS, showing both the gravity of the crime and the potential of the law when applied effectively¹. Other cases in Lombok Barat, Ogan Komering Ulu Selatan, and Jakarta show that perpetrators can be recidivists, private tutors, or religious leaders, and that victims can include both boys and girls, further complicating the enforcement process.

Before the adoption of the UU TPKS, Indonesia relied mainly on the Criminal Code (KUHP), the Child Protection Law (Law No. 35 of 2014), and the Elimination of Domestic Violence Law (Law No. 23 of 2004). While important, these laws did not adequately cover many forms of sexual violence, including online harassment, non-physical sexual abuse, and exploitation facilitated by positions of authority². The absence of a unified legal instrument led to fragmented enforcement and inconsistent sentencing. Kompas reports that nearly two years after the UU TPKS was passed, more than 80 percent of Supreme Court sexual violence cases still referred to the KUHP rather than the new law³, with the delay in implementing regulations further hindering its application⁴.

Despite its progressive provisions, the implementation of the UU TPKS faces significant challenges. Studies by Riyanto and Barung and Hairi and Latifah point to structural barriers such as the absence of derivative regulations, limited capacity among law enforcement officers, and weak inter-agency coordination⁵. Rizka and Jannah add that conservative cultural norms and resistance within institutions often weaken enforcement⁷. Fitri et al. observe that while the Satgas PPKS has been effective in prevention and initial handling, its connection to formal criminal proceedings remains limited, resulting in many cases being resolved administratively rather than through the courts⁸.

From a victimological perspective, secondary victimization remains a serious problem. Wulandari and Saefudin explain that victims often experience re-traumatization during legal proceedings due to insensitive questioning, breaches of confidentiality, and stigmatization. Such conditions discourage reporting and erode trust in the justice system⁹. This aligns with international findings, where studies of campus sexual assault under Title IX in the United States and prosecutions under the Sexual Offences Act

1 E. Mutia Fitri, A. W. Lestari, F. Firdausi, and E. D. Nanarhati Setiamandani, 2023, "Implementation of Government Policy on the Prevention and Handling of Sexual Violence (PPKS) in Higher Education," *Journal of Gender Equality and Social Inclusion*, vol. 1, no. 1, pp. 45–60

2 A. N. Salwa and Sumali, 2023, "Legal Protection for Children as Victims of Sexual Violence in Law No. 35 of 2014," *Jurnal Ilmu Hukum, Humaniora dan Politik*, vol. 4, no. 6, pp. 223–233.

3 Satrio Pangarso Wisanggeni, Ratna Sri Widyastuti, dan Sri Rejeki, 2025, Vonis Ringan Pemerkosa dan Budaya Hukum yang Tak Memihak Korban, *Kompas.id*.

4 Sonya Hellen Sinombor, 2024, Dua Tahun Disahkan, UU Tindak Pidana Kekerasan Seksual Masih Belum Punya Aturan Pelaksanaan, *Kompas.id*

5 F. X. W. Franciscus and Y. P. Ginting, 2023, "Sexual Violence in Higher Education from the Perspective of Pancasila Values," *Jurnal Lemhannas RI*, vol. 11, no. 1, pp. 56–70.

6 Z. Sopyandi and Sujarwo, 2023, "Sexual Violence in Educational Environments and Its Prevention," *Jurnal Pendidikan Ilmu Pengetahuan Sosial*, vol. 15, no. 1, pp. 23–35.

7 N. Rizka and R. Jannah, 2023, "Implementation Constraints of Law No. 12 of 2022 on Sexual Violence in Educational Institutions," *Simbur Cahaya: Jurnal Ilmu Hukum*, vol. 34, no. 2, pp. 145–160.

8 E. Mutia Fitri, A. W. Lestari, F. Firdausi, and E. D. Nanarhati Setiamandani, *Op Cit*, pp. 45–60.

9 Y. A. Wulandari and Y. Saefudin, 2023, "Psychological and Social Impacts on Victims of Sexual Violence: A Victimological Perspective," *Jurnal Review Pendidikan dan Pengajaran*, vol. 6, no. 2, pp. 77–86.

2003 in the United Kingdom show that institutional hierarchies and social stigma often silence victims¹⁰.

These realities highlight the central research problem of this paper: while the UU TPKS offers a strong normative framework, its effectiveness in educational settings is constrained by institutional inertia, cultural barriers, and gaps in victim protection. This research addresses three main questions: (1) How is the UU TPKS implemented in handling sexual violence cases in educational institutions? (2) What are the key obstacles to its enforcement, particularly in cases involving power imbalances? and (3) How does the legal system address or perpetuate secondary victimization? By examining these questions through a juridical normative approach combined with case study analysis, this study aims to evaluate the UU TPKS and propose recommendations for improving its application in educational environments.

Ultimately, the goal is to contribute to the discourse on criminal law reform and victim protection in Indonesia. By drawing from national case law, academic research, and comparative international perspectives, this paper seeks to inform policymakers, academics, and practitioners on how to make educational institutions genuinely safe spaces, free from the threat of sexual violence and the injustice of inadequate legal responses.

This study employs a juridical normative approach with an emphasis on statutory analysis and case law review. The juridical normative method is appropriate for evaluating the legal framework and its implementation, as it focuses on examining laws, regulations, and legal principles in light of specific factual contexts. By combining doctrinal legal research with case study analysis, this method enables a comprehensive assessment of how the Law No. 12 of 2022 on the Crime of Sexual Violence (UU TPKS) operates in practice within educational institutions.

This research is qualitative in nature with a normative legal analysis approach that aims to interpret and analyze norms, principles, and legal provisions in the TPKS Law, Criminal Code, and other related regulations, while also examining their application in cases of sexual violence in educational environments through descriptive analysis to describe the legal framework and evaluative analysis to assess its effectiveness. The research data consists of primary legal materials in the form of laws, court decisions, and regulations on the prevention of sexual violence in educational institutions, and secondary legal materials in the form of journal articles, books, official reports, and news from credible media sources. Data collection was conducted through government publications, legal documentation networks (JDIH), court archives, academic databases, and verified media reports, with seven case studies selected based on criteria of educational institution relevance, public attention, and variation in institutional authority levels. Data analysis used qualitative content analysis methods by mapping case facts to applicable legal provisions, reinforced by academic literature to identify implementation challenges and gaps, as well as comparative methods with legal frameworks in the United States (Title IX) and the United Kingdom (Sexual Offences Act 2003) to provide an international perspective and policy recommendations for Indonesia. The validity and reliability of the research were maintained through data triangulation by confirming legal documents, academic analysis, and credible media sources, while the use of peer-reviewed literature strengthened the resulting legal interpretations and policy analysis.

10 N. Zen and S. N. Riani, "Impact and Prevention of Sexual Violence in the View of Islam," *Jurnal Ruhul Islam*, vol. 2, no. 2, pp. 112–127, 2023.

RESULT AND DISCUSSION

Results and Discussions must be arranged in a coherent, logical, and focused, which contains the original views of the author. This discussion should take up the largest portion of the overall substance. In the beginning, the manuscript must present the findings obtained by the author, while at the end, there must be a discussion regarding the existing findings. Discussions should be relevant and supported by appropriate literature.

1. Case Study Analysis of Sexual Violence in Education

The examination of sexual violence cases within educational institutions in Indonesia reveals patterns of abuse facilitated by institutional power dynamics, weak reporting mechanisms, and inconsistent law enforcement responses. The seven case studies selected for this research are illustrative of these systemic issues, covering both higher education and school-level environments, as well as informal educational settings.

a. The Agni Case – Universitas Gadjah Mada (UGM)

The Agni case is widely recognized as a turning point in public discourse on campus sexual violence. In 2017, a female student identified under the pseudonym Agni alleged that she was sexually assaulted by a fellow student during a community service program (KKN). The case became controversial not only for the act itself but for the university's slow and opaque response. It took several months before an internal investigation was initiated, and even then, the process was criticized for lack of transparency and for prioritizing institutional reputation over victim protection. Studies such as Franciscus and Ginting have emphasized how this case exposed the absence of a clear procedural framework for handling sexual violence on campus prior to the UU TPKS¹¹. The Agni case also revealed how secondary victimization occurred when victims were required to repeatedly recount traumatic events in front of panels without adequate psychological support¹².

b. UPN Veteran Yogyakarta Lecturer Case

In 2023, a lecturer at UPN Veteran Yogyakarta's Faculty of Mineral Technology was accused of sexually harassing a female student. The case was handled internally through the Satgas PPKS mechanism, resulting in the removal of the lecturer from his position as department head. While the sanction aligned with preventive measures mandated by the Ministry of Education, critics argue that the absence of a formal criminal complaint left the victim without judicial redress. Fitri et al. note that while Satgas PPKS provides an accessible avenue for victims within the university, it is not structurally linked to the criminal justice system, often resulting in administrative sanctions without prosecution¹³.

c. UNNES Lecturer Case

Similarly, in Universitas Negeri Semarang (UNNES), a lecturer from the Faculty of Education and Psychology was removed from his administrative position after being found guilty of sexually harassing four students. The handling of the case relied entirely

11 F. X. W. Franciscus and Y. P. Ginting, "Sexual Violence in Higher Education from the Perspective of Pancasila Values," *Jurnal Lemhannas RI*, vol. 11, no. 1, pp. 56–70, 2023.

12 Y. A. Wulandari and Y. Saefudin, "Psychological and Social Impacts on Victims of Sexual Violence: A Victimological Perspective," *Jurnal Review Pendidikan dan Pengajaran*, vol. 6, no. 2, pp. 77–86, 2023.

13 E. Mutia Fitri, A. Widi Lestari, F. Firdausi, and E. Dwi Nanarhati Setiamandani, "Implementation of Government Policy on the Prevention and Handling of Sexual Violence (PPKS) in Higher Education," *Journal of Gender Equality and Social Inclusion*, vol. 1, no. 1, pp. 45–60, 2023.

on Satgas PPKS procedures, with no indication that the matter was referred to law enforcement. Sopyandi and Sujarwo argue that this reliance on internal resolution reflects an institutional preference to avoid public scandal, thereby undermining the deterrent effect of criminal law¹⁴.

d. The Herry Wirawan Case – Islamic Boarding School, Bandung

One of the most shocking and widely publicized cases is that of Herry Wirawan, an Islamic boarding school leader convicted of sexually abusing thirteen female students between 2016 and 2021. The case involved systematic abuse under the guise of religious education, resulting in multiple pregnancies among the victims. The Bandung High Court sentenced him to death, a decision upheld by the Supreme Court. This case was prosecuted under the UUTPKS, representing one of the earliest high-profile applications of the law. According to Kompas, the case demonstrated the law's potential when supported by strong evidence and public advocacy¹⁵. However, Wulandari and Saefudin caution that even in such a clear-cut case, victims faced significant psychological trauma and stigmatization from their communities¹⁶.

e. Lombok Barat Pesantren Case

In Lombok Barat, the head of a pesantren was charged with sexual harassment of multiple female students. The case remains under investigation, but early reports suggest that victims were reluctant to come forward due to the perpetrator's religious authority and influence in the community. Herdiana identifies such scenarios as a manifestation of patron–client dynamics, where victims fear ostracism and loss of community support if they pursue legal action¹⁷.

f. Ogan Komering Ulu Selatan Pesantren Case

In Ogan Komering Ulu Selatan, South Sumatra, a pesantren caretaker—who was a known recidivist—was accused of raping a female student who later gave birth. Despite his prior conviction for similar offenses, he was able to continue operating an educational institution. This case illustrates the failure of monitoring and background checks for educators, a gap that is not directly addressed in the UU TPKS but is critical to prevention efforts¹⁸.

g. Jakarta Private Tutor Case

In Jakarta, a male private tutor was arrested for sexually abusing four underage male students, luring them with small amounts of money. This case is significant because it challenges the common misconception that victims of sexual violence in educational contexts are exclusively female. Salwa and Sumali note that legal and institutional frameworks often fail to address male victimization adequately, resulting in underreporting and limited victim support services¹⁹.

g. Patterns and Observations from the Case Studies

Across these cases, several patterns emerge:

14 Z. Sopyandi and Sujarwo, "Sexual Violence in Educational Environments and Its Prevention," *Jurnal Pendidikan Ilmu Pengetahuan Sosial*, vol. 15, no. 1, pp. 23–35, 2023.

15 Kompas, "Vonis Ringan Pemerkosa, Budaya Hukum Indonesia Tak Sepenuhnya Melindungi Korban," *Kompas.id*, 2025.

16 Y. A. Wulandari and Y. Saefudin, "Psychological and Social Impacts on Victims of Sexual Violence: A Victimological Perspective," *Jurnal Review Pendidikan dan Pengajaran*, vol. 6, no. 2, pp. 77–86, 2023.

17 D. Herdiana, "Sexual Violence in Educational Institutions from a Public Policy Perspective," *Jurnal Equalita*, vol. 4, no. 2, pp. 101–115, 2022.

18 N. Rizka and R. Jannah, "Implementation Constraints of Law No. 12 of 2022 on Sexual Violence in Educational Institutions," *Simbur Cahaya: Jurnal Ilmu Hukum*, vol. 34, no. 2, pp. 145–160, 2023.

19 A. N. Salwa and Sumali, "Legal Protection for Children as Victims of Sexual Violence in Law No. 35 of 2014," *Jurnal Ilmu Hukum, Humaniora dan Politik*, vol. 4, no. 6, pp. 223–233, 2023

- Reluctance to involve criminal law: Universities often prefer administrative resolution to avoid reputational damage.
- Power asymmetries: The perpetrator frequently holds an authoritative role, making it difficult for victims to report.
- Weak prevention mechanisms: Recidivist offenders are able to re-enter educational roles due to insufficient background checks.
 - Gaps in victim protection: Victims, especially male victims, receive limited attention in policy and institutional practice.
 - Variable application of UU TPKS: While it has been applied in high-profile cases like Herry Wirawan's, in many other cases it remains sidelined in favor of older legal instruments or internal procedures.

These findings align with broader critiques in the literature, which emphasize the need for integrating institutional mechanisms like Satgas PPKS with the criminal justice process, ensuring mandatory reporting obligations for educational authorities, and expanding victim support frameworks to address both psychological and social dimensions of harm.

2. Implementation of the UU TPKS

The enactment of Law No. 12 of 2022 on the Crime of Sexual Violence (UU TPKS) represents a pivotal step in Indonesia's criminal law reform. The law expands the definition of sexual violence to cover nine distinct forms, ranging from non-physical harassment to online sexual exploitation, and explicitly recognizes marital rape as a criminal offense²⁰. It also introduces victim-centered procedures, including guaranteed confidentiality, the right to restitution, and the possibility of introducing new forms of evidence such as electronic records. In theory, the UU TPKS addresses the shortcomings of the Criminal Code (KUHP) and other statutes, which historically offered fragmented protection and limited procedural safeguards²¹.

However, the law's application in cases involving educational institutions has been inconsistent. While the high-profile prosecution of Herry Wirawan demonstrated the potential for the UU TPKS to deliver strong judicial outcomes when applied effectively], many other cases have either relied on older statutes or have been resolved through internal administrative mechanisms, such as the Satgas PPKS, without criminal prosecution^{22,23}.

a. Gaps Between Normative Provisions and Enforcement

Several academic studies point to structural obstacles in enforcing the UU TPKS. Riyanto and Barung note that without implementing regulations, law enforcement officers lack clear operational guidelines²⁴. Hairi and Latifah add that inter-agency coordination is weak, with little communication between universities, the Ministry of Education, the police, and the courts²⁵. Rizka and Jannah identify cultural barriers

20 Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual. Indonesia, 2022.

21 Title IX and Sex Discrimination, U.S. Department of Education.

22 Kompas, "Vonis Ringan Pemerkosa, Budaya Hukum Indonesia Tak Sepenuhnya Melindungi Korban," *Kompas.id*, 2025.

23 E. Mutia Fitri, A. W. Lestari, F. Firdausi, and E. D. Nanarhati Setiamandani, "Implementation of Government Policy on the Prevention and Handling of Sexual Violence (PPKS) in Higher Education," *Journal of Gender Equality and Social Inclusion*, vol. 1, no. 1, pp. 45–60, 2023.

24 F. X. W. Franciscus and Y. P. Ginting, "Sexual Violence in Higher Education from the Perspective of Pancasila Values," *Jurnal Lemhannas RI*, vol. 11, no. 1, pp. 56–70, 2023.

25 Z. Sopyandi and Sujarwo, "Sexual Violence in Educational Environments and Its Prevention," *Jurnal Pendidikan Ilmu Pengetahuan Sosial*, vol. 15, no. 1, pp. 23–35, 2023.

particularly in rural or religiously conservative communities where reporting sexual violence may be seen as dishonorable for the victim's family²⁶.

The Kompas investigative report found that almost two years after the law's enactment, less than 2 % of sexual violence cases at the Supreme Court level used UU TPKS as the primary legal basis, with over 80 % still prosecuted under the KUHP. This suggests a reluctance among prosecutors to adopt the new law, possibly due to unfamiliarity, procedural uncertainty, or perceived evidentiary challenges²⁷.

b. Application in Selected Case Studies

To illustrate the gap between the UU TPKS's intended scope and its real-world enforcement, Table 1 maps the seven selected case studies against the relevant articles of the law, noting whether they were applied and identifying key obstacles.

Table 1. Application of UU TPKS in Selected Educational Sexual Violence Cases

Case	Relevant UU TPKS Articles	Applied in Prosecution?	Key Obstacles in Application
Agni – UGM	Art. 5 (sexual harassment), Art. 17 (psychological violence)	No	Case predated UU TPKS; institutional delays; victim withdrew from formal process
UPN Veteran Yogyakarta Lecturer	Art. 5, Art. 6 (abuse of authority)	No	Handled internally via Satgas PPKS; no police report
UNNES Lecturer	Art. 5, Art. 6	No	Institutional preference for administrative resolution; lack of victim willingness to report
Herry Wirawan – Bandung	Art. 6, Art. 9 (sexual exploitation), Art. 15 (aggravating factors)	Yes	Strong public pressure; comprehensive evidence
Lombok Barat Pesantren	Art. 5, Art. 6	Pending	Victim reluctance due to perpetrator's religious authority
OKU Selatan Pesantren	Art. 6, Art. 16 (sexual intercourse with minors)	Pending	Perpetrator is a recidivist; weak monitoring systems
Jakarta Private Tutor	Art. 6, Art. 9	Pending	Limited awareness of male victim protection provisions

Source: Author's compilation based on legal documents, academic literature, and verified media reports.

c. Observations on Enforcement Trends

From this mapping, three trends emerge:

1. Underutilization in campus cases: Even post-2022, cases in higher education environments are rarely prosecuted under UU TPKS, relying instead on internal disciplinary measures²⁸.

26 N. Rizka and R. Jannah, "Implementation Constraints of Law No. 12 of 2022 on Sexual Violence in Educational Institutions," *Simbur Cahaya: Jurnal Ilmu Hukum*, vol. 34, no. 2, pp. 145–160, 2023.

27 Kompas, "UU TPKS Hampir 2 Tahun Diundangkan, Peraturan Pelaksana Tak Kunjung Rampung," *Kompas.id*, 2024.

28 E. Mutia Fitri, A. W. Lestari, F. Firdausi, and E. D. Nanarhati Setiamandani, "Implementation of Government Policy on the Prevention and Handling of Sexual Violence (PPKS) in Higher Education," *Journal of Gender Equality and Social Inclusion*, vol. 1, no. 1, pp. 45–60, 2023.

2. Dependency on public attention: High-profile cases with strong media coverage, like Herry Wirawan's, are more likely to see UU TPKS applied, suggesting that prosecutorial willingness is influenced by public scrutiny²⁹.
3. Barriers in conservative settings: In pesantren and rural areas, victims often refrain from filing formal reports due to the perpetrator's social or religious standing, exacerbating the gap between legal protection on paper and its realization in practice³⁰.

These findings underscore the urgent need for capacity-building among law enforcement, integration between Satgas PPKS and the criminal justice system, and public education campaigns to encourage reporting and ensure victims are aware of their rights under the UU TPKS.

3. Power Relations and Secondary Victimization

The persistence of sexual violence in educational institutions is deeply intertwined with power relations between perpetrators and victims. These relations are shaped by hierarchical structures within universities, schools, and religious boarding schools, where the perpetrator often holds authority as a lecturer, teacher, religious leader, or senior student. The inherent asymmetry of power creates an environment where victims may feel unable to resist, report, or seek justice^{31,32}.

a. Power Imbalances in Educational Settings

In the Agni case at Universitas Gadjah Mada, the accused was not in a formal position of institutional authority but benefitted from situational dominance during a mandatory community service program. This dominance was reinforced by the university's procedural delays, which indirectly protected the perpetrator. In contrast, in the UPN Veteran Yogyakarta and UNNES lecturer cases, the power imbalance was explicit, with the perpetrators occupying senior academic positions. These cases confirm the observation by Sopyandi and Sujarwo that institutional hierarchies can serve as a protective shield for offenders, enabling them to exploit their position to avoid accountability³³.

In religious boarding schools (pesantren), such as in the Lombok Barat and Ogan Komering Ulu Selatan cases, the power imbalance is amplified by religious authority. Herdiana describes this dynamic as a form of patron-client relationship, where the leader's moral and spiritual influence discourages victims and their families from challenging the perpetrator. This form of authority is particularly resistant to external intervention, as it operates within tightly knit communities where collective identity and loyalty to the institution are paramount³⁴.

b. Mechanisms of Secondary Victimization

Secondary victimization refers to the additional harm victims experience during the reporting, investigation, and adjudication processes. It often occurs through victim-blaming attitudes, procedural insensitivity, and breaches of confidentiality. In the Agni

29 Kompas, "Vonis Ringan Pemerkosa, Budaya Hukum Indonesia Tak Sepenuhnya Melindungi Korban," *Kompas.id*, 2025.

30 N. Zen and S. N. Riani, "Impact and Prevention of Sexual Violence in the View of Islam," *Jurnal Ruhul Islam*, vol. 2, no. 2, pp. 112–127, 2023.

31 Title IX requires schools to respond to reports promptly and define mandatory response obligations, *Department of Education Summary*.

32 N. Zen and S. N. Riani, "Impact and Prevention of Sexual Violence in the View of Islam," *Jurnal Ruhul Islam*, vol. 2, no. 2, pp. 112–127, 2023.

33 D. Herdiana, "Sexual Violence in Educational Institutions from a Public Policy Perspective," *Jurnal Equalita*, vol. 4, no. 2, pp. 101–115, 2022.

34 N. Zen and S. N. Riani, "Impact and Prevention of Sexual Violence in the View of Islam," *Jurnal Ruhul Islam*, vol. 2, no. 2, pp. 112–127, 2023.

case, secondary victimization occurred when the victim was repeatedly required to provide detailed testimony before different panels without psychological support. In the Jakarta private tutor case, breaches of confidentiality resulted in public exposure of the victims' identities, which, according to Salwa and Sumali, can have long-lasting psychological consequences³⁵.

Wulandari and Saefudin identify three primary channels of secondary victimization in the Indonesian context³⁶:

1. Institutional negligence — slow or inadequate response times in handling reports.
2. Procedural insensitivity — invasive questioning or unnecessary repetition of testimony.
3. Social stigmatization — community-driven victim blaming, particularly in conservative or religious environments.

c. Interaction Between Power and Secondary Harm

The intersection of power relations and secondary victimization creates a reinforcing cycle. Victims who perceive the perpetrator as untouchable due to status or authority are less likely to report, and those who do report often face additional harm during legal proceedings. This is consistent with the findings of Zen and Riani, who argue that without explicit cultural change within educational institutions, legal reforms such as the UU TPKS will have limited practical effect³⁷.

In comparative perspective, similar challenges exist in jurisdictions such as the United States under Title IX and the United Kingdom under the Sexual Offences Act 2003, where institutional loyalty and reputational concerns can override victim protection mandates³⁸. However, both systems incorporate mandatory reporting obligations for institutional authorities, an approach Indonesia could adopt to counteract power-based silencing.

d. Implications for Policy and Law Enforcement

The relationship between power imbalances and secondary victimization suggests that legal intervention must extend beyond statutory provisions. First, law enforcement training must address the psychological dimensions of victimization to avoid procedural harm. Second, institutions must develop clear, enforceable protocols for referring cases to criminal authorities, rather than relying solely on internal disciplinary measures. Third, public awareness campaigns must target both potential victims and the broader community to dismantle cultural barriers to reporting.

4. Comparative Insights from International Legal Frameworks

Comparative legal analysis offers valuable perspectives for evaluating the implementation of the Law No. 12 of 2022 on the Crime of Sexual Violence (UU TPKS) in Indonesia. By examining the experiences of jurisdictions with established frameworks for addressing sexual violence in educational contexts, such as Title IX in the United States and the Sexual Offences Act 2003 in the United Kingdom, we can identify both the strengths of Indonesia's current law and the gaps that remain in its enforcement.

a. Title IX (United States)

³⁵ A. N. Salwa and Sumali, "Legal Protection for Children as Victims of Sexual Violence in Law No. 35 of 2014," *Jurnal Ilmu Hukum, Humaniora dan Politik*, vol. 4, no. 6, pp. 223–233, 2023.

³⁶ Y. A. Wulandari and Y. Saefudin, "Psychological and Social Impacts on Victims of Sexual Violence: A Victimological Perspective," *Jurnal Review Pendidikan dan Pengajaran*, vol. 6, no. 2, pp. 77–86, 2023.

³⁷ Title IX and Sex Discrimination, U.S. Department of Education.

³⁸ N. Zen and S. N. Riani, "Impact and Prevention of Sexual Violence in the View of Islam," *Jurnal Ruhul Islam*, vol. 2, no. 2, pp. 112–127, 2023.

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance. Although initially designed as an anti-discrimination measure, it has evolved through judicial interpretation and administrative guidance to cover sexual harassment and sexual violence in schools and universities. A defining feature of Title IX is its mandatory reporting requirement: all school employees who become aware of sexual harassment or violence must inform a Title IX coordinator, who is responsible for initiating an investigation. This ensures that educational institutions cannot avoid responsibility through internal discretion.

Title IX's procedural model emphasizes swift interim measures such as no-contact orders, housing adjustments, or academic accommodations implemented within days of a report. While critics argue that the system has sometimes been misused or over-politicized, its strength lies in its institutional accountability framework, backed by the threat of losing federal funding for non-compliance.

By contrast, Indonesia's UU TPKS does not impose a statutory obligation on educational institutions to report allegations to law enforcement. Instead, reporting is often discretionary, and internal mechanisms like Satgas PPKS can handle cases administratively without criminal referral. This gap explains why many campus cases, such as UPN Veteran Yogyakarta and UNNES, never progress to formal prosecution despite credible evidence³⁹.

b. Sexual Offences Act 2003 (United Kingdom)

The UK's Sexual Offences Act 2003 consolidated and expanded the criminal law on sexual offenses, defining a wide range of conduct, clarifying the concept of consent, and introducing protections for vulnerable witnesses. Although it is not an education-specific statute, its implementation is supported by Safeguarding Children in Education guidance, which imposes reporting duties on schools and universities when a child or vulnerable adult may be at risk.

One of the most notable procedural innovations in the UK is the use of special measures for victims in court such as giving testimony via video link, using screens to avoid direct confrontation with the accused, and restricting aggressive cross-examination. These measures aim to prevent secondary victimization, a challenge that Indonesia continues to face in cases like Agni and Jakarta private tutor⁴⁰.

The UK model also emphasizes multi-agency cooperation: police, social services, and educational institutions share information and coordinate responses, reducing the risk of cases stalling between jurisdictions. This contrasts with Indonesia, where coordination between the police, Ministry of Education, and campus authorities remains inconsistent, leading to procedural delays⁴¹.

c. Points of Convergence and Divergence

A cross-jurisdictional comparison reveals the following key insights:

39 E. Mutia Fitri, A. W. Lestari, F. Firdausi, and E. D. Nanarhati Setiamandani, "Implementation of Government Policy on the Prevention and Handling of Sexual Violence (PPKS) in Higher Education," *Journal of Gender Equality and Social Inclusion*, vol. 1, no. 1, pp. 45–60, 2023.

40 Y. A. Wulandari and Y. Saefudin, "Psychological and Social Impacts on Victims of Sexual Violence: A Victimological Perspective," *Jurnal Review Pendidikan dan Pengajaran*, vol. 6, no. 2, pp. 77–86, 202

41 N. Rizka and R. Jannah, "Implementation Constraints of Law No. 12 of 2022 on Sexual Violence in Educational Institutions," *Simbur Cahaya: Jurnal Ilmu Hukum*, vol. 34, no. 2, pp. 145–160, 2023.

Tabel 2. Comparative Legal Frameworks on Sexual Violence in Education

Aspect	UU TPKS (Indonesia)	Title IX (US)	Sexual Offences Act 2003 (UK)
Scope	Broad, covers 9 forms of sexual violence	Focused on sex discrimination incl. sexual violence in education	Comprehensive criminal law on sexual offenses
Mandatory Reporting	Not explicitly required for institutions	Mandatory for all staff to Title IX coordinator	Mandatory for safeguarding leads in education
Victim Protection Measures	Guaranteed confidentiality, restitution, legal aid	Interim protective measures within days	Special court measures to avoid trauma
Institutional Accountability	Sanctions possible but no funding penalty	Loss of federal funding for non-compliance	Regulatory penalties and inspections
Multi-Agency Coordination	Weak, ad-hoc	Strong between institutions and federal agencies	Strong between police, schools, and social services

d. Lessons for Indonesia

From these comparisons, three actionable lessons emerge for strengthening UU TPKS implementation in educational contexts:

1. Institutional Mandatory Reporting – Following the Title IX model, Indonesian law could require Satgas PPKS and all educational staff to report credible allegations to law enforcement within a fixed timeframe.
2. Special Protective Measures in Court – Inspired by the UK’s special measures, Indonesia could integrate victim-centered courtroom procedures to prevent secondary harm, particularly for child and vulnerable adult victims.
3. Multi-Agency Response Protocols – Establishing formal cooperation between educational institutions, police, and social services could prevent jurisdictional deadlock and ensure comprehensive victim support.

Adapting these measures to Indonesia’s legal and cultural context will require balancing victim protection with due process rights for the accused, and ensuring that local communities especially in rural and religious settings are educated about the importance of reporting and supporting victims.

5. Criminal Policy Evaluation and Recommendations

Criminal policy, as understood in Indonesian legal scholarship, refers to the strategies and mechanisms employed by the state to prevent and respond to crime through a combination of substantive criminal law, procedural law, and the criminal justice system’s institutional apparatus. The enactment of Law No. 12 of 2022 on the Crime of Sexual Violence (UU TPKS) represents a landmark step in the substantive dimension, filling historical gaps in the Criminal Code (KUHP) by defining a broader range of offenses, expanding victim rights, and recognizing forms of violence that had previously been ignored, such as cyber-based sexual harassment and marital rape⁴².

However, criminal policy effectiveness is measured not solely by the quality of legislation, but also by its enforceability and alignment with societal realities. The analysis of seven case studies in this research reveals that while the UU TPKS is

⁴² Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual. Indonesia, 2022.

progressive on paper, its application in educational contexts remains inconsistent, particularly in campus and pesantren cases. In three of the studied cases—UPN Veteran Yogyakarta, UNNES, and Lombok Barat—credible allegations did not progress to formal prosecution under UU TPKS, primarily due to discretionary institutional handling, victim reluctance and lack of mandatory reporting mechanism⁴³.

a. Evaluation of Substantive Law

From a substantive perspective, the UU TPKS is robust in its definitions and victim protection clauses. It adopts a victim-centered approach, recognizing the importance of confidentiality, psychological support, and restitution. However, its lack of direct sanctions for non-compliance by educational institutions leaves a critical enforcement gap. Unlike Title IX in the United States, which ties compliance to federal funding, UU TPKS lacks financial or administrative consequences for institutions that fail to refer cases to law enforcement. As a result, universities and pesantren can opt for internal disciplinary action without fear of legal repercussions, undermining the deterrent function of criminal law.

b. Evaluation of Procedural Law

Procedurally, UU TPKS provides for expanded forms of admissible evidence, such as electronic communications and victim statements taken via audiovisual recording. This is a positive departure from the evidentiary limitations of the KUHP and KUHPA, which often hinder sexual violence prosecutions⁴⁴. However, procedural delays and repetitive victim questioning documented in the Agni and UNNES cases demonstrate that trauma-informed practices have not yet been fully integrated into investigative and judicial procedures. In rural or religiously conservative areas, such as Lombok Barat and Ogan Komering Ulu Selatan, procedural guarantees exist in theory but are often negated by social pressure and community loyalty to the perpetrator⁴⁵.

c. Institutional Coordination and Accountability

The institutional dimension of criminal policy is perhaps the weakest link in UU TPKS enforcement. The law envisions collaboration between police, prosecutors, social services, and Satgas PPKS, but does not clearly define coordination protocols. This leads to ad hoc cooperation, with responsibilities blurred between agencies. For example, in the Jakarta private tutor case, lack of coordination delayed victim support services, leaving victims without immediate psychological care. In the pesantren cases, local law enforcement cited difficulties in engaging community leaders, while Satgas PPKS structures where they existed were inactive or ineffective. Comparative insights from the UK's multi-agency safeguarding model and the US's centralized Title IX coordination suggest that formalized, legally binding inter-agency agreements could significantly improve response times and victim outcomes.

d. Recommendations for Legislative Reform

Based on the above evaluation, several legislative amendments could strengthen the UU TPKS's criminal policy function:

43 E. Mutia Fitri, A. W. Lestari, F. Firdausi, and E. D. Nanarhati Setiamandani, "Implementation of Government Policy on the Prevention and Handling of Sexual Violence (PPKS) in Higher Education," *Journal of Gender Equality and Social Inclusion*, vol. 1, no. 1, pp. 45–60, 2023.

44 A. N. Salwa and Sumali, "Legal Protection for Children as Victims of Sexual Violence in Law No. 35 of 2014," *Jurnal Ilmu Hukum, Humaniora dan Politik*, vol. 4, no. 6, pp. 223–233, 2023.

45 N. Zen and S. N. Riani, "Impact and Prevention of Sexual Violence in the View of Islam," *Jurnal Ruhul Islam*, vol. 2, no. 2, pp. 112–127, 2023.

1. Mandatory Reporting Provisions – Introduce a statutory obligation for all educational staff and Satgas PPKS members to report credible allegations to law enforcement within a fixed timeframe.
 2. Institutional Sanctions – Link compliance with UU TPKS to funding eligibility status for educational institutions, similar to the Title IX model in the US.
 3. Integration of Special Court Measures – Amend procedural law to mandate the use of special measures for vulnerable victims, including testimony via video link, protective screens, and restricted cross-examination.
 4. Expanded Witness Protection – Extend the scope of the Witness and Victim Protection Agency (LPSK) to proactively monitor educational sexual violence cases, ensuring victims are shielded from intimidation.
- e. Recommendations for Procedural and Institutional Reform
- Reforms cannot be limited to legislation; they must also target law enforcement and institutional culture:
1. Capacity Building for Investigators and Prosecutors – Regular training in trauma-informed interviewing and victim-sensitive procedures should be mandatory for police and prosecutors handling sexual violence cases.
 2. Standardized Protocols for Campus and Pesantren Cases – Develop Ministry of Education regulations requiring immediate referral of serious allegations to the police, with monitoring and oversight by independent bodies.
 3. Community Engagement Programs – Implement public education campaigns to reduce stigma, promote reporting, and emphasize that protecting victims is a communal responsibility.
 4. Male Victim Inclusion – Ensure that victim services are accessible and non-discriminatory toward male survivors, addressing specific stigma-related barriers identified in the Jakarta tutor case.
- f. Long-Term Criminal Policy Vision

A coherent criminal policy toward sexual violence in education must recognize the interplay between legal reform, institutional accountability, and cultural change. While the UU TPKS has set a strong normative foundation, its deterrent and protective functions will remain limited without mandatory institutional compliance, integrated procedural safeguards, and active community engagement. Drawing from comparative models, Indonesia's long-term strategy should be to embed victim protection and offender accountability into the core governance of educational institutions, making the prevention and prosecution of sexual violence a non-negotiable standard rather than an optional administrative measure.

CONCLUSION

Sexual violence in Indonesian educational institutions illustrates how legal reform alone cannot solve deeply rooted cultural and institutional problems. While the adoption of progressive criminal law provides new definitions and protections, implementation continues to face obstacles such as weak institutional accountability, limited reporting mechanisms, and secondary victimization of survivors.

The case studies analyzed show a consistent pattern of reluctance to enforce sanctions, stigma toward victims, and dependence on administrative measures rather than criminal prosecution. Comparative perspectives from the United States and the United Kingdom

highlight that effective protection requires not only clear legislation but also mandatory reporting, trauma informed procedures, and institutional responsibility.

Therefore, to strengthen victim protection and deterrence, Indonesia must integrate criminal law with institutional governance and public education. Only by embedding the law into daily practices of schools and universities can the promise of victim centered justice be realized.

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