

From Law on the Books to Law in Action: Legal Protection for Women Victims of Physical Sexual Harassment under Indonesia's UU TPKS

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ABSTRACT

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This study examines the implementation of legal protection for women victims of physical sexual harassment in Buol Regency under Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS). Using a socio-legal approach, the research combines normative legal analysis with empirical inquiry to assess how the law operates in practice and to identify the factors affecting victims' access to justice, protection, and recovery. The findings reveal a significant gap between the victim-centered principles embodied in the UU TPKS and their implementation at the local level. Legal protection is often limited to procedural compliance, while substantive justice remains constrained by limited institutional capacity, fragmented service coordination, evidentiary difficulties, and restricted access to medical and psychosocial services. In addition, socio-cultural factors such as patriarchal norms, stigma, and informal dispute resolution practices discourage victims from reporting cases and weaken formal legal mechanisms. These formal and informal barriers interact within institutional practices, reinforcing discretionary decision-making and victim-blaming attitudes. The study concludes that although the UU TPKS provides a progressive normative framework for protecting women victims of sexual violence, its effectiveness depends on strengthening institutional capacity, improving trauma-informed services, enhancing inter-agency coordination, and promoting broader socio-cultural change, particularly in non-metropolitan regions.



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Introduction

Sexual harassment against women has emerged as one of the most pervasive and persistent forms of gender-based violence in contemporary societies. It transcends national, cultural, and economic boundaries and constitutes a serious violation of fundamental human rights, including the rights to dignity, bodily integrity, and equality before the law. International human rights instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Sustainable Development Goals place the elimination of sexual violence at the core of global commitments to gender justice and human development.^{1,2} Within this framework, sexual harassment is no longer viewed merely as inappropriate individual behavior but as a manifestation of structural inequality that reflects unequal power relations between men and women.

Despite these normative commitments, sexual harassment remains one of the most underreported and under prosecuted forms of violence worldwide. Empirical studies consistently show that victims face significant barriers in accessing justice, ranging from social stigma and victim blaming to evidentiary

¹ V. V. Chernikov and O. K. Goncharenko, "The Problems of Violence against Women in International Law," *Vestnik Sankt-Peterburgskogo Universiteta. Pravo* 12, no. 3 (2021): 803–19, <https://doi.org/10.21638/SPBU14.2021.319>.

² LCG Orta, "The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): From Its Radical Preamble to Its Contemporary Intersectional Approach," *LCG Orta Women's History Review* 34, no. 1 (2025): 79–92, <https://doi.org/10.1080/09612025.2023.2277490>.

difficulties and institutional neglect.^{3,4} Physical sexual harassment, in particular, occupies an especially problematic position within legal systems. Although it involves direct bodily violation, it often leaves no visible injuries and typically occurs in everyday spaces such as schools, workplaces, public transportation, and residential neighborhoods. The lack of physical traces places a disproportionate burden on victims to prove their experiences, while perpetrators benefit from ambiguity and denial. As a result, women who report physical sexual harassment frequently encounter disbelief, moral judgment, and procedural obstacles rather than protection.^{5,6} Contemporary feminist legal scholarship has therefore emphasized that sexual harassment cannot be adequately addressed through criminalization alone. Rather, it must be understood as a structural problem embedded in social norms, institutional practices, and gendered power relations that shape how law is interpreted and applied.⁷ From this perspective, the effectiveness of a state's legal response to sexual harassment becomes a crucial indicator of its broader commitment to human rights and the rule of law.

Within this global context, Indonesia has undertaken significant legal reforms to address sexual violence against women. As a constitutional state grounded in the principle of the rule of law, Indonesia is obliged to guarantee the protection of human dignity and equality before the law as enshrined in the 1945 Constitution. This obligation was given renewed force with the enactment of Law No. 12 of 2022 on Sexual Violence Crimes (*Undang Undang Tindak Pidana Kekerasan Seksual*, hereafter UU TPKS), which represents one of the most comprehensive legal frameworks on sexual violence in Indonesian history.⁸ The UU TPKS marks a fundamental shift from earlier morality based approaches toward a rights based model that places the victim at the center of legal protection. The law broadens the definition of sexual violence, explicitly recognizes physical sexual harassment as a criminal offense, and introduces mechanisms for victim protection, restitution, and recovery. It also acknowledges the psychological, social, and economic harms suffered by victims, signaling a move away from viewing sexual violence solely as an offense against public order toward recognizing it as a violation of personal integrity and human rights.⁹ In this respect, the UU TPKS aligns Indonesia with international norms that emphasize gender sensitive and victim centered justice.

However, the enactment of progressive legislation does not automatically translate into effective protection in practice. Socio legal research has long demonstrated that there is often a substantial gap between law on the books and law in action, particularly in areas involving gender based violence.^{10,11} This gap is shaped not only by the content of legal rules but also by the ways in which those rules are interpreted, enforced, and mediated by institutions and social norms.

In cases of physical sexual harassment, this tension becomes particularly acute. Although the UU TPKS provides a clear legal basis for prosecution and victim protection, the practical realities of evidence gathering, reporting, and institutional response often undermine these normative promises. The absence of visible injuries means that medical examinations frequently fail to capture the full extent of the harm

³ Valérie Pijlman et al., "‘Sometimes It Seems Easier to Push It Away’: A Study into the Barriers to Help-Seeking for Victims of Sexual Violence," *Journal of Interpersonal Violence* 38, no. 11 (2023): 7530–55, <https://doi.org/10.1177/08862605221147064>.

⁴ Michelle Wieberneit et al., "Silenced Survivors: A Systematic Review of the Barriers to Reporting, Investigating, Prosecuting, and Sentencing of Adult Female Rape and Sexual Assault," *Trauma, Violence, & Abuse* 25, no. 5 (2024): 3742–57, <https://doi.org/10.1177/15248380241261404>.

⁵ E Harmer et al., "Disbelief and Counter-Voices: A Thematic Analysis of Online Reader Comments about Sexual Harassment and Sexual Violence against Women," *Information, Communication & Society* 25, no. 2 (2022): 199–216, <https://doi.org/10.1080/1369118X.2020.1770832>.

⁶ Jodie Murphy-Oikonen et al., "Unfounded Sexual Assault: Women's Experiences of Not Being Believed by the Police," *Journal of Interpersonal Violence* 37, no. 11 (2022): NP8916–40, <https://doi.org/10.1177/0886260520978190>.

⁷ L Wegerstad, "Theorising Sexual Harassment and Criminalisation in a Swedish Context," *Bergen Journal of Criminal Law and Criminal Justice* 9, no. 2 (2022): 81, <https://doi.org/10.15845/BJCLCJ.V9I2.3525>.

⁸ S Mas'udah, "The Meaning of Sexual Violence and Society Stigma Against Victims of Sexual Violence," *society* 10, no. 1 (2022): 1–12, <https://doi.org/10.33019/SOCIETY.V10I1.384>.

⁹ Ana Vidu, Gema Tomás, and Ramon Flecha, "Pioneer Legislation on Second Order of Sexual Harassment: Sociolegal Innovation in Addressing Sexual Harassment," *Sexuality Research and Social Policy* 19, no. 2 (2022): 562–73, <https://doi.org/10.1007/S13178-021-00571-0>.

¹⁰ CMI Susilowati, MP Frans, "Interpreting Power, Grooming, and Deception in Sexual Violence Cases: A Hermeneutic Study on Legal Challenges in Indonesia," *International Journal for the Semiotics of Law* 38, no. 3 (2025): 1061–78, <https://doi.org/10.1007/S11196-024-10223-2>.

¹¹ TO Wijoyo, K Kenneth, "Power Relations and Criminal Law Challenges in Addressing Sexual Violence in Indonesian Educational Institutions," *Jurnal Kompilasi Hukum* 10, no. 2 (2025), <https://doi.org/10.29303/jkh.v10i2.277>.

suffered by victims, while legal procedures tend to privilege formal proof over experiential testimony.^{12,13} At the same time, cultural attitudes that normalize male dominance and female silence continue to influence how victims are treated by families, communities, and even law enforcement officials.

Institutional practices further reproduce these barriers. Police officers, medical personnel, and prosecutors may lack training in trauma informed approaches, leading to questioning styles and procedural requirements that retraumatize victims rather than support them (Campbell et al., 2025). In many cases, victims are required to repeat their stories multiple times, face intrusive or judgmental questioning, and navigate complex bureaucratic processes that discourage continued engagement with the legal system. These practices effectively transform the promise of legal protection into a new source of vulnerability. This contradiction between the progressive ideals of the UU TPKS and the lived experiences of women victims reflects a deeper structural problem within the justice system. While the law proclaims dignity, safety, and equality, its everyday operation often exposes women to renewed harm and exclusion. The effectiveness of Indonesia's legal reform in addressing physical sexual harassment must therefore be assessed not only through statutory analysis but through an examination of how the law is implemented and experienced on the ground.

The tension between legal ideals and institutional practice becomes even more pronounced in non-metropolitan and peripheral regions, where state capacity, social norms, and access to justice intersect in particularly fragile ways. Buol Regency, a district located outside Indonesia's major urban and administrative centers, represents a critical site for examining how the promises of the UU TPKS are translated into everyday legal reality. In such regions, the distance between victims and the state is not only geographic but also institutional and cultural. Women who experience physical sexual harassment in non-metropolitan areas face multiple layers of vulnerability. Access to police stations, forensic medical services, psychological counseling, and legal assistance is often limited, uneven, or concentrated in urban centers. This spatial and infrastructural inequality constrains victims' ability to report abuse and obtain timely evidence, which is crucial in cases where physical traces are minimal or rapidly disappear.^{14,15} At the same time, strong communal ties and patriarchal social norms frequently prioritize family reputation, social harmony, and informal settlement over formal legal processes. Victims may be pressured by family members, community leaders, or even local officials to resolve cases privately, withdraw complaints, or remain silent in order to avoid stigma and social conflict.¹⁶

These conditions create an environment in which legal rights exist formally but are difficult to exercise in practice. In small communities, reporting a perpetrator often means confronting not only an individual but an entire network of social relations that can isolate or punish the victim. Research on rural and non-metropolitan justice systems has shown that women in such settings are more likely to experience secondary victimization, including social exclusion, moral judgment, and loss of economic support, after disclosing sexual violence.¹⁷ As a result, the legal system's promise of protection may be outweighed by the social costs of seeking justice.

Buol thus should not be understood merely as a local case study, but as a lens through which the operation of Indonesia's national legal reforms can be critically assessed. In decentralized and geographically diverse countries, the effectiveness of national legislation is often determined not in capital cities but in peripheral regions where institutional resources are limited and informal norms remain powerful. Examining how physical sexual harassment cases are handled in Buol therefore provides insight into the

¹² Rachael Goodman-Williams, Jessica Volz, and Kathryn Fishwick, "Reasons for Not Reporting Among Sexual Assault Survivors Who Seek Medical Forensic Exams: A Qualitative Analysis," *Journal of Interpersonal Violence* 39, no. 9 (2024): 1905–25, <https://doi.org/10.1177/08862605231211926>.

¹³ Amy Zeidan et al., "'Why Bother?': Barriers to Reporting Gender and Sexual Harassment in Emergency Medicine," *Academic Emergency Medicine* 29, no. 9 (2022): 1067–77, <https://doi.org/10.1111/ACEM.14544>.

¹⁴ K Bond, K Davis, "Improving the Likelihood of Positive Outcomes for Survivors of Sexual Violence, Considering Intersections Between Justice, Gender, and Trauma," *Social Policy & Administration* 59, no. 7 (2025): 1095–1106, <https://doi.org/10.1111/SPOL.13110>.

¹⁵ Kate Boyer, "Sexual Harassment and the Right to Everyday Life," *Progress in Human Geography* 46, no. 2 (2022): 398–415, <https://doi.org/10.1177/03091325211024340>.

¹⁶ Ahmad Ash Shiddieqy et al., "Integrating Islamic Family Law and Gender Equality: A Comparative Study of Legal Reform and Social Norms in Contemporary Indonesia and Morocco," *Legitima: Jurnal Hukum Keluarga Islam* 7, no. 2 (2025): 1–26, <https://doi.org/10.33367/LEGITIMA.V7I2.7101>.

¹⁷ R Randa et al., "Variations in Victimization: The Relationship between Community Types, Violence against Women and Reporting Behaviors," *Social Sciences* 12, no 9 (2023): 417, <https://doi.org/10.3390/socsci12090471>

real capacity of the UU TPKS to transform gendered power relations at the margins of the state. While Indonesian scholarship on sexual violence has grown significantly in recent years, important analytical gaps remain. Many studies have focused on the doctrinal development of sexual violence law, the expansion of criminal definitions, and the normative framework of victim protection under the UU TPKS and related legislation.¹⁸ Other works have drawn on feminist theory and victimology to analyze the structural roots of gender based violence in Indonesian society.^{19,20} However, much of this literature remains concentrated at the level of legal texts, national policy, or urban case studies. This gap is particularly consequential because the implementation of gender sensitive legislation is deeply shaped by local governance structures, professional cultures, and social hierarchies.

Against this backdrop, this study critically examines how legal protection for women victims of physical sexual harassment is implemented and experienced in Buol Regency within the framework of the UU TPKS. The analysis goes beyond the formal existence of legal norms and focuses on how those norms are operationalized, interpreted, and at times undermined through institutional practices and socio-cultural relations at the local level. By placing victims' experiences alongside institutional responses, this study conceptualizes legal protection not merely as a doctrinal framework, but as a lived socio-legal process shaped by everyday interactions between law, institutions, and society.

This study pursues two interrelated objectives. First, it aims to analyze the forms of legal protection available to women victims of physical sexual harassment in Buol Regency, including police responses, access to medical and forensic services, psychological assistance, and legal aid. In this respect, the study evaluates how the normative guarantees provided by the UU TPKS are translated into concrete practices throughout the justice process. Second, the study seeks to identify and explain the structural, cultural, and institutional barriers that constrain the realization of victim-centered protection in practice. These barriers include stigma, patriarchal norms, evidentiary difficulties, limited institutional capacity, and the persistence of informal dispute resolution mechanisms that often divert cases away from formal legal processes.

In line with these objectives, the study is guided by two central research questions: (1) how is legal protection for women victims of physical sexual harassment operationalized in Buol Regency under the UU TPKS framework; and (2) what formal and informal factors shape women's access to justice, protection, and recovery after experiencing physical sexual harassment?

By addressing these questions, the study seeks to move beyond generalized discussions of legal reform and provide a grounded understanding of how law functions in everyday contexts. Methodologically, the research adopts a socio-legal approach that combines normative legal analysis with empirical inquiry. This approach enables the study to situate statutory provisions within their broader social and institutional environments, thereby revealing the gap between legal ideals and practical realities. Empirical findings are employed not merely to illustrate legal norms, but to critically assess their effectiveness and limitations in protecting women victims of sexual harassment. In doing so, the study contributes to socio-legal scholarship that views law as a dynamic social institution shaped by power relations, institutional culture, and local governance structures.

Method

This study employed a socio-legal research approach that integrates normative legal analysis with empirical inquiry.²¹ The research is grounded in the understanding that law functions not only as a system of written norms, but also as a social institution whose meaning and effectiveness are shaped by institutional practices, social relations, and power structures. Such an approach is particularly appropriate for examining legal protection for women victims of physical sexual harassment, where the existence of progressive legislation does not automatically guarantee effective protection in practice. From a normative perspective, this study analyzes the legal framework governing sexual violence in Indonesia, with a primary focus on

¹⁸ Ashila Aulia Poetri, "Content Analysis of Law Number 12/2022 on Sexual Violence Based on Due Diligence Framework," *Contemporary Public Administration Review* 1, no. 2 (2024): 61–93, <https://doi.org/10.26593/COPAR.V1I2.7683.61-93>.

¹⁹ MK Hamdy, M Hudri "Gender Based Violence: The Relationship of Law and Patriarchy in Indonesia," *Jurnal Ilmu Kesejahteraan Sosial* 25, no. 2 (2022): 199–216, <https://doi.org/10.1080/1369118X.2020.1770832>.

²⁰ Gisela Rumuli Violin and Yvonne Kezia D. Nafi, "Protection of Online Gender-Based Violence Victims: A Feminist Legal Analysis," *Journal of Socio-Legal Studies* 1, no. 2 (2022): 6, <https://doi.org/10.54828/IJLS.2021V1N2.6>.

²¹ P Hillyard, "Law's Empire: Socio-legal Empirical Research in the Twenty-first Century," *Journal of Law and Society* 34, no. 2 (2007): 266–79, <https://doi.org/10.1111/J.1467-6478.2007.00391.X>.

Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS). Normative analysis is used to examine how the law conceptualizes physical sexual harassment, defines state obligations, and constructs mechanisms for victim protection, recovery, and access to justice. This analysis clarifies the legal standards and normative commitments embedded in the statutory framework, which serve as the benchmark for evaluating implementation at the local level.

The analytical framework of this study is informed by concepts of legal protection, gender-based violence, and victim-centered justice within a socio-legal and feminist perspective. Legal protection is understood not merely as the availability of legal rules, but as the actual capacity of legal institutions to safeguard victims' rights and dignity. Feminist legal theory and victimology are employed as interpretive lenses to examine how gendered power relations, stigma, and patriarchal norms influence the application of law and shape victims' interactions with the justice system.^{22,23} These theoretical perspectives function as analytical tools rather than abstract descriptions, guiding the interpretation of both legal norms and empirical findings.

Empirical data are used to capture how legal protection operates in practice. Data sources consist of primary legal materials, secondary legal materials, and empirical materials. Primary legal materials include statutes and regulations related to sexual violence and victim protection, particularly the UU TPKS. Secondary legal materials comprise legal scholarship, journal articles, and policy reports relevant to sexual violence and women's rights. Empirical materials are obtained through field-based methods, including interviews with relevant institutional actors and observations related to the handling of physical sexual harassment cases in Buol Regency. These empirical sources provide insight into institutional practices and victim experiences that cannot be derived from legal texts alone.

The data analysis technique combines doctrinal legal interpretation with qualitative socio-legal analysis. Legal norms are interpreted systematically and contextually to identify their intended scope and objectives. Empirical data are analyzed thematically to reveal patterns of institutional response, barriers to access, and forms of victim vulnerability. The analysis focuses on identifying discrepancies between legal norms and their implementation, as well as the structural and cultural factors that shape these discrepancies. Through this integrated analytical process, the study assesses how legal protection for women victims of physical sexual harassment is realized, constrained, or undermined.

Results and Discussion

Operationalization of Legal Protection for Women Victims of Physical Sexual Harassment under the UU TPKS Framework

Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) represents a significant normative shift in Indonesia's legal approach to sexual violence by explicitly recognizing physical sexual harassment as a criminal offense and placing victim protection at the center of the justice process. The law mandates state responsibility not only in prosecuting perpetrators, but also in ensuring victims' access to reporting mechanisms, medical and psychological services, legal assistance, and recovery measures. In theory, this framework reflects a rights-based and victim-centered model that aligns with international human rights standards on gender-based violence.^{24,25} In practice, however, the operationalization of legal protection for women victims of physical sexual harassment in Buol Regency reveals a marked divergence between normative design and institutional implementation. Legal protection is primarily initiated through formal engagement with law enforcement authorities, followed by medical examination and, where possible, judicial processing. While these steps correspond to the procedural architecture envisaged by the UU TPKS, their execution often remains procedural and fragmented rather than integrated and victim-oriented.

²² Jody Clay-Warner and Timothy G. Edgemon, "Feminist Approaches to Victimology," *The Emerald Handbook of Feminism, Criminology and Social Change*, 1, (2020): 35–50, <https://doi.org/10.1108/978-1-78769-955-720201005>.

²³ Tyrone Kirchengast, *Victimology and Victim Rights: International Comparative Perspectives* (2016), <https://doi.org/10.4324/9781315548326>

²⁴ Parveen Ali and Michaela M. Rogers, "Gender-Based Violence: A Comprehensive Guide," *A Comprehensive Guide* 1, (2023): 1–632, <https://doi.org/10.1007/978-3-031-05640-6>.

²⁵ Ingeborg de Koningh, "Consolidating International Humanitarian Law and International Human Rights Law: Protection from Gender-Based Violence Against Women in Non-International Armed Conflict," *Netherlands International Law Review* 70, no. 1 (2023): 87–120, <https://doi.org/10.1007/S40802-023-00236-2>.

Police institutions function as the primary gateway for legal protection, yet their handling of cases continues to be shaped by conventional criminal justice routines. Interviews and field observations indicated that case processing tends to prioritize evidentiary sufficiency and procedural completeness over victims' psychological safety and autonomy. Although the UU TPKS emphasizes a victim-centered approach, trauma-informed practices have not been fully institutionalized. Victims are frequently required to recount their experiences multiple times, respond to skeptical or intrusive questioning, and navigate bureaucratic delays that undermine trust in the justice system. Such practices risk reproducing secondary victimization, a phenomenon widely documented in socio-legal and victimological research.^{26,27}

Medical and forensic services constitute another core component of legal protection under the UU TPKS. Access to medical examination and *visum et repertum* is essential for documenting physical harm and supporting legal claims. In Buol Regency, these services are formally available but unevenly accessible, particularly for victims residing in geographically remote areas. Delays in obtaining medical examinations reduce the probative value of evidence and weaken prosecutorial prospects, especially in cases where physical traces are minimal or disappear rapidly.^{28,29,30} Consequently, the effectiveness of legal protection becomes contingent upon victims' proximity to institutions and their capacity to mobilize resources, rather than being guaranteed as a legal right.

Legal assistance and psychosocial support, which are explicitly recognized under the UU TPKS, also face significant operational constraints. The availability of trained legal counsel and psychological support services remains limited, and coordination among law enforcement, health services, and social support institutions is often weak. As a result, victims are required to independently navigate multiple institutional pathways, increasing the risk of retraumatization and case attrition. This fragmented service delivery stands in tension with the integrated protection model envisaged by the law.^{31,32} From a socio-legal perspective, these patterns indicate that legal protection in Buol is operationalized primarily as procedural compliance rather than substantive victim-centered justice. Institutions tend to interpret their obligations narrowly, focusing on fulfilling formal requirements rather than ensuring holistic protection and recovery. This reflects what legal scholars describe as the persistence of "law on the books" without corresponding transformation in "law in action" (Bielen et al., 2022; DoCarmo et al., 2021). The existence of progressive statutory provisions does not automatically alter entrenched institutional cultures, professional practices, or power relations.

Moreover, the discretionary space within institutional practice further shapes how legal protection is delivered. Decisions regarding case prioritization, evidence assessment, and referral to support services are often influenced by resource constraints and informal judgments about case seriousness. Physical sexual harassment, particularly when it does not result in visible injuries, may be implicitly treated as less severe than other forms of sexual violence, despite its explicit criminalization under the UU TPKS. This discretionary hierarchy undermines the principle of equal protection before the law and weakens the normative force of legal reform.^{33,34} Taken together, the operationalization of legal protection for women victims of physical sexual harassment in Buol Regency demonstrates a persistent structural gap between normative commitment and institutional practice. While the UU TPKS provides a robust legal framework that formally recognizes victims' rights, its protective potential is constrained by proceduralism, limited capacity, and the absence of fully embedded victim-centered practices. Legal protection is present, but

²⁶ AK Sahu, L Das, "Victim Jurisprudence and Victim Compensation Scheme: Socio-Legal Analysis," *NUJS J. Regul. Stud* 8, (2023): 51,

²⁷ R Stringer, "Rape Myths, Rape Law and Mendelsohn's Victimology: Law's 'Bio-Psycho-Social' Witness," *Feminist Legal Studies* 33, no. 1 (2025): 47–69, <https://doi.org/10.1007/S10691-024-09548-X>.

²⁸ Handar Subhandi Bakhtiar, "Role And Nature Of Evidence: Forensic Insight," *Jurnal Yuridis* 10, no. 2 (2023): 10–22, <https://doi.org/10.35586/jyur.v10i2.7072>

²⁹ G Gul, IH Bhat, "Right to Speedy Trial in India: A Critical Examination of Legal and Practical Obstacles," *Mgmt. & Human* 5, no. 13 (2025): 678, <https://doi.org/10.65393/OWJF3694>.

³⁰ JL. Ingram, "Criminal Evidence," 2021: 1026, <https://doi.org/10.4324/9.781003092360>

³¹ R Islam et al., "The Role of Law Enforcement Investigators in Addressing Sexual Violence under the Sexual Violence Crime Law (UU TPKS): A Case Study of Gerung Police," *Justicia Insight* 1, no. 2 (2025): 39–43, <https://doi.org/10.70716/JUSTIN.V1I2.158>.

³² Wahyu Kurniadi, "Implementation of the TPKS Law in Addressing Violence against Children," *Siber International Journal of Advanced Law (SIJAL)* 1, no. 3 (2025): 91–96, <https://doi.org/10.38035/SIJAL.V1I3.174>.

³³ TL Grove, "Sacrificing Legitimacy in a Hierarchical Judiciary," *Columbia Law Review* 121, no. 5 (2021): 1555–1616, <https://www.jstor.org/stable/27033036>

³⁴ A Olanescu, "Discretionary Power and Abuse of Power in the Activity of State Institutions," *Curentul Juridic* 84, no. 1 (2021): 80–97, <https://doi.org/10.62838/CJJC>.

fragile, contingent, and unevenly experienced, underscoring the need to examine not only the content of legal reform but also the institutional conditions under which it is implemented.

Formal and Informal Factors Shaping Women's Access to Justice, Protection, and Recovery

Women's ability to access justice, protection, and recovery after experiencing physical sexual harassment in Buol Regency is shaped by a complex interaction between formal institutional arrangements and informal socio-cultural dynamics. These factors operate simultaneously and often reinforce one another, producing structural barriers that limit the effectiveness of legal protection under the UU TPKS. Understanding these interacting forces is essential to explain why progressive legal norms do not consistently translate into meaningful outcomes for victims.

At the formal level, institutional capacity constitutes a primary determinant of access to justice. Law enforcement agencies, health facilities, and support services in Buol operate under resource constraints that directly affect the availability and quality of victim protection. Limited numbers of trained personnel, particularly those with expertise in handling sexual violence cases, restrict the ability of institutions to deliver trauma-informed and victim-centered services. Although the UU TPKS mandates comprehensive protection, institutional practices remain uneven, with victims' access to services often depending on institutional discretion rather than guaranteed entitlement.^{35,36,37} Geographic and infrastructural factors further complicate access to formal protection mechanisms. For women residing in remote or rural areas of Buol Regency, reaching police stations, hospitals, or referral services entails significant logistical and financial burdens. Transportation costs, time constraints, and the absence of nearby facilities frequently delay reporting and medical examination, thereby weakening evidentiary foundations and diminishing prospects for legal redress.^{38,39} These barriers disproportionately affect women from lower socio-economic backgrounds, reinforcing patterns of legal inequality within decentralized governance contexts.

Procedural complexity also shapes victims' engagement with formal justice mechanisms. The requirement to navigate multiple institutions independently—police, medical services, prosecutors, and social support agencies—creates a fragmented pathway that increases the risk of retraumatization and case attrition. In the absence of integrated service delivery, victims may disengage from the legal process due to fatigue, fear, or loss of trust. Such procedural fragmentation stands in tension with the integrated protection model envisioned by the UU TPKS and reflects broader challenges in coordinating multi-sectoral responses to sexual violence.^{40,41,42} Beyond these formal constraints, informal socio-cultural factors exert a powerful influence on women's decisions and experiences. In Buol Regency, as in many non-metropolitan contexts, strong patriarchal norms and communal values shape perceptions of sexual violence. Physical sexual harassment is often framed as a private or moral issue rather than a criminal violation, leading to social responses that prioritize family reputation and social harmony over accountability and victim rights.^{43,44} Victims may face explicit or implicit pressure from family members, community leaders, or religious figures to resolve cases informally or to remain silent to avoid shame and social exclusion. Stigma associated with

³⁵ Sarah Charman and Emma Williams, "Accessing Justice: The Impact of Discretion, 'Deservedness' and Distributive Justice on the Equitable Allocation of Policing Resources," *Criminology and Criminal Justice* 22, no. 3 (2022): 404–22, <https://doi.org/10.1177/17488958211013075>.

³⁶ Ryan Goehring and Rachel Castellano, "Misrecognitions of Victimhood: Discretionary Power of Street-Level Bureaucrats in Humanitarian Visas," *Law and Social Inquiry* 49, no. 2 (2024): 1192–1221, <https://doi.org/10.1017/LSI.2023.31>.

³⁷ RL Holder, A Dearing "Human Dignity, Rights and Victim Participation in Criminal Justice," *International Criminology, and undefined* 4, no. 1 (2024): 108–19, <https://doi.org/10.1007/S43576-024-00119-3>.

³⁸ Amy M. Magnus and Frank A. Donohue, "Reimagining Access to Justice through the Eyes of Rural Domestic Violence Survivors," *Theoretical Criminology* 26, no. 3 (2022): 434–55, <https://doi.org/10.1177/13624806211035103>.

³⁹ Magnus and Donohue.

⁴⁰ K Hohl et al., "A Procedural Justice Theory Approach to Police Engagement with Victim-Survivors of Rape and Sexual Assault: Initial Findings of the 'Project Bluestone' pilot Study," *International Criminology* 2, no. 3 (2022): 253–61, <https://doi.org/10.1007/S43576-022-00056-Z>.

⁴¹ RL Holder, E Englezos, "Victim Participation in Criminal Justice: A Quantitative Systematic and Critical Literature Review," *International Review of Victimology* 30, no. 1 (2024): 25–49, <https://doi.org/10.1177/02697580231151207>.

⁴² RL Holder, AL Robinson "Claiming Justice: Victims of Crime and Their Perspectives of Justice," *International Review of Victimology* 27, no. 2 (2021): 129–37, <https://doi.org/10.1177/0269758020987803>.

⁴³ Tuyen K. Dinh, Laurel Mikalowski, and Margaret S. Stockdale, "When 'Good People' Sexually Harass: The Role of Power and Moral Licensing on Sexual Harassment Perceptions and Intentions," *Psychology of Women Quarterly* 46, no. 3 (2022): 278–98, <https://doi.org/10.1177/03616843221099199>.

⁴⁴ Kate Grosser and Meagan Tyler, "Sexual Harassment, Sexual Violence and CSR: Radical Feminist Theory and a Human Rights Perspective," *Journal of Business Ethics* 177, no. 2 (2022): 217–32, <https://doi.org/10.1007/S10551-020-04724-W>.

sexual violence plays a central role in discouraging reporting and limiting access to recovery. Women who disclose harassment risk being labeled as immoral, careless, or responsible for the violence they experienced. This stigma is particularly acute in small communities, where anonymity is limited and social relationships are tightly interconnected (Barnes et al., 2022; Gramazio et al., 2021; Page et al., 2024). Fear of gossip, ostracism, and damage to family standing often outweighs the perceived benefits of pursuing formal justice, leading many victims to delay reporting or withdraw complaints altogether.

Informal justice mechanisms, such as family mediation or community-based settlement, further undermine the protective intent of the UU TPKS. While such mechanisms are often justified as culturally appropriate or restorative, they frequently prioritize reconciliation over accountability and fail to address victims' rights to protection and recovery. Informal settlements may involve pressure on victims to forgive perpetrators, accept compensation, or maintain silence, effectively displacing formal legal processes and neutralizing the deterrent function of criminal law.^{45,46} From a victim-centered perspective, these practices reproduce structural victimization by subordinating women's rights to collective interests and male authority. Importantly, formal and informal factors are not separate spheres but intersect within institutional practice. Law enforcement officials and service providers may internalize prevailing social norms, leading to victim-blaming attitudes or a preference for informal resolution over formal prosecution. Such attitudes shape discretionary decisions regarding case seriousness, evidentiary assessment, and referral to support services.^{47,48} This convergence between bureaucratic discretion and socio-cultural expectations reinforces patterns of exclusion and weakens the implementation of the UU TPKS at the local level. Access to recovery, including psychological healing and social reintegration, is similarly affected by these intersecting factors. Limited availability of psychosocial support services, combined with social stigma, constrains victims' ability to seek counseling or long-term assistance.^{49,50} Recovery is often framed socially as restoring harmony rather than addressing trauma and empowering victims. Consequently, women's recovery remains partial and contingent, shaped less by legal guarantees than by social negotiation and institutional tolerance.

Overall, the analysis demonstrates that women's access to justice, protection, and recovery in Buol Regency is conditioned by a layered set of formal and informal constraints. While the UU TPKS establishes a strong normative foundation, its effectiveness is mediated by institutional capacity, procedural design, cultural norms, and informal power relations. These factors collectively shape the lived experience of legal protection, revealing that access to justice is not merely a matter of legal entitlement but a socially negotiated process embedded in local contexts.

Conclusion

This study demonstrates that Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) represents a significant legal reform in strengthening the protection of women victims of physical sexual harassment in Indonesia. Normatively, the law establishes a rights-based and victim-centered framework that recognizes physical sexual harassment as a criminal offense and guarantees victims' rights to protection, recovery, legal assistance, and access to justice. In this regard, the UU TPKS reflects Indonesia's broader commitment to gender justice and the protection of human rights.

However, the findings from Buol Regency reveal that the implementation of these normative guarantees remains constrained in practice. Legal protection is still predominantly operationalized through procedural compliance rather than substantive victim-centered justice. Although formal mechanisms such as reporting procedures, medical examinations, and legal processes are available, their effectiveness is

⁴⁵ Jovansyah Mulya et al., "Restorative Justice in the KUHP and Protection of Sexual Violence Victims," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 7, no. 1 (2025): 39–54, <https://doi.org/10.37680/ALMANHAJ.V7I1.7704>.

⁴⁶ Samantha C. Winter et al., "Breaking the Cycle: Women's Perceptions of the Causes of Violence and Crime in Informal Settlements in Nairobi, Kenya, and Their Strategies for Response and Prevention," *Journal of Interpersonal Violence* 37, no. 19–20 (2022): NP17394–428, <https://doi.org/10.1177/08862605211028013>.

⁴⁷ Pamela Orpinas et al., "Survivors of Intimate Partner Violence: Barriers to Seeking Help Among Asian Immigrants," *Taylor & Francis P Orpinas, YJ Choi, JY Han, Y Chen, K Ahn Journal of Evidence-Based Social Work*, 2025, <https://doi.org/10.1080/26408066.2025.2532019>.

⁴⁸ J Pless, JJ Gibbs "How Do Intimate Partner Violence, Outness, and Community Connection Relate to Minority Stressors for Men Who Have Sex with Men?," *Journal of Interpersonal Violence* 40, no. 13–14 (2025): 3333–58, <https://doi.org/10.1177/08862605241271395>.

⁴⁹ Pijlman et al., "Sometimes It Seems Easier to Push It Away": A Study into the Barriers to Help-Seeking for Victims of Sexual Violence."

⁵⁰ Elizabeth N. Wright et al., "Help-Seeking and Barriers to Care in Intimate Partner Sexual Violence: A Systematic Review," *journals.Sagepub*.23, no. 5 (2022): 1510–28, <https://doi.org/10.1177/1524838021998305>.

limited by institutional capacity, fragmented service coordination, evidentiary challenges, and inadequate trauma-informed practices. As a result, victims often continue to face procedural burdens, psychological vulnerability, and unequal access to protection and recovery services.

The study further shows that women's access to justice is shaped not only by formal institutional factors but also by informal socio-cultural dynamics. Patriarchal norms, social stigma, victim-blaming attitudes, and the prevalence of informal dispute resolution mechanisms continue to discourage victims from reporting cases and weaken the implementation of formal legal protections. These socio-cultural factors frequently intersect with institutional practices, influencing discretionary decision-making and reinforcing barriers to victim-centered justice at the local level.

The findings highlight a persistent gap between "law on the books" and "law in action" in the implementation of the UU TPKS, particularly in non-metropolitan regions such as Buol Regency. This gap indicates that the effectiveness of legal reform depends not solely on the existence of progressive legislation, but also on institutional transformation, professional capacity, and broader socio-cultural change. Accordingly, strengthening trauma-informed approaches, improving inter-agency coordination, expanding access to medical and psychosocial services, and promoting community awareness are essential to ensuring meaningful protection for women victims of sexual harassment.

Ultimately, this study underscores that legal protection should be understood as a socio-legal process rather than merely a formal legal guarantee. The effectiveness of the UU TPKS must therefore be assessed by its practical ability to provide safety, dignity, justice, and recovery for victims in their everyday lives. In this sense, ensuring effective implementation at the local level is crucial for transforming legal reform into substantive gender justice in Indonesia.

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