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Systemic Gaps in Addressing Child Sexual Violence Through the Criminal Justice System

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Abstract. Sexual violence against children remains a serious crime that continues to face significant challenges in the law enforcement process, particularly at the regional level. This study aims to identify the Systemic Gaps in addressing Child Sexual Violence Through the criminal justice system cases in North Sulawesi. Employing a qualitative approach, the research utilizes in-depth interviews with offenders and representatives of victim assistance institutions. The findings reveal that despite the existence of robust legal frameworks—such as Law No. 35 of 2014, Law No. 11 of 2012, and Law No. 12 of 2022—implementation at the practical level remains problematic. Key issues include delayed investigation processes, limited recovery services for victims, low sensitivity of law enforcement officers toward child victims, and weak interagency coordination. This study highlights the urgency of strengthening the capacity of law enforcement personnel, improving trauma-informed victim support services, and ensuring integrated cross-sectoral collaboration to establish a more responsive, just, and child-centered criminal justice system.

Keywords. Child Sexual Violence; Child Protection; Criminal Justice; North Sulawesi

Introduction

Sexual violence against children constitutes a serious violation of human rights with long-term impacts on victims—not only physically, but also psychologically and socially. The state, through positive law, has guaranteed child protection by enacting various legal instruments. However, the existence of these legal frameworks has not significantly reduced the incidence of child sexual abuse in Indonesia; in fact, the trend remains alarming. According to data from the Indonesian Child Protection Commission (KPAI), sexual violence continues to be the most dominant form of violence against children each year.

This phenomenon is also reflected at the regional level, including in North Sulawesi Province, where the number of cases handled by the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) continues to rise, with child sexual violence being the most frequently reported. This aggregate data reveals the distribution of cases across various regencies and municipalities in North Sulawesi.

(Data from SIGA, Ministry of Women's Empowerment and Child Protection [KemenPPPA], 2023, North Sulawesi)¹

1	Cakupan	satua	F	Psi	Seks	Eksp	TP	Pene	L
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3			i			tasi	O	ntara	n-
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5									a
	Bolmong	Ana	1	1	39	0	0	2	8
	Minahasa	Ana	1	4	38	0	0	5	13
	Kep.Sangihe	Ana	7	10	23	0	0	1	1
	Kep Talaud	Ana	0	0	7	0	1	0	0
	Minahasa Selatan	Ana	4	0	17	0	2	4	3
	Minahasa Utara	Ana	8	9	31	0	2	9	13
	Bolmong Utara	Ana	1	2	22	0	0	2	0
	SITARO	Ana	5	13	30	0	0	2	0
	Minahasa Tenggara	Ana	6	1	7	0	1	4	0
	Bolmong Selatan	Ana	3	0	17	2	1	0	2
	Bolmong Timur	Ana	1	5	43	0	0	5	5
	Kota Manado	Ana	3	28	44	1	4	29	48
	Kota Bitung	Ana	1	8	29	0	6	23	26
	Kota Tomohon	Ana	1	1	7	0	0	2	6
	Kota Kotamobagu	Ana	2	3	28	0	0	5	14
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Various regulations have been enacted with the aim of strengthening the child protection system, including Law Number 23 of 2002 concerning Child Protection and its amendments; Law Number 11 of 2012 concerning the Juvenile Criminal Justice System; and Law Number 12 of 2022 concerning Sexual Violence Crimes (Law on Sexual Violence Crimes – UU TPKS). However, the effectiveness of implementing these regulations in practice still faces numerous challenges. The gap between legal norms (law in books) and law enforcement practices (law in action) is a major problem, resulting in suboptimal protection for child victims. In some cases, the judicial process even exacerbates the victims' conditions.

This study is based on a case study in North Sulawesi, focusing on several cases of child sexual violence that reflect the complexity of the criminal justice system in handling child sexual offenses. The approach used is qualitative, with data collected through in-depth interviews with perpetrators and victim assistance institutions. This study seeks to illustrate how

¹ SIGA kemenPPA

structural and cultural weaknesses in the criminal justice system—such as the slow investigative process, lack of psychosocial support for victims, and minimal child protection perspectives within legal proceedings—contribute to the system’s failure to uphold the principles of restorative justice and the best interests of the child.

Therefore, this article aims to critically examine the weaknesses of the criminal justice system in handling child sexual violence cases in North Sulawesi and to offer recommendations based on field findings to strengthen the effectiveness of legal protection for child victims.

Discussion

Sexual Violence Against Children as an Extraordinary Crime

Sexual violence against children is classified as an extraordinary crime due to its multidimensional and long-term impacts, as well as the high vulnerability of its victims. Referring to Article 1 point 15 of Law Number 12 of 2022 on Sexual Violence Crimes (UU TPKS), sexual violence includes all acts of degrading, insulting, attacking, and/or other actions directed at a person’s body, sexual desire, and/or reproductive functions through physical and/or non-physical contact carried out by force, resulting in physical, psychological, sexual suffering, and/or economic, social, and cultural losses.²

From the perspective of child sexual abuse (CSA), sexual violence also constitutes a serious violation of the rights of the child as stipulated in the Convention on the Rights of the Child (CRC), which was ratified by Presidential Decree No. 36 of 1990.³

In relation to the principle of the best interests of the child, Article 3 paragraph (1) of the Convention on the Rights of the Child states that:

"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."⁴

This principle underscores that children, due to their lack of physical and mental maturity, require special safeguards and care, including appropriate legal protection, both before and after birth.

National Legal Commitment to Child Protection

Following the ratification of the Convention on the Rights of the Child, in 2002 Indonesia enacted Law Number 23 of 2002 on Child Protection, which was later amended by Law Number 35 of 2014.⁵ This law provides a legal definition of a child in Article 1 point 1, stating that *a child is a person who is not yet 18 (eighteen) years old, including a child who is still in the womb*. Furthermore, Article 1 point 2 defines *child protection* as all activities aimed at ensuring and protecting children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity, and be protected from violence and discrimination.⁶

² Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual. Lembaran Negara Republik Indonesia Tahun 2022 Nomor 94.

³ Presidential Decree of the Republic of Indonesia Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child.

⁴ United Nations, Convention on the Rights of the Child (CRC), Article 3(1), adopted by the UN General Assembly on 20 November 1989.

⁵ Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak. (Perubahan atas UU No. 23 Tahun 2002 tentang Perlindungan Anak). Lembaran Negara Republik Indonesia Tahun 2014 Nomor 297.

⁶ *Ibid.*, Article 1 points 1 and 2.

Thus, sexual violence against children is not only a serious violation of human rights, but also reflects the systemic failure of child protection mechanisms. The principle of the best interests of the child, as emphasized both in the Convention on the Rights of the Child and in various national regulations, mandates that all related institutions prioritize maximum protection for victims, including in prevention, handling, and recovery processes.

Therefore, the eradication of sexual violence against children requires strong synergy between an adequate legal framework and the implementation of a responsive, humane, and just criminal justice system, in order to ensure the fulfillment of children's rights and to prevent the recurrence of such violence in the future.

Juvenile Criminal Justice System and the Protection Perspective

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (Undang-Undang Sistem Peradilan Pidana Anak / UU SPPA) regulates the fundamental principles in handling children involved in criminal acts, both as perpetrators and as victims.⁷ One of the core principles emphasized is the **"best interest of the child"**, which obligates the juvenile justice system to provide maximum protection for children throughout all stages of legal proceedings, from investigation and prosecution to trial.⁸

This principle implies that every decision and action concerning a child must prioritize the needs and best interests of the child's physical, mental, and social well-being.

In the context of Child Sexual Abuse (CSA) where the child is a victim, criminal law plays a dual role. In addition to serving as an instrument for punishing offenders, the criminal justice system must also guarantee victim recovery through adequate legal protection, psychological support, and holistic social assistance. This aligns with the principle of restorative justice, which seeks not only to punish the perpetrator but also to restore the rights and dignity of the victim, enabling them to return to a normal and productive life.⁹

However, the implementation of child protection principles within the criminal justice system still faces numerous challenges. These include the limited capacity of law enforcement personnel in understanding the specific needs of child victims, as well as the lack of adequate support facilities, such as psychosocial services and qualified legal assistance.¹⁰

Therefore, strengthening child protection mechanisms within the criminal justice system is essential to ensure that the rights of child victims of sexual violence are fully upheld, and that children do not suffer secondary victimization during the legal process.

The Role and Experience of Non-Governmental Organizations in Accompanying Child Sexual Violence Victims

The Non-Governmental Organization (NGO) *Suara Parampuang* has been actively engaged in handling and accompanying victims of sexual violence against women and children since 1998, particularly in North Sulawesi regions such as Manado City and Bitung City. The accompaniment provided covers legal, psychological, health, and social reintegration aspects

⁷ Law of the Republic of Indonesia Number 11 of 2012 on the Juvenile Criminal Justice System (Undang-Undang Sistem Peradilan Pidana Anak).

⁸ Ibid., especially in reference to the principle of the best interest of the child, outlined throughout the law's framework.

⁹ The principle of restorative justice is reflected in several provisions of Law No. 11 of 2012 and is aimed at restoring victims, rehabilitating offenders, and ensuring community involvement.

¹⁰ UNICEF Indonesia. (2019). Justice for Children in Indonesia: Progress and Challenges in Implementing the Juvenile Justice System Law. Available from UNICEF reports and national assessments.

of the victims. Based on interview data, during the period 2015–2020, *Suara Parampuang* handled an average of 70 cases per year, with case numbers declining to 25–30 cases annually following a decrease in funding support.¹¹

However, following the enactment of Law Number 12 of 2022 concerning Sexual Violence Crimes (UU TPKS), and with the establishment of Regional Technical Implementation Units for Women and Children Protection (UPTD PPA) at the district/city level, the primary function of victim accompaniment has shifted to the state. The NGO now plays more of a role as an initial liaison, referral provider, and supervisory partner of service delivery. This position presents new challenges, as the UPTD structure, now entirely managed by Civil Servants (ASN), means that community organizations can no longer participate directly in the formal structure but only as external service partners.

Although from a regulatory perspective, UPTD has been given mandates and budgetary independence through Special Allocation Funds (DAK), interview findings reveal that limited public participation and weak political commitment from local governments have prevented UPTD from functioning optimally. In fact, social audits conducted by *Suara Parampuang* together with women's networks found that the local government's contribution to funding UPTD services is very low, with most of the service burden supported by central government funds. This reinforces the finding that the state has not fully fulfilled its role in guaranteeing the rights and recovery of victims.

From a critical criminology perspective, this condition illustrates a form of structural injustice where the justice system and service bureaucracy do not provide participatory space for civil society in efforts to protect victims. Consistent with Quinney's view, laws and their enforcement institutions often reflect social dominance structures that prioritize system stability over substantive justice for vulnerable groups.¹² In this context, NGOs act as corrective agents striving to bridge the real needs of victims with an ineffective service system.

Furthermore, NGO involvement in advocating for policy and revisions of local regulations (Perda) demonstrates a significant advocacy function. For instance, efforts to revise the North Sulawesi Anti-Trafficking Regulation No. 1 of 2004, which no longer aligns with national legal developments, and to promote the establishment of regent and village regulations in South Minahasa to ensure protection for violence victims at the community level. This approach aligns with feminist legal theory, which emphasizes the importance of structural change and legislation based on the experiences of women and child victims.¹³

In practice, NGOs have also established community posts in villages managed by grassroots women, a strategy that demonstrates a community-based approach as resistance against the state's absence in remote areas. This strategy affirms that justice for sexual violence victims is sought not only through courts but also through social spaces that support victims' empowerment. Thus, although the formal role of NGOs in handling child sexual violence is gradually being replaced by state structures (through UPTD), substantively NGOs continue to play an important role as a balancing force, connector, and guardian of the fulfillment of victims' rights. The weak capacity of UPTD, minimal local budgets, and lack of community involvement in service structures indicate that the system is not yet inclusive and responsive.

¹¹ data collection through in-depth interviews with Swara Parampuang

¹² Richard Quinney, *Class, State, and Crime* (New York: Longman, 1977), 15-20.

¹³ Catharine A. MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Cambridge, MA: Harvard University Press, 1987), 45-60.

Therefore, a strengthened synergy between the state and civil society is necessary to truly realize the principle of the best interest of the child in handling child sexual violence cases.

2. Limitations of the Judicial System and Support Services

One of the most significant issues in handling child sexual violence cases in North Sulawesi, particularly in the cities of Manado and Bitung, is the limited infrastructure of support services that should accompany the criminal justice process. Based on in-depth interviews with the NGO Suara Parampuang, it was found that there remains a substantial gap between the regulatory mandate and its implementation in the field, particularly regarding psychological and medical services for child victims.

2.1 Limited Availability of Psychologists

Law Number 12 of 2022 on Sexual Violence Crimes (UU TPKS) explicitly states that victims are entitled to receive psychological support services within 24 hours of formally reporting the incident to the authorities. However, in practice, this provision is difficult to fulfill due to a shortage of qualified psychologists, particularly child clinical psychologists.

Informants revealed that in North Sulawesi, especially in the Manado metropolitan area, there are only two child clinical psychologists actively involved in the handling of sexual violence cases. This disparity results in long waiting times and delays in conducting psychological assessments. Such delays hinder early-stage recovery and significantly increase the risk of long-term trauma. In some cases, psychological services are only accessible several days after the report, due to technical constraints, geographical distance, or limited handling capacity.

This condition indicates a structural gap between legal norms and the mechanisms required for their implementation. In the context of an ideal criminal procedure system, psychological recovery is an essential component of restorative justice, especially for child victims who are highly vulnerable to psychosocial stress. The absence of prompt and adequate services constitutes a violation of the best interest of the child principle, as stipulated in the Convention on the Rights of the Child and reinforced by various national laws.¹⁴

2.2 Inadequate and Non-Holistic Health Services

In addition to the shortage of psychologists, health services for child victims of sexual violence also face various challenges, particularly following the administration of *visum et repertum*. Based on interviews, it was found that healthcare responses often focus solely on medicolegal aspects—serving evidentiary needs for court proceedings—while neglecting critical components such as reproductive health recovery, management of sexually transmitted infection (STI) risks, or post-assault pregnancy prevention.

However, Government Regulation No. 4 of 2023 on the Prevention and Handling of Sexual Violence (PP PPKS) clearly mandates that services for victims must include comprehensive recovery measures, including health counseling, trauma care, and medical rehabilitation. Unfortunately, not all healthcare facilities in North Sulawesi—particularly public hospitals and community health centers (*puskesmas*)—are capable or willing to provide such services. This limitation is attributed to a lack of trained personnel, inadequate infrastructure, and the absence of a clear financing mechanism.

¹⁴ Convention on the Rights of the Child, Article 3(1); see also Law No. 23 of 2002 on Child Protection (as amended by Law No. 35 of 2014), and Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS), Article 67.

The ambiguity surrounding the financing of victim services has, in many cases, forced victims or their families to bear the costs of services such as visum, autopsies (in femicide cases), or even DNA testing, which can amount to millions of rupiah. This situation clearly contradicts the spirit of Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS), which guarantees free, non-discriminatory services for victims.¹⁵

2.3 Feminist and Gender Theory Analysis

From the perspective of feminist legal theory, this phenomenon can be understood as a systematic neglect of the needs of female and child victims—groups that are vulnerable within patriarchal social structures. The law and its enforcement often operate within structural frameworks that prioritize evidentiary proof to punish perpetrators, while sidelining the victims' needs for recovery.

Carol Smart, in *Feminism and the Power of Law*, critiques that the modern legal system, although it appears neutral, is actually constructed around a masculine logic that leaves little space for the lived experiences of women as victims. When the state fails to provide psychologists, fails to guarantee reproductive health rights, and shifts the burden of costs such as visum or autopsy onto victims' families, the system indirectly reproduces symbolic violence that further wounds the victim.¹⁶

Similarly, within the framework of gender justice, the systemic failure to provide adequate services reflects power imbalances between the state and individuals, and between the legal system and victim needs. When psychological and medical services are not universally accessible, justice becomes available only to victims from certain socio-economic backgrounds. This demonstrates that the law is still far from the principles of inclusivity and substantive equity.

2.4 Implications for the Effectiveness of Criminal Enforcement

The limitations of support services also impact the effectiveness of the criminal justice process. Without adequate psychological accompaniment, child victims often experience revictimization when giving testimony during investigation and trial. The lack of post-trauma care also reduces victims' willingness to participate in legal processes, and can cause cases to stall because victims are reluctant to confront perpetrators or law enforcement perceived as unempathetic.

Moreover, the shortage of standardized forensic medical and psychological data weakens the prosecution's ability to prove criminal acts convincingly. As a result, some child sexual violence cases end in acquittals or lenient sentences due to insufficient evidence, even though victims have endured significant physical and psychological harm.

Conclusion

Child sexual violence constitutes an extraordinary crime that demands an equally extraordinary legal response. However, the case study in North Sulawesi, particularly in the cities of Manado and Bitung, reveals that the criminal justice system has yet to provide

¹⁵ Government Regulation No. 4 of 2023 on the Prevention and Handling of Sexual Violence (PP PPKS), Article 33–35; see also Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS), Article 67(2) regarding the state's obligation to provide victim services free of charge.

¹⁶ Carol Smart, *Feminism and the Power of Law* (London: Routledge, 1989), 45-60.

comprehensive protection and substantive justice for victims. Despite the enactment of progressive regulations such as Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) and Law No. 35 of 2014 on Child Protection, implementation in practice remains constrained by limited resources, weak institutional coordination, and a lack of victim-centered perspectives within law enforcement culture.

Interviews with the NGO Suara Parampuang reveal several structural and technical challenges, including the shortage of clinical child psychologists, inadequate post-case health services (including sexual and reproductive health rights and follow-up visum), and funding gaps for local Technical Implementation Units (UPTDs), which serve as the front line of victim services. This situation reflects the state's failure to fulfill the "best interest of the child" mandate as outlined in the Convention on the Rights of the Child (CRC) and related national legal instruments.¹⁷

From the perspective of feminist theory and critical criminology, this reality illustrates how the legal system remains patriarchal and legalistic, focusing more on punishing perpetrators than on restoring victims. When child victims are subjected to revictimization, both procedurally and socially, the system has fundamentally failed to protect vulnerable groups in a just and equitable manner.¹⁸

D. Suggestion

Substantive Implementation of the Sexual Violence Law (UU TPKS) and the Child Protection Law

Law enforcement officials must receive regular training on victim protection perspectives, including the application of alternative forms of evidence and trauma-informed approaches to minimize re-traumatization during the legal process.¹⁹

Strengthening the Capacity of UPTD Services at the Regional Level
Local governments must allocate funding from the Regional Budget (APBD) to ensure the sustainability of UPTD services, including the recruitment of clinical child psychologists and trained counselors capable of responding to cases within 1x24 hours, as mandated by Government Regulation No. 4 of 2023 on the Prevention and Handling of Sexual Violence (PP PPKS).²⁰

Synergy with Community-Based NGO's

Formal partnerships between UPTDs and NGOs such as Suara Parampuang should be institutionalized through Memorandums of Understanding (MoUs) or local regulations, to ensure sustained collaboration in case management and victim empowerment.

¹⁷ United Nations, Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. Ratified by Indonesia through Presidential Decree No. 36 of 1990.

¹⁸ Carol Smart, *Feminism and the Power of Law* (London: Routledge, 1989), 45–60; Richard Quinney, *The Social Reality of Crime* (Boston: Little, Brown and Company, 1970).

¹⁹ United Nations, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, ECOSOC Resolution 2005/20; also see: Herman, J.L. (1992). *Trauma and Recovery*. Basic Books.

²⁰ Peraturan Pemerintah Nomor 4 Tahun 2023 tentang Pencegahan dan Penanganan Kekerasan Seksual (PP PPKS), Pasal 31

Community-Based Recovery and Social Reintegration

The state must develop post-judgment recovery protocols, including long-term psychosocial support, economic recovery programs for victims' families, and reintegration mechanisms at the community level to prevent stigmatization and secondary victimization.²¹

Reforming Judicial Perspectives and Evidence Mechanisms

Judges, prosecutors, and investigators should adopt restorative justice principles and child protection frameworks, and proactively utilize expanded forms of evidence permitted under UU TPKS, such as psychologist reports, testimonies from support workers, and indirect witnesses.²²

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²¹ United Nations Office on Drugs and Crime (UNODC), *Handbook on Restorative Justice Programmes*, Second Edition (2020).

²² Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual (UU TPKS), Pasal 25 dan 26