PATTIMURA Legal Journal

Volume 5 Issue 1, April 2026: p. 1-19
https://ojs3.unpatti.ac.id/index.php/pela//issue/view/1319

E-ISSN: 2830-2435
10.47268/pela.v5i1.24615

Legal Politics of the Sexual Violence Crimes Act in Indonesia: Political Configuration and Its Relevance to the Fulfillment of Human Rights

Riswandha Imawan[a*], Moh. Muhibbin[b], Ahmad Bastomi[c], Aji Purnomo[a], Husni Mubarak[a]

[a,] Faculty of Law, Universitas Jember, Jember, Indonesia.
[b,] Faculty of Law, Universitas Islam Malang, Malang, Indonesia.
[c,] Faculty of Law, University of Vienna, Vienna, Austria.
: riswandha.imawan@unej.ac.id
Corresponding Author*

Abstract

Introduction: *Sexual violence in Indonesia continues to increase, indicating serious challenges in the protection and fulfilment of human rights. Although sexual violence is internationally recognised as a grave violation of human rights under the Rome Statute of 1998, the provisions of the former Criminal Code were inadequate to address its complex and diverse forms, thereby necessitating comprehensive legal reform.*
Purposes of the Research: *This study aims to analyse the legal politics of the Sexual Violence Crimes Act by examining the political configuration underlying its formation and its relevance to the fulfilment of human rights.*
Methods of the Research: *This study uses normative legal research with secondary data based on literature studies and qualitative analysis, combining a legislative and conceptual approach as well as legal policy analysis.*
Results Main Findings of the Research: *The study finds that the Sexual Violence Crimes Act was shaped by a democratic political configuration that enabled strong public participation, resulting in a responsive and victim-oriented legal framework. This research contributes by demonstrating a direct link between political configuration and the law's effectiveness in fulfilling human rights, positioning the Sexual Violence Crimes Act as a transformative, human rights-based legal reform in Indonesia.*

Keywords: Human Rights; Legal Politics; Political Configuration; Sexual Violence.

Submitted: 2026-01-30 *Revised: 2026-04-26* *Accepted: 2026-04-28* *Published: 2026-04-30*

How To Cite: Riswandha Imawana, Moh. Muhibbinb, Ahmad Bastomi, Aji Purnomo, and Husni Mubarak. "Legal Politics of the Sexual Violence Crimes Act in Indonesia: Political Configuration and Its Relevance to the Fulfillment of Human Rights." *PATTIMURA Legal Journal* 5 no. 1 (2026): 1-19.https://doi.org/10.47268/pela.v5i1.24615

Copyright © 2026 Author(s) Creative Commons Attribution-NonCommercial 4.0 International License

INTRODUCTION

Sexual violence constitutes one of the most degrading forms of gender-based violence against human dignity.[1] Rape, sexual assault, and violence against women are serious violations of human rights, yet they remain widespread worldwide.[2] Article 7 of the Rome Statute of 1998 defines crimes against humanity, including rape, sexual slavery, enforced

[1] Liqing Li et al., "Sexual Violence against Women Remains Problematic and Highly Prevalent around the World," *BMC Women's Health* 23, no. 1 (2023): 196, https://doi.org/10.1186/s12905-023-02338-8.
[2] "Women and Public Policy Program | Harvard Kennedy School," accessed January 24, 2026, https://www.hks.harvard.edu/centers/wappp.

prostitution, forced pregnancy, and enforced sterilization. Nevertheless, the classification of sexual violence as a serious human rights violation has not been sufficient to raise comprehensive public awareness or collective commitment to combating sexual violence. Instead, sexual violence continues to persist and has become a complex structural problem that has not yet been fully resolved, particularly in the Indonesian context.

Article 1 paragraph (1) of Law Number 39 of 1999 on Human Rights stipulates that human rights are inherent rights attached to the nature and existence of human beings as creatures of God Almighty and constitute divine endowments that must be respected, upheld, and protected by the state, the law, the government, and every individual for the sake of honoring and safeguarding human dignity. The rights possessed by every individual are inherent and remain inseparable throughout their lifetime.[3] Within the framework of a democratic state governed by the rule of law, the protection of human rights cannot be separated from the exercise of state power.[4] Accordingly, the honor, dignity, and worth of human beings as affirmed in the Human Rights Law encompass all aspects of life, including the right to be free from all forms of sexual violence.

Immanuel Kant theoretically argues that both men and women may be subjected to objectification.[5] However, in practice, women are most commonly affected. Sexual objectification consists of two primary elements: first, perceiving women merely as objects, and second, denying their full humanity.[6] The prevalence of sexual objectification directed at women significantly increases their vulnerability to sexual harassment and sexual violence. In the Indonesian context, the persistence of such objectification contributes to the normalization of sexual violence and discourages victims from reporting their experiences, thereby highlighting the structural nature of the problem.

---

[3] Inter-Parliamentary Union & Office of the United Nations High Commissioner for Human Rights, *Human Rights: Handbook for Parliamentarians*, revised ed (Geneva: IPU & OHCHR, 2016).

[4] Michael Freeman, *Human Rights*, 4th ed. (Cambridge: Polity Press, 2022).

[5] Evangelia (Lina) Papadaki, "Feminist Perspectives on Objectification," in *The Stanford Encyclopedia of Philosophy*, Summer 2024, ed. Edward N. Zalta and Uri Nodelman (Metaphysics Research Lab, Stanford University, 2024), https://plato.stanford.edu/archives/sum2024/entries/feminism-objectification/.

[6] Bhavya Gupta, "An Analysis of the Socio-Legal Framework Around Objectification of Women in India," *Journal of Humanities and Social Sciences Studies* 3, no. 1 (2021): 07–23, https://doi.org/10.32996/jhsss.2021.3.1.2.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

This structural condition is reflected in empirical realities in Indonesia. The high number of women who become victims of sexual violence in Indonesia does not necessarily translate into a willingness to report such incidents. Several factors inhibit reporting, including negative social stigma attached to victims of sexual violence. This stigma often leads many women to refrain from seeking assistance from medical professionals, friends, or family members.[7] In addition, threats and intimidation by certain parties, particularly perpetrators, constitute another major obstacle that prevents victims from reporting the sexual violence they have experienced. This situation is further compounded by limited access to support services and cultural pressures that tend to blame victims, thereby reinforcing the cycle of violence and injustice.[8]

Gender-based sexual violence is prevalent against women, and cases are increasing due to evolving methods and modes of perpetration. Advances in technology and information have had a significant impact on creating opportunities for sexual violence crimes in Indonesia. Sexual violence is commonly committed in person, but advances in technology and information have led to new methods that utilise electronic media (online). Online sexual violence targets not only adult women, but also teenagers, and the number of cases continues to increase every year.[9] The increasing diversity of methods of sexual violence correlates with the increasing number of cases of sexual violence in Indonesia.

Table 1. Number of Sexual Violence Cases in Indonesia 2021-2025

Year	Number of Cases	Male Victims	Female Victims
2021	25.210	5.376	21.753
2022	27.593	4.630	25.053
2023	29.883	6.332	26.161
2024	31.948	6.894	27.659
2025	35.143	7.364	30.020

[7] Caitlin Mollica et al., "Women and the Justice Divide in Asia Pacific: How Can Informal and Formal Institutions Bridge the Gap?," *Human Rights Quarterly* 44, no. 3 (2022): 612–39, https://doi.org/10.1353/hrq.2022.0029.

[8] Ni Putu Rai Yuliartini et al., "From Retribution to Restoration: Human Rights-Based Legal Protection for Women Victims of Sexual Violence," *Jurnal Media Hukum* 32, no. 2 (2025): 281–300, https://doi.org/10.18196/jmh.v32i2.26214.

[9] Judith Neilson Insitute, "Platform Digital Kekerasan Seksual," *Tempo*, 2021.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

Source: Ministry of Women's Empowerment and Child Protection Information System, SIMFONI PPA Database, accessed in 2026.

Based on the data from the Ministry of Women's Empowerment and Child Protection above, it is known that there has been a significant increase in cases of sexual violence in the last five years. From a total of 25,210 cases in 2021 to a total of 35,143 cases in 2025. This upward trend indicates that sexual violence can no longer be understood as an incidental event, but has developed into a persistent structural problem. This situation underscores the urgency of the state's presence through legal instruments that are not only repressive in nature, but also capable of providing comprehensive protection to victims and guaranteeing the fulfilment of human rights, particularly the rights to safety, dignity and justice.

Prior to the enactment of Law Number 12 of 2022 on Sexual Violence Crimes (hereinafter referred to as the Sexual Violence Crime Law, regulations concerning sexual violence in Indonesia were still scattered and limited in the old Criminal Code, such as Article 289 of the old Criminal Code, which tended to be narrow in defining forms of sexual violence and focused solely on physical acts. The limitations of these norms meant that many forms of sexual violence were not adequately accommodated in the criminal justice system, resulting in weak protection for victims and low effectiveness in law enforcement. Although Indonesia has passed a new Criminal Code through Law Number 1 of 2023, which will come into force in January 2026, the increase in cases of sexual violence until the end of 2025 shows that there is an urgent need for specific regulations that are more responsive and victim-oriented, as sought through the Sexual Violence Crime Law.

Indonesia is a country that adheres to the civil law system, so the existence of legislation plays a central role in determining the direction and effectiveness of law enforcement.[10] This is in line with the principle of legality, which requires written norms as the basis for punishment.[11] In this context, the formation of laws cannot be separated from the political processes that underlie them. Satjipto Rahardjo emphasises that law and politics are closely

[10] Nikolai Pauzin et al., "Law Enforcement and Social Security of Public Events: Organizational and Legal Solutions," *Journal of Law and Sustainable Development* 10, no. 2 (2022), https://doi.org/10.37497/sdgs.v10i2.239.

[11] Simon Butt, "Indonesia's New Criminal Code: Indigenising and Democratising Indonesian Criminal Law?," *Griffith Law Review* 32, no. 2 (2023): 190–214, https://doi.org/10.1080/10383441.2023.2243772.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

related, whereby in practice the political subsystem often occupies a dominant position and greatly influences the substance and character of the legal products produced.[12] The urgency of this research is further reinforced when considered in relation to the transition from the previous Criminal Code to the new Criminal Code, during which there was an increase in the number of sexual violence cases in Indonesia prior to the enactment of the new Criminal Code. Therefore, in order to fully understand the effectiveness of a law, including the Sexual Violence Crime Law, it is necessary to analyse the political configuration that accompanies it.

The Sexual Violence Crime Law is the result of a lengthy legislative process shaped by complex political dynamics, ranging from conceptual debates on the definition and scope of sexual violence, political contestation among state actors, to sustained pressure from civil society and victim groups. From a legal-political perspective, as argued by Bagir Manan, every legal product reflects the political choices of the state, meaning that the substance and character of a law cannot be separated from the political configuration underlying its formation. Nevertheless, existing academic studies on the Sexual Violence Crime Law have predominantly focused on normative aspects of regulation and victim protection, while paying limited attention to how political configuration influences the legal character of the law and its capacity to fulfil human rights. This gap raises a critical question regarding whether the democratic processes involved in the formation of the Sexual Violence Crime Law have substantively shaped it into a responsive and human rights-oriented legal instrument. Therefore, this research seeks to analyse the political configuration in the formation of the Sexual Violence Crime Law Law and to examine how such configuration affects the resulting legal character and its relevance to the fulfilment of human rights.

METHODS OF THE RESEARCH

This research employs a normative legal research method that examines law as a set of norms within the positive legal system. It applies a legislative approach and a conceptual approach to analyse legal regulations concerning sexual violence crimes and the direction of legal policy development. Research data were obtained through a literature review of relevant

[12] Satjipto Rahardjo, *Beberapa Pemikiran Tentang Ancangan Antar Disiplin Dalam Pembinaan Hukum Nasional* (Bandung: Sinar Baru, 1985).

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

secondary sources, including statutory regulations, scientific journal articles, and legal textbooks. Data analysis was conducted qualitatively by systematically interpreting legal norms and relating them to legal concepts and principles concerning human rights protection. The analysis was carried out by assessing the coherence between applicable legal norms and their underlying objectives in order to address the formulated legal issues and produce prescriptive conclusions. The approaches used in this research include a legislative approach and a conceptual approach. The legislative approach involves a systematic examination of statutory provisions regulating sexual violence crimes, including their legislative formation process and their position within the national legal system. The conceptual approach is employed to analyse doctrines, concepts, and theories developed in legal scholarship, particularly those related to legal politics, political configuration, and the character of laws responsive to the fulfilment of human rights. This study aims to assess the extent to which political configuration in the legislative process of the Sexual Violence Crimes Act influences the legal character of the law and its relevance in ensuring the protection and fulfilment of human rights for victims of sexual violence.

RESULTS AND DISCUSSION

A. Political Configuration and Its Influence on the Enactment of Law Number 12 of 2022 on Sexual Violence Crimes

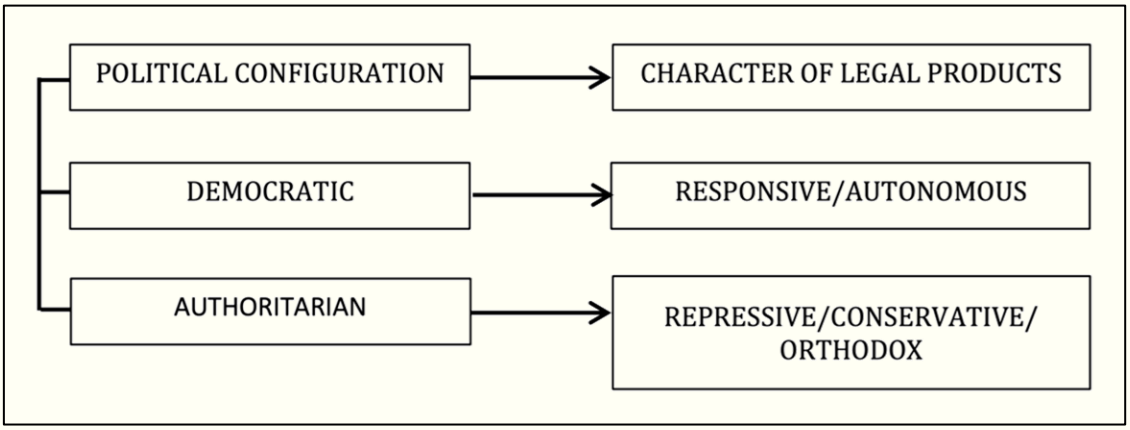
Basically, political configuration is divided into two forms, namely democratic political configuration and authoritarian political configuration. Democratic political configuration is a configuration that provides space for the community to participate or be involved as much as possible in determining state policies.[13] Such a political configuration positions the government as an organisation capable of carrying out the will of its people, because in formulating its policies it provides access to the public. In addition, the press can also carry out its functions freely without any threats or intervention from the government. A democratic configuration will give rise to responsive legal characteristics.

[13] Mahfud MD, *Hukum Dan Pilar-Pilar Demokrasi* (Yogyakarta: Gama Media, 1999).

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

The second form of political configuration is authoritarian political configuration, which is the opposite of democratic political configuration. In authoritarian political configuration, the government is placed in a very dominant position in determining state policy. The implication is that the aspirations of the people cannot be accommodated and articulated proportionally. The dominant role of the government also renders the role of representative bodies and political parties ineffective, as they merely serve as tools to carry out the government's will.[14] Through such a system, the resulting laws are conservative/orthodox in nature.

Image 1. Political Configuation and Character of Legal Products



Source: Mahfud MD

The type of political configuration as described in the chart above has direct implications for the character of the legal products produced. The classification of political configurations and legal characters can be analysed through the laws formed by legislators as a concrete manifestation of the relationship between law and power. In the context of this study, the object of study is focused on Law Number 12 of 2022 concerning Sexual Violence Crimes Law, which represents the state's response to the increasing complexity and escalation of sexual violence crimes in Indonesia.

Prior to the enactment of the Sexual Violence Crime Law, regulations concerning sexual violence were largely still placed within the framework of general criminal law, particularly the old Criminal Code, which viewed sexual violence such as rape as a violation of moral

[14] Mahfud MD, *Hukum Dan Pilar-Pilar Demokrasi*.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

norms. The Academic Paper on the Sexual Violence Crime Law Bill emphasises that this construction not only reduces the severity of sexual violence crimes but also perpetuates the view that sexual violence is solely a moral issue and not a serious violation of human rights. Therefore, the Sexual Violence Crime Law can be seen as a significant legal breakthrough because it provides more comprehensive, systematic, and victim-oriented regulations compared to previous regulations.

A democratic political configuration, in principle, opens up space for public participation in the policy-making process, including in the formulation of the Sexual Violence Crime Law. The legislative process for this law is not only intended to respond to the social reality of rampant sexual violence, but also as a form of correction to the substantial weaknesses in the previous regulations. This is in line with Maria Farida's view that in a modern state governed by the rule of law, the purpose of forming laws is not merely to codify existing norms, but also to create legal reforms that are adaptive to the needs of society.[15]

Within the framework of a modern constitutional state, the formulation of legislation serves as an instrument to regulate, limit, and oversee the exercise of government authority while ensuring the protection of citizens' rights.[16] Therefore, from the planning stage onwards, legislators are required to produce regulations that not only have formal legitimacy but are also substantively effective. Rahendro Jati emphasises that an ideal law should meet several criteria, namely that it is enforceable, can be upheld, is in line with the principles of legal certainty and equality of rights, and is capable of absorbing the aspirations of the community that is the target of its regulation.[17]

The legal reform agenda in Indonesia in the post-reform era has placed the issue of protecting victims of sexual violence as one of its main concerns. A number of laws and regulations have been drafted or revised with the aim of strengthening legal protection for victims.[18] In this context, the passing of the Sexual Violence Crime Law is one of the country's

[15] Maria Farida, *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan* (Yogyakarta: Penerbit Kanisius, 2002).
[16] Hendrik Hattu, "Tahapan Undang-Undang Responsif," *Mimbar Hukum* 23, no. 2 (2011): 406–19.
[17] Rahendro Jati, "Partisipasi Masyarakat Dalam Proses Pembentukan Undang-Undang Yang Responsif," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 1, no. 3 (2012), http://dx.doi.org/10.33331/rechtsvinding.v1i3.88.
[18] Sri Wiyanti Eddyono, "Restorative Justice for Victim's Rights on Sexual Violence," *Journal of Southeast Asian Human Rights* 5, no. 2 (2021): 176, https://doi.org/10.19184/jseahr.v5i2.28011.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

important achievements in responding to the need for more adequate legal protection. However, the drafting process was not without political dynamics that reflected differences in interests and views among stakeholders.

The Sexual Violence Crime Law is essentially the result of a political process involving various actors with diverse interests, giving rise to negotiations and compromises in the legislative process. The Draft Law on the Elimination of Sexual Violence was the precursor to the Sexual Violence Crime Law, which was passed on 12 April 2022. The bill was initiated by the National Commission on Violence Against Women in 2012 as a response to the state of emergency regarding sexual violence in Indonesia. It was then included in the National Legislation Programme priorities in 2016 and designated as a House of Representatives initiative bill in January 2022 before finally being passed.

In addition to state institutions, the drafting process of the Sexual Violence Crime Bill also involved the active participation of various elements of civil society, non-governmental organisations, and academics. The involvement of these actors demonstrates significant public pressure to promote the creation of regulations that are more favourable to victims and based on human rights principles. This participation also reflects the democratic nature of the Sexual Violence Crime legislative process, despite the accompanying dynamics and debates.

Based on Article 1 paragraph 1 of Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Legislation, the formation of legislation includes the stages of planning, drafting, discussion, ratification or stipulation, and promulgation. Therefore, to comprehensively understand the political configuration in the formation of the Sexual Violence Crime Law, it is important to examine each of these stages to see the power relations, political interests, and their influence on the substance and character of the resulting law.

1. Planning Stage

The planning stage for the formulation of the Sexual Violence Criminal Law was carried out through the National Legislation Programme mechanism. At this stage, the Draft Law on the Elimination of Sexual Violence was re-listed in the 2020–2024 Medium-Term National

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

Legislation Programme in December 2019. However, on 30 June 2020, Commission VIII of the Indonesian House of Representatives announced that it was withdrawing the Draft Law on the Elimination of Sexual Violence from the 2020 Priority National Legislation Programme list due to time constraints and the complexity of the discussions. The Draft Law on the Elimination of Sexual Violence was then returned to the Indonesian House of Representatives' Legislation Body with a note to be re-included in the 2021 Priority National Legislation Programme list. At this stage, information regarding the planning of the formation of the law was also conveyed to the public through various media as a form of transparency in the legislative process.

2. Drafting Stage

This stage involves the drafting of the Academic Paper and the Draft Law. The Academic Paper is drafted in accordance with the drafting techniques stipulated in the legislation. Based on information from the official website of the Indonesian House of Representatives (dpr.go.id), the House of Representatives' Legislation Body drafted the bill by first listening to the views and input of various parties, including the International NGO Forum on Indonesian Development (INFID) and The Body Shop Indonesia on 2 February 2021. Subsequently, the drafting of the Academic Paper for the Sexual Violence Crime Bill was carried out by the Legislation Body with the involvement of academics and civil society organisations. This drafting stage was concluded through a Working Committee Meeting of the Legislation Body for the finalisation of the Draft Law on Sexual Violence Crimes on 8 December 2021.

3. Discussion Stage

The discussion stage was marked by the enactment of the Sexual Violence Crime Bill as a House of Representatives of the Republic of Indonesia initiative bill. The enactment was carried out in the House of Representatives of the Republic of Indonesia Plenary Meeting on 18 January 2022, with the support of the majority of factions, except for one faction that expressed its rejection. The rejecting faction was the Prosperous Justice Party faction, which argued that the bill still contained conceptual weaknesses, particularly regarding the formulation of sexual violence and concerns over moral and religious considerations in several provisions. This rejection reflected a broader ideological and normative disagreement within the legislative

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

arena, where the bill was perceived differently by various political actors. Nevertheless, the majority of factions supported the bill, indicating a dominant political configuration in favor of strengthening legal protection for victims of sexual violence. Subsequently, the discussion of the Sexual Violence Crime Bill was carried out by the House of Representatives together with the President through the assigned minister, in accordance with the mechanism for forming laws. The discussion process was carried out through Level I Discussions, which took place from 24 March 2022 until the decision on the results of the discussion was made on 6 April 2022.

4. Ratification and promulgation stages

The ratification and promulgation stages of the Sexual Violence Crime Bill were carried out on 9 May 2022. After obtaining mutual approval from the House of Representatives and the President, the Sexual Violence Crime Bill was ratified by the President and on the same day promulgated as Law Number 12 of 2022 concerning Sexual Violence Crimes, and recorded in the State Gazette of the Republic of Indonesia of 2022 Number 120.

The enactment of the Sexual Violence Crime Law reflects the state's response to the increasing number of sexual violence cases in Indonesia and demonstrates the existence of public participation in the legislative process. The deliberation process of the Sexual Violence Crime Law Bill involved various elements of society and provided relatively open access for the media to carry out its public oversight function. These conditions indicate that the formation of the Sexual Violence Crime Law took place within a democratic political configuration, as marked by public participation and freedom of the press in the policy formulation process, in line with Mahfud MD's view of the characteristics of a democratic political configuration.[19]

Public participation in the formation of the Sexual Violence Crime Law is significant in the context of the rule of law, given that laws are essentially formulated to respond to the needs of society.[20] Public participation in the legislative process not only strengthens the social

[19] Mahfud MD, *Hukum Dan Pilar-Pilar Demokrasi*.

[20] Asli Ozpolat et al., "Does Rule of Law Affect Economic Growth Positively?," *Research in World Economy* 7, no. 1 (2016): p107, https://doi.org/10.5430/rwe.v7n1p107.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

legitimacy of a law,[21] but also increases the likelihood of effectiveness and compliance with the resulting law.[22] From a legal-political perspective, a democratic political configuration tends to produce responsive laws, i.e., laws that are able to provide answers to pressing social issues. In this case, the Sexual Violence Crime Law can be seen as the state's legal response to the emergency situation of sexual violence in Indonesia, even though its formulation process took a long time before it was finally passed.

B. The Legal Impact of the Enforcement of the Sexual Violence Criminal Law and Its Relevance to the Fulfilment of Human Rights

The enactment of Law Number 12 of 2022 on Sexual Violence Crimes has significant legal implications for the national legal system. In the context of Indonesia, which adheres to a civil law system, legislation occupies a central position as the main source of law, so that the enactment of a law has generally binding consequences.[23] Since its enactment and publication in the State Gazette on 9 May 2022, the Sexual Violence Crime Law is legally binding on all legal subjects and must be recognised as positive law. Thus, the Sexual Violence Crime Law not only serves as a legal umbrella in the handling of sexual violence, but also as the basis for imposing criminal sanctions on any act that fulfils the elements of a criminal offence as stipulated therein

As a law, the Sexual Violence Crime Law has legal (*judistische geltung*), philosophical (*filosofische geltung*), and sociological (*soziologische geltung*) validity. Its legal force is demonstrated through its formation, which complies with formal procedures in accordance with legislation, while its philosophical force is reflected in the values of humanity, justice, and respect for human dignity that form the basis of its regulation. Meanwhile, its sociological validity is evident from the real need of society for more comprehensive regulations in dealing with sexual violence. The existence of the Sexual Violence Crime Law also strengthens legal certainty, because the principle of legality in criminal law can only be implemented if an act has been clearly formulated in legislation.

---

[21] Azlan Abas, Azmi Aziz, and Azahan Awang, "A Systematic Review on the Local Wisdom of Indigenous People in Nature Conservation," *Sustainability* 14, no. 6 (2022): 2, https://doi.org/10.3390/su14063415.

[22] Marthe Holum, "Citizen Participation: Linking Government Efforts, Actual Participation, and Trust in Local Politicians," *International Journal of Public Administration* 46, no. 13 (2023): 915–25, https://doi.org/10.1080/01900692.2022.2048667.

[23] Sudikno Mertokusumo, *Mengenal Hukum Suatu Pengantar* (Yogyakarta: Universitas Atma Jaya Yogyakarta, 2015).

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

The Sexual Violence Crime Law has legal validity, philosophical validity, and sociological validity. Its legal validity is demonstrated through its ratification via formal procedures in accordance with the applicable legal framework, while its philosophical validity is reflected in the values of humanity, justice, and respect for human dignity that form the basis of this law. On the other hand, its sociological validity is evidenced by the concrete need of society for more comprehensive regulations in dealing with sexual violence. The existence of the Sexual Violence Crime Law also strengthens legal certainty, because the principle of legality in criminal law can only be implemented if an act has been clearly formulated in legislation.

The principle of legality as stipulated in Article 1 paragraph (1) of the Criminal Code emphasises that no act can be punished without a basis in existing legislation.[24] This principle has a fundamental position in criminal law for the sake of fair enforcement, while also serving as a limit on the state's authority to impose criminal penalties and a guarantee of the protection of human rights for citizens. With the enactment of the Sexual Violence Crime Law, the state has a clearer and more explicit legal basis for taking action against various forms of sexual violence that were previously not adequately regulated, thereby reducing the scope for impunity and strengthening legal certainty.

The urgency of the Sexual Violence Crime Law becomes even more relevant when linked to the fact that sexual violence is on the rise in Indonesia. The Academic Draft of the Sexual Violence Crime Bill shows a significant increase in violence against women between 2008 and 2020, indicating a state of emergency in terms of sexual violence. Previous regulations, particularly in the Criminal Code, are considered incapable of addressing the complexity and variety of forms of sexual violence that have developed in society. Therefore, the Sexual Violence Crime Law is expected to be a more effective legal instrument in responding to the need for legal protection for victims. The comprehensiveness of the provisions in the Sexual Violence Crime Law is reflected in a number of fundamental aspects, namely in terms of the orientation of protection, the formulation of criminal acts, law enforcement mechanisms, and guarantees for the fulfilment of victims' rights.

[24] R. Sugiharto, Sri Endah Wahyuningsih, and Gunarto, "Principles of Legality in Criminal Law from Perspective Fair Enforcement," *International Journal of Social Science and Human Research* 5, no. 1 (2022), https://doi.org/10.47191/ijsshr/v5-i1-04.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

1. The Sexual Violence Crime Law uses a victim-oriented approach, so it is considered to provide optimal justice for victims. This perspective is evident in the three rights granted to victims, namely handling, protection and recovery. This means that in cases of sexual violence, the state is not only responsible for punishing the perpetrator, but the Sexual Violence Crime Law also extends the state's responsibility to include the recovery of victims. This shows that the Sexual Violence Crime Law is more comprehensive than previous provisions, particularly the Criminal Code. The victim-oriented approach in the Sexual Violence Crime Law is very appropriate. This is in line with the view that criminal justice reform needs to focus on regulating the rights of victims through the criminal justice process.

2. The Sexual Violence Crime Law has been formulated into nine types of Sexual Violence Crimes as stipulated in Article 4 paragraph (1), including non physical and electronic based sexual violence. This broader classification enables the law to address the increasingly diverse and evolving forms of sexual violence, particularly in the context of technological developments. However, despite these advancements, certain categories, especially non physical and electronic based violence, may present challenges in terms of evidence and enforcement. The intangible nature of such acts and the reliance on digital or psychological evidence may complicate the process of proving offences, which in turn could affect the effectiveness of law enforcement in practice.

3. The Sexual Violence Crime Law regulates very comprehensive and detailed procedural law, ranging from reporting, investigation, prosecution, trial, to the execution of court decisions, including the protection and recovery of victims, which is carried out simultaneously with the legal process.

4. The Sexual Violence Crime Law also regulates assistance for victims in every process, which is regulated in detail, including for victims who have experienced severe trauma. The aim is to prevent revictimisation of victims. This is very important considering that sexual violence not only affects the physical and psychological condition of victims, but also erodes the principles of justice and security for victims.[25]

[25] Ina Heliany, Feny Windiyastuti, and Sofa Laela, "Digital Transformation In Handling Sexual Violence In Higher Education Institutions," *Journal of Law, Politic and Humanities* 6, no. 1 (2025), https://doi.org/10.38035/jlph.v6i1.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

The comprehensive provisions in the Sexual Violence Crime Law are very useful in providing maximum protection for every citizen in relation to sexual violence, including the application of broader sanctions against perpetrators of sexual violence. Freedom from all forms of violence is a human right and a prerequisite for mental and physical health. Sexual violence is also a serious public health issue and a form of human rights violation that has long-term detrimental consequences. To address this, one of the efforts that can be made by the government is to formulate broad sanctions to cover various types of sexual violence crimes. Before the Sexual Violence Crime Law existed, the narrow definition of sexual violence made it difficult for the government to impose sanctions on perpetrators of sexual violence, even though the imposition of sanctions is a vital element in dealing with criminal acts of sexual violence in Indonesia.

The legal impact of the Sexual Violence Crime Law is also evident in the more comprehensive procedural regulations, from the reporting stage to the enforcement of court decisions, which are carried out simultaneously with efforts to protect and rehabilitate victims. Regulations regarding victim assistance at every stage of the legal process, including for victims who have experienced severe trauma, aim to prevent revictimisation. This provision strengthens the position of victims in the criminal justice system and reflects the state's commitment to guaranteeing human rights protection. In this context, the legal framework plays a crucial role in upholding human rights and promoting accountability in the context of criminal acts.[26]

The provisions on sanctions in the Sexual Violence Crime Law are also relevant from a criminal law perspective. Criminal sanctions serve not only as legal consequences for violations of norms, but also as a guarantee for compliance with legal provisions. With a broader and clearer formulation of criminal acts and sanctions, the Sexual Violence Crime Law strengthens the preventive and repressive functions of criminal law in combating sexual violence, which was previously hampered by limitations in the definition and scope of the regulations.

[26] Sidra Kanwel, Muhammad Imran Khan, and Usman Asghar, "In the Shadow of Justice: Human Rights Implications of Criminal Acts," *Journal of Asian Development Studies* 13, no. 1 (2024): 578–85, https://doi.org/10.62345/jads.2024.13.1.48.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

From a human rights perspective, the existence of the Sexual Violence Crime Law is directly relevant to the state's constitutional obligation to protect human dignity, particularly considering that sexual violence not only causes physical harm but also significantly affects the psychological condition of victims.[27] Article 28G paragraph (2) of the 1945 Constitution of the Republic of Indonesia guarantees the right of every person to be free from torture and treatment that degrades human dignity, while Article 28I paragraph (5) emphasises that the implementation and protection of human rights must be guaranteed through legislation. The Sexual Violence Crime Law is a concrete manifestation of this constitutional mandate in the context of protecting victims of sexual violence.

Furthermore, the Sexual Violence Crime Law also contributes to the realisation of the principles of equality and non-discrimination. These principles have gained universal recognition through the Universal Declaration of Human Rights as part of the basic standards for the protection of human rights.[28] The principle of equality before the law requires the state to provide equal legal protection for everyone, including groups that are vulnerable to sexual violence, such as women, children, and persons with disabilities. With victim-oriented and vulnerability-sensitive provisions, the Sexual Violence Crime Law strengthens the protection guarantees for vulnerable groups as referred to in the Human Rights Law.

Theoretically, the Sexual Violence Crime Law is in line with John Locke's view that places law as an instrument for protecting natural human rights.[29] Protection for victims of sexual violence is essentially protection for human dignity as the core of human rights. Thus, the enactment of the Sexual Violence Crime Law not only has a legal impact on the criminal justice system, but also has normative significance in efforts to fulfil and protect human rights in Indonesia.

Based on this description, it can be concluded that the Sexual Violence Crime Law has a strong legal impact and is closely relevant to the fulfilment of human rights. Its comprehensive,

---

[27] Rijal Ulil Abshar, "Sexual Violence Crime Reform in Indonesia: Political and Legal Characteristics of Its Formation," *As-Siyasi: Journal of Constitutional Law* 4, no. 1 (2024): 19–32, https://doi.org/10.24042/as-siyasi.v4i1.21172.

[28] Zulfan, "The Crown Witness and the Protection of Human Rights in Criminal Law Verification," in *Emerald Reach Proceedings Series* (Emerald Publishing Limited, 2018), 1:519–24, https://doi.org/10.1108/978-1-78756-793-1-00080.

[29] Bernard L.Tanya, Yoan N. Simanjuntak, and Markus Y. Hage, *Teori Hukum Strategi Tertib Manusia Lintas Generasi* (Yogyakarta: Genta Publishing, 2013).

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

victim-oriented and vulnerable group-sensitive regulatory nature shows that the Sexual Violence Crime Law is a legal instrument that is responsive to the need to protect human dignity and is an important step in strengthening the state's commitment to upholding human rights.

CONCLUSION

Law Number 12 of 2022 concerning Sexual Violence Crimes Law represents a legal product shaped by a relatively democratic political configuration and marks a shift in Indonesia's criminal law paradigm towards human rights protection, particularly in addressing sexual violence. Its formation process, which involved active participation from civil society, academics, and the media, reflects the state's response to growing social demands. Substantively, the Sexual Violence Crime Law introduces significant legal innovations through a victim-oriented and responsive approach, encompassing broader classifications of sexual violence, recognition of victims' rights to protection and recovery, and more integrated legal mechanisms. These features demonstrate that the Sexual Violence Crime Law functions not only as a punitive instrument but also as a means of restoring victims' dignity and rights. This study confirms that democratic political configuration plays a crucial role in shaping responsive and human rights-oriented legal products. Nevertheless, this study has several limitations, particularly due to its focus on the legislative aspect of the Sexual Violence Crime Law and its limited examination of early implementation and jurisprudential practices. Therefore, further research is needed to analyse how the law is applied in practice and how judicial interpretation influences its effectiveness in fulfilling human rights.

REFERENCES

Abas, Azlan, Azmi Aziz, and Azahan Awang. "A Systematic Review on the Local Wisdom of Indigenous People in Nature Conservation." *Sustainability* 14, no. 6 (2022): 2. https://doi.org/10.3390/su14063415.

Abshar, Rijal Ulil. "Sexual Violence Crime Reform in Indonesia: Political and Legal Characteristics of Its Formation." *As-Siyasi: Journal of Constitutional Law* 4, no. 1 (2024): 19–32. https://doi.org/10.24042/as-siyasi.v4i1.21172.

Bernard L.Tanya, Yoan N. Simanjuntak, and Markus Y. Hage. *Teori Hukum Strategi Tertib Manusia Lintas Generasi*. Yogyakarta: Genta Publishing, 2013.

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

Butt, Simon. "Indonesia's New Criminal Code: Indigenising and Democratising Indonesian Criminal Law?" *Griffith Law Review* 32, no. 2 (2023): 190–214. https://doi.org/10.1080/10383441.2023.2243772.

Eddyono, Sri Wiyanti. "Restorative Justice for Victim's Rights on Sexual Violence." *Journal of Southeast Asian Human Rights* 5, no. 2 (2021): 176. https://doi.org/10.19184/jseahr.v5i2.28011.

Gupta, Bhavya. "An Analysis of the Socio-Legal Framework Around Objectification of Women in India." *Journal of Humanities and Social Sciences Studies* 3, no. 1 (2021): 07–23. https://doi.org/10.32996/jhsss.2021.3.1.2.

Hendrik Hattu. "Tahapan Undang-Undang Responsif." *Mimbar Hukum* 23, no. 2 (2011): 406–19.

Holum, Marthe. "Citizen Participation: Linking Government Efforts, Actual Participation, and Trust in Local Politicians." *International Journal of Public Administration* 46, no. 13 (2023): 915–25. https://doi.org/10.1080/01900692.2022.2048667.

Ina Heliany, Feny Windiyastuti, and Sofa Laela. "Digital Transformation In Handling Sexual Violence In Higher Education Institutions." *Journal of Law, Politic and Humanities* 6, no. 1 (2025). https://doi.org/10.38035/jlph.v6i1.

Inter-Parliamentary Union & Office of the United Nations High Commissioner for Human Rights. *Human Rights: Handbook for Parliamentarians*. Revised ed. Geneva: IPU & OHCHR, 2016.

Judith Neilson Insitute. "Platform Digital Kekerasan Seksual." *Tempo*, 2021.

Kanwel, Sidra, Muhammad Imran Khan, and Usman Asghar. "In the Shadow of Justice: Human Rights Implications of Criminal Acts." *Journal of Asian Development Studies* 13, no. 1 (2024): 578–85. https://doi.org/10.62345/jads.2024.13.1.48.

Li, Liqing, Xin Shen, Guohua Zeng, Hongwei Huang, Zhensheng Chen, Jiayi Yang, Xiaofang Wang, et al. "Sexual Violence against Women Remains Problematic and Highly Prevalent around the World." *BMC Women's Health* 23, no. 1 (2023): 196. https://doi.org/10.1186/s12905-023-02338-8.

Mahfud MD. *Hukum Dan Pilar-Pilar Demokrasi*. Yogyakarta: Gama Media, 1999.

Maria Farida. *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan*. Yogyakarta: Penerbit Kanisius, 2002.

Michael Freeman. *Human Rights*. 4th ed. Cambridge: Polity Press, 2022.

Mollica, Caitlin, Sara E. Davies, Jacqui True, Sri Wiyanti Eddyono, Bhavani Fonseka, and Melissa Johnston. "Women and the Justice Divide in Asia Pacific: How Can Informal and Formal Institutions Bridge the Gap?" *Human Rights Quarterly* 44, no. 3 (2022): 612–39. https://doi.org/10.1353/hrq.2022.0029.

Nikolai Pauzin, Vitalii Vasyukov, Sergey Krasheninnikov, and Elena Yudina. "Law Enforcement and Social Security of Public Events: Organizational and Legal Solutions." *Journal of Law and Sustainable Development* 10, no. 2 (2022). https://doi.org/10.37497/sdgs.v10i2.239.

Ozpolat, Asli, Gulsum Gunbala Guven, Ferda Nakipoglu Ozsoy, and Ayse Bahar. "Does Rule of Law Affect Economic Growth Positively?" *Research in World Economy* 7, no. 1 (2016): p107. https://doi.org/10.5430/rwe.v7n1p107.

Papadaki, Evangelia (Lina). "Feminist Perspectives on Objectification." In *The Stanford Encyclopedia of Philosophy*, Summer 2024, edited by Edward N. Zalta and Uri Nodelman. Metaphysics Research Lab, Stanford University, 2024. https://plato.stanford.edu/archives/sum2024/entries/feminism-objectification/.

Rahendro Jati. "Partisipasi Masyarakat Dalam Proses Pembentukan Undang-Undang Yang Responsif." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 1, no. 3 (2012). http://dx.doi.org/10.33331/rechtsvinding.v1i3.88.

Satjipto Rahardjo. *Beberapa Pemikiran Tentang Ancangan Antar Disiplin Dalam Pembinaan Hukum Nasional*. Bandung: Sinar Baru, 1985.

Sudikno Mertokusumo. *Mengenal Hukum Suatu Pengantar*. Yogyakarta: Universitas Atma Jaya Yogyakarta, 2015.

Sugiharto, R., Sri Endah Wahyuningsih, and Gunarto. "Principles of Legality in Criminal Law from Perspective Fair Enforcement." *International Journal of Social Science and Human Research* 5, no. 1 (2022). https://doi.org/10.47191/ijsshr/v5-i1-04.

"Women and Public Policy Program | Harvard Kennedy School." Accessed January 24, 2026. https://www.hks.harvard.edu/centers/wappp.

Yuliartini, Ni Putu Rai, Hartana Hartana, Lukas Norman Kbarek, and Seguito Monteiro. "From Retribution to Restoration: Human Rights-Based Legal Protection for Women Victims of Sexual Violence." *Jurnal Media Hukum* 32, no. 2 (2025): 281–300. https://doi.org/10.18196/jmh.v32i2.26214.

Zulfan. "The Crown Witness and the Protection of Human Rights in Criminal Law Verification." In *Emerald Reach Proceedings Series*, 1:519–24. Emerald Publishing Limited, 2018. https://doi.org/10.1108/978-1-78756-793-1-00080.

Conflict of Interest Statement: The author(s) declares that research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest,

Copyright: © AUTHOR. This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License. (CC-BY NC), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

PATTIMURA Legal Journal (Pela) is an open acces and peer-reviewed journal published by Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia.

OPEN ACCESS

PATTIMURA Legal Journal, 5 (1) April 2026: 1 - 19
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia