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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Legal Protection of Women and Children: Identifying Gaps in Law Enforcement Practices

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Abstract. *This article critically analyzes the gaps in the legal protection system for women and children in Indonesia, highlighting the disparity between the law envisioned (law in the books) and the law in action. Although a relatively comprehensive legislative framework exists encompassing the Child Protection Law, the Elimination of Domestic Violence Law (UU PKDRT), the Sexual Violence Crime Law (UU TPKS), and the ratification of international instruments such as CEDAW and the CRC, its implementation in law enforcement practice still faces significant challenges. This is reflected in data from SIMFONI PPA and the National Criminal Information Center of the Indonesian National Police Criminal Investigation Department (Pusiknas Bareskrim Polri), which show high rates of violence against women and children but low rates of case resolution through formal legal channels. This study uses a normative-juridical method with a statute approach and a conceptual approach to examine the internal consistency and vertical and horizontal synchronization among regulations related to the protection of women and children, based on secondary data in the form of legal literature and relevant laws and regulations. The results of the study indicate regulatory disharmony, including tension between the Domestic Violence Law and the Criminal Code (KUHP) in viewing domestic violence, as well as philosophical clashes between the Juvenile Criminal Justice System Law, which prioritizes restorative justice for child perpetrators, and the Child Protection Law and the TPKS Law, which demand a deterrent effect for perpetrators, as seen in the case study of child molestation in Karawang (2025). In addition, limited access to justice was found due to the high cost of litigation and the disparity in the capacity of assistance services (UPTD PPA) across regions, gender bias that is still inherent in the Investigation Report (BAP) process which has the potential to cause secondary victimization, as well as gaps in the capacity of law enforcement officers in responding to digital-based sexual violence amidst increasing reports of cyber violence. This article recommends the need for regulatory synchronization to close the space for*



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legal dualism, strengthening the victim's perspective in the judicial process through gender-responsive officer training, strict limitations on the discretionary space for diversion in sexual violence crimes, equitable distribution of infrastructure and legal service budgets to remote areas, and a shift in the law enforcement paradigm from a retributive approach to a restorative approach oriented towards victim recovery as the primary indicator of substantive justice success.

Keywords: *Law Enforcement; Legal Protection; Women and Children.*

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1. Introduction

Indonesia already has a relatively comprehensive legal framework to protect women and children, ranging from the Child Protection Law, the Elimination of Domestic Violence Law, to the Sexual Violence Crime Law (UU TPKS) passed in 2022. The ratification of various international legal instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) also strengthens the state's commitment to providing protection guarantees for these vulnerable groups. However, the availability of normatively adequate regulations is not necessarily directly proportional to the effectiveness of protection felt by women and children in real life. (Hasan et al., 2023)

Doctrinally, this dynamic confirms the existence of an anomaly in Indonesian legal positivism, where legislative productivity has not been able to touch the root of sociological problems. The existence of progressive laws such as the TPKS Law often experiences sociological-juridical obstacles when faced with law enforcement institutions that still use conventional paradigms. Consequently, the adoption of these international protection standards only touches the level of legal formality, while the substance of emancipatory protection has not been evenly internalized within the national criminal justice system. (Rahardjo, 2000)

Women and children are the most vulnerable groups in the social structure, thus requiring special and comprehensive legal protection. In the Indonesian context, the constitution has guaranteed human rights, but statistics show a trend of violence that is still high against these two groups. Law enforcement often fails to respond to the specific needs of victims, both due to procedural limitations and a legal culture that is not yet victim-friendly.

This systemic vulnerability is exacerbated by the application of rigid procedural law that tends to cause secondary victimization for victims during the litigation process. When traumatized victims have to face a gender-insensitive evidentiary process, the law no longer functions as a recovery instrument, but rather as a new psychological burden. The inability of formal law to respond to the specific needs of women and children confirms the failure of the judicial structure to translate the constitutional mandate of human rights protection into concrete protective actions. (Ariadi, 2022)



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Various reports from state institutions, civil society organizations, as well as data from the Online Information System for the Protection of Women and Children (SIMFONI PPA) show that the No. of violence against women and children remains high, while the rate of case resolution through formal legal channels is still far from adequate. This phenomenon indicates a gap between the law envisioned (law in the books) and the law in practice (law in action). This gap can stem from various factors, including: the weak capacity and gender sensitivity of law enforcement officers, limited access to legal and psychosocial services for victims, social stigma and patriarchal culture that hinder reporting, overlapping regulations between institutions, limited mechanisms for witness and victim protection, and the slow judicial process that leads to impunity for perpetrators. (Arief, 2023)

This structural dysfunction is reinforced by the persistence of a patriarchal legal culture that is deeply rooted in society while simultaneously influencing the discretion of law enforcement officers. Social stigma that corners victims often makes law enforcement spaces non-inclusive, so the reporting No.s that appear on the surface are just the tip of the iceberg (iceberg phenomenon) of the true reality of violence. Without rigid synchronization between strengthening officer capacity (structural reform) and deconstructing gender-biased social values (cultural reform), legal impunity for perpetrators will persist and widen this justice gap.

This study is highly crucial to be examined comprehensively in order to critically dissect various issues related to the legal protection of women and children: identifying gaps in law enforcement practices. In addition, it is expected to produce policy recommendations and legal breakthroughs that are applicable, data-driven, and oriented towards substantive justice. A cross-perspective study is needed, both from the viewpoints of criminal law, procedural law, sociology of law, human rights, to gender studies, to comprehensively map the sources of legal implementation failures and formulate a gender-responsive and child-friendly law enforcement model. (Fakih, 2016)

Therefore, the urgency of this scientific study is placed on penal and non-penal reconstruction efforts that are not only theoretical but also offer legal reform that reaches substantive and formal legal aspects simultaneously. Through this multidimensional approach, the results of the analysis are expected to break through traditional dogmatic boundaries and offer a transformative law enforcement blueprint. The legal breakthroughs born from this study are directed at breaking down the walls of oppressive judicial bureaucracy, in order to realize a legal order that truly sides with the safety and substantive justice for women and children in Indonesia.

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2. Research Methods

This study uses a normative-juridical method. The focus of the research is to examine the prevailing legal norms and their applications. The approaches used are the statute approach and the conceptual approach. The data used are secondary data in the form of legal literature and relevant laws and regulations. (Abdulkadir, 2004)

The selection of this normative-juridical method is based on the need to test the internal consistency as well as the vertical and horizontal synchronization of various regulations related to the protection of women and children. Through the statute approach, this study dissects the ratio legis and the consistency of the implementation of the TPKS Law, the Domestic Violence Law (UU KDRT), and the Child Protection Law within the justice system. (Arikunto, 2002) Meanwhile, the conceptual approach is used as an analytical tool to link doctrines of gender law and human rights with the facts of law enforcement gaps in the field, so that the secondary data collected through literature review is not only described but also critiqued to give birth to transformative legal thinking.

3. Results and Discussion

3.1. Case Study Illustrating Gaps in Law Enforcement Practices

Data from the National Criminal Information Center (Pusiknas) of the Indonesian National Police Criminal Investigation Department recorded that from January 1 to April 9, 2026 alone, there were 1,540 cases of intercourse, obscenity, and sexual violence against children, a No. that illustrates an average of more than twelve cases per day in a period of less than four months. This high No. cannot be interpreted singularly as a worsening of child protection conditions, because the addition of the No. of handling task forces also contributes to increasing victims' courage to report. However, the data also uncovers a new gap that has not been fully reached by law enforcement officers, namely sexual violence in the digital space. The Ministry of Communication and Digital notes an average of two thousand reports of violence against women in the digital realm every year, with more than 1,600 of them in the form of online sexual violence. This gap shows that the cyber investigation capacity and digital legal literacy of law enforcement officers have not developed equally with the shift in crime modes that increasingly utilize technology. (Putra, 2015)

Theoretically, this surge in data confirms the relevance of the iceberg phenomenon theory, where the establishment of special units has successfully

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triggered an increase in the victims' legal awareness to report. However, the transformation of crime modes into the cyber realm (cyber-violence) simultaneously exposes the unpreparedness of national formal legal substance in mitigating digital-based crimes. The limited cyber capacity of law enforcement officers triggers an effective enforcement void, considering that proof in digital sexual violence requires rigid cyber forensic expertise. This gap in technological adaptation obscures legal certainty, so the digital space transitions into a new epicenter for impunity for perpetrators of sexual violence.

Another equally crucial gap is apparent in the normative tension between the protection of child victims and the special treatment of child perpetrators, as seen in the case of child molestation in Karawang in 2025. In this case, six children in conflict with the law allegedly persuaded and deceived the child victim into having sexual intercourse, so they were charged under Article 76D and 76E of the Child Protection Law and Article 6 of the Sexual Violence Crime Law. This case shows a philosophical clash between the Juvenile Criminal Justice System Law, which prioritizes a restorative justice approach for child perpetrators, and the spirit of the Child Protection Law and the TPKS Law, which require maximum protection for victims.

The clash of norms (legal antinomy) in this case reflects a highly fundamental dilemma of justice in juvenile criminal law, namely the conflict between the principle of the best interest of the child inherent in both the victim and the perpetrator simultaneously. The Juvenile Criminal Justice System Law (UU SPPA) demands the prioritization of restorative justice to save the future of children in conflict with the law (ABH), while the Child Protection Law and the TPKS Law oblige sentencing that provides a deterrent effect to protect victims. This horizontal tension between regulations creates jurisprudential uncertainty, where judges and law enforcement officers in the field are often trapped in confusion determining balanced parameters of substantive justice.

The Ministry of Women's Empowerment and Child Protection (Kemen PPPA) has firmly stated that sexual violence against children cannot be resolved through diversion or familial mediation even if the perpetrator is a child, in order to ensure justice for the victim while providing a deterrent effect for the perpetrator. Such an assertion is essentially important precisely because it indicates the ambiguity of application in the field without explicit intervention from the ministry, there is a risk that similar cases are prematurely directed to restorative pathways that ignore the victim's right to justice.

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Juridically, the policy intervention from this ministry affirms that in crimes of sexual violence, the victim's right to distributive justice must be placed as a pre-eminent right that cannot be negotiated through diversion. Ambiguity in the field arises due to an erroneous interpretation of the essence of restorative justice, which is often misused by officers as a shortcut for judicial efficiency in the name of peace. Without strict and firm discretionary limits through positive law, informal settlement mechanisms or premature mediation will actually perpetuate a culture of impunity and deepen the psychosocial trauma of child victims.

On the other hand, the handling of the victim in the Karawang case also showed good practices worth noting: the victim received assistance from the early stages through the Friends of Women and Children Service Team (SAPA) 129 and the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA), including visum et repertum examination, psychiatric visum (visum et psikiatrikum), psychological assessment, and coordination with the school so that the victim could return to school post-trauma. A critical question to be raised is the extent to which such assistance standards are distributed evenly, considering that not all regencies/cities have UPTD PPAs with adequate human resource capacity and budgets. This inter-regional service gap is ultimately one of the most tangible structural gaps in the practice of enforcing women's and children's protection laws in Indonesia, where the quality of protection received by victims heavily depends on the geographic location where the case occurred.

Identifying gaps in legal protection is done by mapping the weak points in the system, including:

Aspect	Weak Point (Gap)
Regulation	Disharmony between the Domestic Violence Law (UU PKDRT) and the Criminal Code (KUHP) in viewing domestic violence.
Access to Justice	The high cost of justice and the difficulty of accessing the legal assistance system.
Officer Perspective	The existence of gender bias in the Investigation Report (BAP) process which tends to corner the victim.

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Law enforcement today is often formalistic-legalistic in nature, thereby ignoring the sociological realities faced by women and children. A paradigm shift is needed from retributive justice towards restorative justice that is more centered on victim recovery.² The law is not just a dead text on paper, but a living instrument that must deliver substantive justice. Shifting the focus from how many years the perpetrator must be imprisoned to the future and recovery of the victim is an urgent leap in legal civilization to protect vulnerable groups.

The regulatory disharmony above creates a space for legal dualism that is often exploited by perpetrators to escape appropriate sanctions. While the Domestic Violence Law was designed with the spirit of special protection, in practice officers are often trapped in using general offense qualifications in the Criminal Code, where proof is conventional and rigid. Consequently, the peculiarity of power relations in the household that backgrounds the violence is ignored, reducing the essence of special protection to merely ordinary assault crimes that deny the victim's profound psychological trauma.

This condition is exacerbated by limited access to justice (barrier to justice), which confirms the existence of structural inequality by marginalizing victims from vulnerable socio-economic classes. Formally, the law guarantees equal rights, but materially, the absence of free, responsive, and equitable legal aid at the grassroots level makes the justice system unaffordable. The financial inability to access independent visum services, transportation to judicial institutions, and professional legal counsel fees ultimately force victims to choose the path of domestication or pseudo-peace that perpetuates the cycle of violence.

On the other hand, gender bias crystallized in the process of drafting the Investigation Report (BAP) is a reflection of the failure to internalize a gender-responsive legal culture in law enforcement institutions. Interrogative questions with victim-blaming nuances not only degrade the victim's human dignity but also obscure the true facts of the crime. The patriarchal culture inherent in the officers' mindset becomes a psychological boomerang that triggers secondary trauma, so the examination room which should be a place of protection turns into a room of moral judgment for women and children.

Current law enforcement is often formalistic-legalistic, ignoring the sociological realities faced by women and children. The approach that relies too much on the formalism of criminal law separates the law from the societal context, causing the law to fail to capture the real suffering experienced by vulnerable groups. Officers working as the "mouth of the law" (*bouche de la loi*) solely focus on fulfilling airtight article elements, without willing to look at the relations of economic

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dependence, psychological threats, and social isolation that render the victim powerless. This mechanistic approach engenders barren procedural justice, where a case is considered resolved on paper when the perpetrator is sentenced, while the social and economic destruction of the victim is left without concrete solutions.

A paradigm shift from retributive justice to restorative justice that is more centered on victim recovery is necessary. The law is not merely dead text on paper, but a living instrument that must deliver substantive justice. Positioning the law as a living law demands a radical reconstruction of the goal of sentencing itself, from originally being oriented toward retaliation (retributive) shifting toward the restoration of conditions (restorative). Substantive justice will never be achieved if the benchmark of legal success only relies on the fulfillment of the emergency aspect of sanctions without any guarantee of recovery (*restitutio in integrum*). Therefore, the juvenile and women's justice law must transform itself into a facilitator of psychological recovery, a restorer of broken social relations, and a guarantor of the victim's economic rights to stop the long-term adverse impacts of crimes.

Shifting the focus from how many years the perpetrator should be imprisoned to how the future and recovery of the victim will be is a leap in legal civilization that is urgently needed to protect vulnerable groups. This leap in legal civilization will ultimately redefine the sovereignty of Indonesian law that is humanist and civilized in the eyes of the international community. A victim-centered approach will force the state not only to invest in the construction of correctional institutions but also in strengthening rehabilitation institutions, guaranteeing the continuity of child victims' education, and protecting post-trial trauma. When positive law is able to comprehensively integrate the sentencing system with the future recovery of victims, that is when the law no longer becomes a terrifying oppressive instrument, but a true pillar of civilization in protecting human dignity.

3.2. Strategy for Legal Reconstruction and Gender-Responsive Policy

Efforts to overcome this systemic deadlock demand a legal reform blueprint that moves beyond merely amending normative articles. The first reconstruction must touch the realm of legal structure through the standardization of institutional integration. The state must build an integrated judicial network, directly connecting law enforcement officers (Police, Prosecutors, Judges) with socio-psychological service provider institutions (such as UPTD PPA and LPSK) from the

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moment the investigation begins. The step of institutionalizing inter-institutional coordination that has binding legal force aims to erode sectoral egos, so that the recovery of the victim's subjective rights can run parallel and integral with the formal law enforcement process. (Reppi, n.d.)

Furthermore, the effectiveness of this substantive protection guarantee highly depends on the implementation of the reconstruction of criminal legal culture through education and training curricula based on gender justice (gender-responsive training). Every element in the criminal justice system must pass a special competency certification that tests gender sensitivity and deep understanding of the trauma psychology of vulnerable groups. The transformation of officers' perspectives from a conventional retributive mindset towards victim protection (victim-centered approach) is absolutely necessary so that the interrogation process or the drafting of the BAP no longer triggers secondary victimization. This continuing education becomes a crucial foundation for the birth of discretion and judicial decisions that do not only rely on formal legal certainty (formal justice) but are capable of delivering applicable substantive justice. (Sigar, n.d.)

On the legal substance aspect, the reconstruction strategy requires the harmonization of sectoral regulations to eliminate horizontal contradictions that often confuse officers in the field. Normative tensions such as the clash between the principle of restorative justice in the Juvenile Criminal Justice System Law (SPPA) and the maximum sanctions in the TPKS Law and Child Protection Law must be resolved through the establishment of strict judicial execution guidelines. Positive law must explicitly limit the discretionary space of restorative justice and diversion, stipulating that sexual violence offenses against women and children are absolute exceptions that cannot be resolved through informal mediation. This rigid normative restriction is essential to guarantee the victim's right to distributive justice while closing the loophole of impunity that often hides behind the guise of familial peace.

Finally, this reconstruction must culminate in the equitable distribution of legal service infrastructure and gender-based budgeting across all geographic regions of Indonesia. The state must not let the quality of justice received by women and children be determined by fiscal capacity or the geographic location where they live. Standardizing supporting facilities, the availability of specific budgets for free visums (*visum et repertum* and *visum et psikiatrikum*), and the provision of specialized pro-bono legal counsel must be realized evenly from the central level down to remote areas. By integrating this socio-juridical institutional system into macro national development policies, the law no longer appears as oppressive

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dead text, but manifests as a living instrument that proactively guarantees safe spaces and substantive justice for vulnerable groups.

In the context of modern law enforcement, non-penal strategies must also target strengthening community resilience capacity through the digitalization of a secure and encrypted reporting system. Considering the escalation of sexual violence shifting to the cyber space through new digital crime modes (cyber-violence), the establishment of a cyber forensic unit specifically handling women and children cases at the regional police level becomes an urgent need. The state must formulate a victim-friendly digital evidentiary protocol, where the collection of electronic evidence must not sacrifice privacy rights or trigger digital moral judgment against victims. This technological transformation is directed at accelerating the prosecution process without burdening the victim with conventional evidentiary bureaucracy that is often exhausting and gender-insensitive. (Soemitro, 1990)

From a sociology of law perspective, the effectiveness of substantive law will never stand alone without the deconstruction of the patriarchal social structure that perpetuates impunity. Therefore, this reconstruction strategy must integrate public participation as a law enforcement oversight subsystem through the institutionalization of local community-based complaint posts. Changing the legal culture of society from one that previously tended to allow or stigmatize victims (victim-blaming) into a protective community is a cultural intervention that must be carried out. Through the synergy between strict positive law and an inclusive public legal awareness, the walls of social isolation that have hindered victims from reporting can be gradually torn down. (Sinaga et al., 2019)

The leap in gender-responsive legal civilization demands a reorientation of the philosophy of punishment that places victim recovery as the primary indicator of judicial justice success. The calculation of restitution or compensation for child and women victims must no longer be solely based on short-term material losses, but must account for the loss of future opportunities, lifelong psychological rehabilitation costs, and guarantees of post-trauma educational continuity. By broadening the scope of recovery guarantees (*restitutio in integrum*) in court decisions, the law is not only present as a coercive instrument that punishes perpetrators but transforms into a restorative power that guarantees that vulnerable groups can regain full control over their basic rights and futures.

4. Conclusion

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The legal protection gaps for women and children stem from the inconsistency between legal idealism and the reality of practice. Although the legislative framework is quite comprehensive, its effectiveness in the field is still constrained by four main gaps including: regulatory disharmony (especially between the restorative justice approach in the SPPA Law and the demand for deterrent effects in the TPKS Law and Child Protection Law), limited access to justice, gender bias in the examination process, and the unpreparedness of officers in dealing with digital-based sexual violence. Therefore, legal reform needs to be carried out holistically, encompassing the harmonization of regulations, gender-responsive officer training, strengthening an inclusive and equitable assistance system, and a paradigm shift from retributive justice to restorative justice oriented towards victim recovery.

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