

Criminal Law Review Of The Deterrent Effect On Perpetrators Of Sexual Violence In Rimbun Village

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Manuscripts received : 15/09/2026, Revision and Review : 28/092026, Approved 30/09/2026

Abstract

Indonesia is a state governed by the rule of law that guarantees human rights including the right to safety and protection from sexual violence as enshrined in Article 28G, paragraphs (1) and (2) of the 1945 Constitution. However, this study examines a case in Rimbun Village that was resolved through restorative justice an approach involving dialogue between the victim and the perpetrator. The study employs a juridical-empirical methodology a legal research method that examines the law as it actually operates within society incorporating sociological and psychological perspectives. Primary data were obtained directly by the researcher from the victims (Elisa Putri, Juli Pratama, Sariati) and the perpetrators (Dadan Lopa, Hiras Dudun, Adan Damsar) through interviews and observation. Secondary data were gathered from existing sources, including academic literature (books and journals) and Law No. 12 of 2022. The results of this study indicate that the positive criminal law under Law No. 12 of 2022 imposes penalties including up to 12 years of imprisonment intended to act as a deterrent and prevent the recurrence of such incidents. Meanwhile, Islamic criminal law provides a more comprehensive basis for sanctions by prioritizing the protection of lineage (hifzu nasab) and the preservation of life (hifzu al-nafs) through the application of hudud or ta'zir to achieve substantive justice.

A. Introduction

The State of Indonesia is a state of law that guarantees human rights, including the right to a sense of security and protection from sexual violence as stated in the 1945 Constitution.¹ As stated in the 1945 Constitution article 28G paragraphs 1 and 2 which reads "Everyone has the right to the protection of personal self, family, honor, dignity, and property under his or her control, as well as the right to a sense of security and protection from the threat of fear to do or not do something that is a human right." ²And "Everyone has the right to be free from torture or

¹ Rhona K.M. Smith, *Human Rights Law* (Center for Human Rights Studies of the Islamic University of Indonesia (PUSHAM UII) Yogyakarta 2008) HAL 11U

² Constitutional law 1945

treatment that degrades the dignity of human beings and has the right to obtain political asylum from other countries." In general, the criminal law system functions as a tool for the protection of human beings and a preventive means to prevent crimes. The goals of criminal law against sexual violence include victim protection, justice enforcement, deterrence, and maintaining public order and morals. Thus, criminal law not only functions as a tool of punishment, but also as a **means of protection and prevention of crime**.

However, in real life, the rate of sexual violence in Indonesia still shows an alarming trend. Although the government has inaugurated Law No. 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) and updated it through Law No. 1 of 2023 (National Criminal Code), cases of sexual violence are still rampant at various levels of society.

Data from Komnas Perempuan shows that throughout 2025, there will be 376,529 cases of KBGtP (Gender-Based Violence Against Women). This figure increased by 14.07% compared to the number of cases in the previous year. There is recidivism (repetition of criminal acts) by the same perpetrator or the emergence of new perpetrators with more extreme patterns.³ In recent times, there have often been criminal acts of sexual violence against women due to the loss of human reason towards their own lust, whether it is from strangers, friends, or even one's own family (for example, the stepfather harasses his own stepdaughter by squeezing the stepdaughter's breast). As in Rimbun village, several cases of sexual violence have occurred, including:

1. A person with the initials DL has committed a crime of sexual violence against a child with the initials EP by inserting his middle finger into a child with the initials EP so that the wall of his uterine membrane was torn in 2022. In the same year, the perpetrator committed the same crime to the perpetrator until he raped her, by completing the crime of sexual violence so that the perpetrator was not afraid of the criminal law in Indonesia. However, in the Rimbun Village community, the perpetrator prefers punishment for the perpetrator to be tried familially or to give a fine to the perpetrator. Who should be subject to Law No. 1 OF 2023 Article 414 paragraph 1 letter B which is threatened with 9 years in prison
2. A person with the initials DH committed an unnatural act against a stepdaughter with the initials JP who had groped JP's breasts in 2024. which has been tried familially, but the initials DH have been re-done and in the same year in 2024 DH, a stepfather of JP, raped JP who is still in junior high school. The perpetrator should be charged with Law No. 12 OF 2022 Article 6 letter A and Law No. 35 OF 2014 article 82 (concerning child protection) with a threat of 15 years in prison,⁴
3. A person with the initials DA is a father of 4 children, who is neighboring SA, the initials DA had raped SA in 2021, where SA was still a 17-year-old girl, where the walls of SA's

³ Elsa Faturahmah, Komnas Perempuan (<https://komnasperempuan.go.id/>) Retrieved 06 March 2026

⁴ LAW NO. 35 OF 2014 (CHILD PROTECTION)

membrane were torn, so that SA's victim was no longer a virgin. In the same year in 2021 the DA committed his depraved act against SA until he raped for the second time and in the end this DA perpetrator was tried familiarly with a fine of only 12 million with 2 male chickens. The perpetrator should be subject to Law No. 1 OF 2023 ARTICLE 473 which reads "every person who with violence or threats of violence forces someone to have sex with him is convicted of rape with a maximum sentence of 12 (twelve) years".

Of the three cases presented above, sexual violence often occurs due to several perpetrators of sexual violence because the process carried out to prosecute perpetrators of sexual violence still uses restorative justice (an approach to resolving criminal cases through dialogue and mediation involving perpetrators, victims, and related parties to reach a fair agreement, with a focus on restoring the original state, not retaliation), or often called family peace. And the fact is that the settlement of sexual violence in Rimbun Village with the restorative justice method does not make the perpetrator not have a deterrent effect to continue committing the same crime Even though the existing regulations in Indonesia strictly prohibit committing and prosecuting sexual violence outside the court (Non penal) because the deterrent effect for the perpetrator is still so ineffective, and as it has been regulated in Law No. 12 of 2022 article 23 which reads "*Cases of Sexual Violence cannot be resolved outside the judicial process, except for child perpetrators as stipulated in the Law*". And it is also regulated in Law of the Republic of Indonesia No. 1 of 2023 in article 473 paragraph 1 which reads "*Every Person who with Violence or Threat of Violence forces someone to have intercourse with him, is convicted of rape, with a maximum prison sentence of 12 (twelve) years.*" ⁵ In addition, in the view of Islamic criminal law, the main purpose of Islamic criminal law is to impose sanctions must consider the sharia maqasid (legal purpose). Imam sya-syathibi explained that there are 5 (five) forms of sharia maqashid or commonly called kulliyat al-khasam (five general principles). The five maqashids are: Hifdzu din (protecting religion), Hifdzu nafs (protecting the soul), Hifdzu aql (protecting the intellect), Hifdzu mal (protecting property), Hifdzu nasab (protecting offspring) ⁶

This is achieved through the enforcement of norms to create public order, provide strict sanctions (deterrent effect for perpetrators). As well as carry out social rehabilitation so that perpetrators do not repeat similar behavior can be accepted in society again. The purpose of criminalization in criminal law is to prevent criminal acts, enforce legal norms for the protection of the community, and restore balance and reconcile perpetrators, victims, and society. Criminalization is no longer just retribution, but a means of rehabilitation, community protection, and realizing justice. So that cases that often occur in Rimbun villages are

⁵ Law of the Republic of Indonesia No. 1 of 2023 "*criminal code*"

⁶ Peter Mahmud Marzuki, Legal Research (Revised Edition), (Jakarta: Kencana Prenada Media Group, 2013),

important to be studied, so that they can be considered and educated or knowledge in Rimbun villages so that there will be no recurrence of sexual violence crimes.

In addition, the researcher examined the incidents of sexual violence that occurred in Rimbun Village, the researcher saw the existence of sexual violence committed against minors, and the researcher also observed the punishment imposed to provide a deterrent effect for perpetrators of sexual violence in Rimbun Village, namely by means of restorative justice giving laws that are not commensurate with the perpetrators so that the crime will be repeated, and in addition the researcher saw a review of Islamic Criminal Law related to the provision of sanctions for perpetrators of sexual violence against the deterrent effect, related to the punishment given to the perpetrator is to be whipped up to 100 times and exiled to a distant place, in order to prevent the perpetrator from doing it again.

From the main problem above, a study must have a clear purpose and usefulness so that it can provide direction in the implementation of the research. How does sexual violence occur in lush villages, then what is the deterrent effect for perpetrators of sexual violence after observing the incident, and the author wants to know how it is also reviewed from Islamic criminal law related to the provision of sanctions for perpetrators of sexual violence to the deterrent effect.

Referring to his previous research by Kristiyastuti Handayani (2024) with the title " *A review of criminal law in providing a deterrent effect for human rights-based pedophiles*" which discusses the results of the study show that the crime of sexual violence with pedophile cases is increasingly prevalent among people far from the city (laymen of the law), so with this case, pedophiles against children are very against the law, namely Law of the Republic of Indonesia No. 12 of 2022 (criminal acts of sexual violence) and Law of the Republic of Indonesia No. 1 of 2023 (Criminal Code). In this research, Kristiyastuti Handayani emphasizes on providing a deterrent effect on perpetrators so that they do not repeat the same case later. There is also research by Rohmatul Anam, Tazkia Amelia Fauzi, Tutut Dwi Setyorini, Elva Imeldatur Rohmah. (2022) " *Punishment for Perpetrators of Sexual Violence on Campus in the Perspective of Positive Law and Islamic Law.*" This study shows that sexual violence on campus really occurs not only in society, even to the world of education, where sexual violence is prone to violence, especially catcalling often occurs to students on campus. And research by Rorian Ilham Akbar, Zulkarnain Koto, Santrawan Paparang. (2022) The *imposition of maximum criminal sanctions against perpetrators of the crime of rape is linked to the fulfillment of victim justice*. The results of this study show that the provision of criminal sanctions against perpetrators of sexual violence is not in accordance with what has been done by the perpetrator. From this study, a prosecutor and a judge sentenced the perpetrator too lightly so that the perpetrator was sentenced to 3 to 5 years in prison, in article 285 of the Criminal Code it is explained that the perpetrator of sexual violence is threatened with a sentence of twelve years in prison. So it should be noted that according to the perpetrator it is appropriate

to be sentenced to such a large sentence, but according to the victim it is not appropriate for him, because the honor of a woman is very sacred, therefore it is not incompatible for the victim. The author draws a conclusion from the third that law enforcement against perpetrators of sexual crimes against children in Indonesia must be emphasized by providing firm and effective criminal sanctions, as well as punishments that have a deterrent effect and as a warning to the public that these violations will not be tolerated lightly.

B. Research Methods

A research method is a method or way used in searching, digging, processing, and discussing data in a research to obtain the truth of the data in the research.⁷ Because a research method is one of the ways used to find, analyze, process and discuss the data in a research to obtain and study a problem.⁸ The type of research used by the author is empirical juridical legal research. Empirical juridical research examines the applicable legal provisions that are associated with what happened. This research combines analysis of legal norms (written law) with empirical data obtained directly from practice in the field. The goal is to understand how the deterrent effect on perpetrators of sexual violence in criminal law and Islamic criminal law is applied in providing a deterrent effect in Rimbun Village.

With the empirical juridical research approach, the researcher uses a sociological approach that analyzes how reactions and interactions occur when the norm system works in society. In addition, the sociological approach to law is also known. This approach is constructed as a community behavior that is *ajek*, institutionalized and gains social legitimacy in Rimbun Village. And the researcher's empirical juridical research approach uses the legal psychology approach, which is an approach in empirical legal research, where the law is seen in the human psyche. Human psychology is certainly concerned with people's obedience and awareness of the law, such as people committing acts that violate the law.⁹

C. Results And Discussion

1. Incidents of sexual violence that occurred in Rimbun Village

Sexual violence is a crime that not only damages the physical and psychological of the victim, but also shows a large gap in the legal system and social law when the perpetrator does not feel the deterrent effect. Of the three cases of sexual violence that the author raised in the research in Rimbun Village, there was an incident of sexual violence that occurred in Rimbun Village, Sipispis District, Serdang Bedagai Regency. Where this perpetrator with the initials DL had committed his depraved act against a minor, where the perpetrator with the initials DL seduced a child with the initials EP to be invited to play in a

⁷ Sukiati, *Research Methodology An Introduction*, (Medan: Perdana Publishing, 2017), p.8.

⁸ Joko Subagyo, *Research Methods in Theory and Practice*, (Jakarta: PT Rineka Cipta, 1994), p.2.

⁹ Muhaimin, *Legal Research Methodology*, (Mataram University Press, 2020) p. 92

field in Rimbun Village, precisely in hamlet I, on that day the perpetrator gave a candy as much as 3 pieces, the victim had refused the offer from the perpetrator, so that the victim had wanted to run away from the perpetrator, but the perpetrator pulled the victim's hand until there was no opportunity to escape, because the perpetrator had more energy than the victim. On that day the perpetrator committed his depraved act by inserting his middle finger into the victim's vagina, so that the victim had cried in pain because of the perpetrator's actions. The victim also told his father at night because in the vagina there was pain, so his parents checked his child who as a victim, there was a blood stain that came out in the vital area, the victim's parents asked "what happened today with you, son" the victim also replied that it was the DL perpetrator who committed his depraved act in the afternoon in the field of the lush village by inserting his middle finger into the victim's vital area. Upon hearing the incident, the victim's parents with the initials EP came to the perpetrator's house to ask the perpetrator if he really committed his depraved act, and the perpetrator replied that he had never done the act at all. And on that day the victim's family agreed to report the perpetrator to the local traditional chief who prosecuted the incident, by imposing a penalty of paying Rp. 12,000,000 and 1 free-range chicken.¹⁰

And the second case of sexual harassment to a stepson with the initials DH who committed a depraved act against the victim with the initials JP as well as a stepdaughter from the marriage of the second wife, the first one with the initials JP was still 15 years old where his stepfather suddenly entered the victim's room by immediately opening the victim's clothes so that the perpetrator groped her breasts so that the perpetrator threatened not to tell the victim's mother. The difference from a few months from the incident was that the perpetrator and the stepfather of the victim committed his depraved act against the victim or his stepdaughter, by raping his stepdaughter so that the walls of the victim's vaginal membrane were torn, hysterical the victim felt pain which on that day the victim's mother was not at home, so when the victim's mother arrived at home the victim immediately reported the incident of her stepfather's depraved actions against her. Immediately on that day, the victim's mother reported to the perpetrator's family, so that she was tried by calling the traditional chief to sentence the sentence by paying Rp. 5,000,000¹¹

And the three cases of sexual harassment in the lush village were a father of 4 children with the initials DA who raped the victim with the initials SA, where the perpetrator and the victim were neighbors to each other. The beginning of this rape incident was that the perpetrator saw the victim with open clothes so that the perpetrator was

¹⁰ Elisya putri, *Chronology of sexual violence incidents*, interviews with victims and families, Lush Village, June 26, 2026.

¹¹ Julian first, *Chronology of sexual violence incidents*, interview of victims and families, Lush Village, June 27, 2026

secretly tempted to the victim. The aftermath in early 2021 where the victim's house was very quiet, only the victim was left behind because all the families went out of town, and on that same day the perpetrator wore very open clothes, so the perpetrator came to the victim's house to pull the victim into the house to rape the victim. Until the victim cried hysterically because of the incident, the victim contacted and reported the perpetrator to his family, so that he was prosecuted as a family. In the same year, the perpetrator committed his depraved act against the victim because according to the perpetrator the punishment was considered very light against him because the punishment given was only a fine of Rp. 12,000,000 and 2 free-range chickens.¹²

From the third incident, the cases of sexual violence that occurred in the village were very concerned for the victims of sexual violence, due to the depraved actions committed by the perpetrators, which in Law No. 12 of 2022 in article 23 which reads *"Cases of Sexual Violence cannot be resolved outside the judicial process, except for child perpetrators as stipulated in the Law"*. Apart from the incident, the three victims must receive equal justice and provide assistance to the victims.

2. The punishment imposed is to provide a deterrent effect for perpetrators of sexual violence in Rimbun Village

In Chapter I of Law No. 12 of 2022 concerning the crime of sexual violence, article 1 paragraph 1 which reads *"The Crime of Sexual Violence is any act that meets the elements of a criminal act as regulated in this Law and other acts of sexual violence as regulated in the Law as long as it is specified in this Law"*. In the case in the Rimbun village, Sispispis District, Serdang Bedagai Regency, it is very concerning, namely intercourse with minors by force. in Book II Chapter XV of the Criminal Code about crimes against morality. This crime can be interpreted as a criminal act against sexuality that can be committed by men or women.¹³ In giving punishment to the perpetrator in order to create a deterrent effect with the aim of not repeating it in the same thing to the previous act, the perpetrator is punished in accordance with law no. 12 of 2022 in article 6 letter B which reads *"Every person who commits a physical sexual act aimed at the body, sexual desire, and/or reproductive organs with the intention of unlawfully placing a person under his or her power, both inside and outside of marriage with a maximum prison sentence of 12 (twelve) years and/or a maximum fine of Rp300,000,000 (three hundred million rupiah)."*

3. Review of Islamic Criminal Law on the Provision of Sanctions for Perpetrators of Sexual Violence to Deterrent Effect

¹² Sariati, Chronology of sexual violence incidents, interview of victims and families of the same family, Lush Village, June 27, 2026

¹³ Dodi Suryandi, The Application of Sanctions for Perpetrators of Sexual Violence Against Children, Darma Agung Journal, Vol 28, No 1 of 2022

Child rape is one of the criminal offenses of sexual violence against the honor of a woman and contains a violation of morals and human values. In the perspective of Islamic criminal law, this violation is not only a violation against a woman, but also a form of crime against the body as a form of crime against human honor and dignity. Therefore, in Islam, children are as a mandate from Allah that must be protected, loved, and respected in their circumstances. Therefore, every action that damages and degrades the honor and soul of the child is a form of great violence that demands strict affirmation.

In Islam, it is emphasized that the protection of human honor is directed to the maqasid sharia, namely: ¹⁴ Hifdzu din (protect religion) Hifdzu nafs (protect the soul),Hifdzu aql (protect the intellect),Hifdzu mal (protect property), Hifdzu nasab (protect offspring)

Therefore, the perpetrator must be given punishment commensurate with the act committed against a completely innocent woman, just for satisfying a momentary lust, in order not only to have a deterrent effect but also to restore the social and moral balance of society. In the fiqh of jinayah, the act of sexual violence against women and men is included in Zina ghairu muhsan is adultery committed by a man and woman who are not yet married (unmarried). The punishment of zina for ghairu muhsan is twofold: being abused a hundred times and exiled/imprisoned for one year.¹⁵ Which Allah says that this sanction is explicitly affirmed in the word of Allah ¹⁶

The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon :him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said
Meaning : "*Adulterer of women and adulterers of men, beat each of them a hundred times and do not have mercy on both of them to prevent you from (performing) the religion (law) of Allah if you believe in Allah and the Last Day. Let the punishment of them be witnessed by some of the believers.*" (Q.S An-Nur : 2)

Ibn al-Saamit said: The Messenger of Allah (may Allah's peace and blessings be upon him) said: "Take away from me, for Allah has made for them the way of the firstborn with the

¹⁴ Iqbal Putra Pratama and Iwan Iwan, "A Juridical Review of Child Exploitation (A Comparative Study of Child Exploitation on the Street and Content *Creators*)," *Journal of Law, Society, and Islamic Civilization* 12, no. 2 (2024): 83–93.

¹⁵ Rokhmadi Rokhmadi, "Stoning Punishment for Adulterers of Muhshan in Islamic Criminal Law," *At-Ta'addud* 7, no. 2

¹⁶ Ministry of Religion of the Republic of Indonesia, *Al-Qur'an and Its Translation*, (Jakarta: Mushaf Al-Qur'an, 2019), p. 125.

firstborn, the skin of a hundred and a year, and the garment with a garment, and the stoning of
".stone

Meaning: From Ubadah bin Shamit the Messenger of Allah (peace and blessings of Allaah be upon him) said: "Take the law from me! Take the law from me! For indeed Allah has not been the way for them, that is, with young men being abused 100 times and exiled for 1 year, while married men and married women are abused 100 times and stoned" (HR. Muslim).

The sanction of adultery should indeed have a deterrent effect for the perpetrators, including facilitators such as pimps, pimps, venue providers, etc., Islam determines very simply that the crime of morality is a very sensitive crime, so that if it is indeed proven and submitted before the judge, the punishment is harsh and firm, because it is related to the dignity and self-esteem and honor of human beings. Basically, according to the author, these verses are directly related to the perpetrators of adultery, especially prostitution, while for those who are not directly involved, such as how the punishment is for the perpetrators, pimps, pimps, place providers and facilitators of immoral acts, then the punishment can also be determined by the authorities. According to Islamic criminal law, for example, sanctions for such perpetrators can be imposed with ta'zir sanctions with the severity of the punishment starting from the lightest or the severity of the crime.¹⁷

D. Conclusion & Suggestions

Based on the results of the research, it can be concluded that criminal law prohibits restorative justice, because in law no. 12 of 2022 in article 23 it is necessary to be tried in a penal manner, all of which is so that there is no recurrence of similar crimes until the creation of a deterrent effect for perpetrators in Rimbun Village, Sipispis District, Serdang Bedagai Regency. In Islamic criminal law, the criminal act of sexual violence is considered to be very damaging to human dignity, violating the honor of Hifdzu nafs (protecting the soul), Hifdzu aql (protecting reason). Therefore, there needs to be strict sanctions for perpetrators both through *hudud* if the elements are met, and through ta'zir if it provides a deterrent effect for the perpetrator, as well as restoring moral and social values.

The author's suggestion is that in cases of sexual violence throughout Indonesia, no matter how small the crime about sexual violence should be tried in the district court (penal), so that the victim gets complete justice and the perpetrator is sentenced to the applicable law in Indonesia, so that there is also a deterrent effect for the perpetrator.

¹⁷ Nur Shofa Ulfiyati and Akh. Syamsul Muniri, *Differences in Sanctions for Adultery in Islamic Criminal Law and Positive Criminal Law*, Journal of Islamic Family Law, vol 3 number 2, (2022)

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