

## Legal Construction for the Protection of Children Victims of Domestic Violence: Synchronization of the PKDRT Law and the TPKS Law

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### Abstract

One of the most important aspects of the Indonesian legal system is the protection of children from sexual violence and domestic violence, particularly through Law No. 23 of 2004 (PKDRT) and Law No. 12 of 2022 (TPKS). Although both are intended to protect victims, there are differences in scope that have the potential to cause overlapping norms and implementation challenges. The research gap stems from an inadequate understanding of the synchronization of these two laws in child protection. This study aims to analyze child protection in the PKDRT Law, compare it with the TPKS Law, and evaluate its implementation. The methods used include a normative legal approach with conceptual and legislative analysis, as well as qualitative descriptive data analysis. The study's findings indicate that the two laws complement each other, with the Domestic Violence Act focusing on domestic violence in general, while the Sexual Violence Act places greater emphasis on sexual violence with a victim-centered approach. However, their implementation still faces various challenges, such as low reporting rates, patriarchal culture, and limited facilities. It is concluded that regulatory harmonization and inter-agency coordination are necessary to facilitate effective and comprehensive child protection.

**Keywords:** child protection, domestic violence, the Domestic Violence Act, the Child Protection Act, legal harmonization

### Abstrak

Salah satu aspek terpenting dalam sistem hukum Indonesia adalah perlindungan anak dari kekerasan seksual dan kekerasan dalam rumah

tangga, khususnya melalui Undang-Undang Nomor 23 Tahun 2004 (PKDRT) dan Undang-Undang Nomor 12 Tahun 2022 (TPKS). Meskipun keduanya diartikan untuk melindungi korban, terdapat perbedaan cakupan yang berpotensi menimbulkan tumpang tindih norma dan kendala implementasi. Kesenjangan penelitian ini bermula dari pemahaman yang kurang memadai mengenai sinkronisasi kedua undang-undang tersebut dalam perlindungan anak. Penelitian ini bertujuan untuk menganalisis perlindungan anak dalam UU PKDRT, membandingkannya dengan UU TPKS, serta mengevaluasi pelaksanaannya. Metode yang digunakan adalah metode yuridis normatif dengan analisis konseptual dan perundang-undangan, serta analisis data deskriptif kualitatif. Temuan studi ini menunjukkan bahwa kedua undang-undang tersebut saling melengkapi, dengan UU PKDRT berfokus pada kekerasan dalam rumah tangga secara umum, sedangkan UU TPKS lebih berfokus pada kekerasan seksual dengan pendekatan yang berpusat pada korban. Namun, implementasinya masih menghadapi berbagai tantangan, seperti rendahnya tingkat pelaporan, budaya patriarki, dan keterbatasan fasilitas. Disimpulkan bahwa harmonisasi peraturan dan koordinasi antarlembaga diperlukan untuk memfasilitasi perlindungan anak yang efektif dan menyeluruh.

**Kata Kunci:** perlindungan anak, kekerasan dalam rumah tangga, UU PKDRT, UU TPKS, sinkronisasi hukum.

## **Introduction**

The family is the smallest social unit in society, whose members are united by marriage (male and female), sexual relations (biological children), stepchildren or adopted children (adoption) Aristotle said that the position of the family in relation to the home is very central, that is, the protection of peers is the foundation of national development. However, domestic violence is often considered "normal" and considered a problem in the family concerned. In fact, "violence" is often allowed as part of education and home development.<sup>1</sup> As explained in Article 2 number 1 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (Domestic Violence Law).

Every individual, regardless of background, age, or gender, has the fundamental right to feel safe and protected from any form of violence. This right is part of human rights that must be respected and maintained. However, the reality is that there are still many challenges that must be faced in ensuring that everyone can enjoy these rights, especially at various levels of society, including in Indonesia. Violence is still a worrying issue, touching many aspects

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<sup>1</sup> Moh Hasan Basti, *Penegakan Hukum Terhadap Pelaku Tindak Pidana Kekerasan Dalam Rumah Tangga (KDRT) Di Polres Lumajang Jawa Timur*, 5, no. 03 (2025).

of daily life, from domestic violence, to gender-based violence and violence against children. The right to feel safe and free from violence is a fundamental human right, which must be guaranteed and protected by every country.<sup>2</sup>

Children are legal subjects who have the right to be protected from all forms of violence, including domestic violence.

Homes are supposed to be safe places where children can face a variety of issues that affect their physical, psychological, and social development. This situation highlights the importance of effective legal protection for children. The state has a constitutional obligation to provide legal protection against violence, including domestic violence. Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) and Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) are two examples of various legal instruments that support this effort. The normative objective of these two laws is to provide protection to victims of violence, including children, by using different approaches based on the scope, type of violence, and protection mechanisms.

The responsibility to protect its citizens from all forms of violence does not only lie with the individual or family, but also with the state. Every country, including Indonesia, bears a great responsibility to protect every citizen from the threat of violence and ensure that their rights are respected. Indonesia, as a country committed to the enforcement of human rights, has an obligation to create a safe environment for all its citizens. This includes ensuring that existing laws and policies not only protect the rights of citizens but also uphold justice for victims of violence. This obligation is clearly stated in the Preamble to the Constitution of the Republic of Indonesia in 1945 (1945), which emphasizes the importance of protecting the entire nation and all Indonesian bloodshed.

The impact of violence on children is not only felt in the short term but can also continue into adulthood. Traumatic experiences in childhood can affect a child's psychological, emotional, and social development, which in turn can affect their ability to live a productive and healthy life.<sup>3</sup> They may face difficulties in establishing interpersonal relationships, experience problems in the learning process, or even risk engaging in harmful behavior in the future 761 Prastini. News of violence against children often appears in electronic and print media, including both physical and non-physical violence. Ironically, this violence is often considered normal and acceptable because it keeps recurring. Based on data from the Ministry of Women's Empowerment and Child

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<sup>2</sup> Prisilia Kornelia Moonik et al., "Pemenuhan Hak Pelaku Kekerasan Seksual Dalam Sanksi Pidana Kebiri Kimia Berdasarkan Hak Asasi Manusia," *Jurnal Ilmu Hukum: ALETHEA* 8, no. 1 (2024): 18–36, <https://doi.org/10.24246/alethea.vol8.no1.p18-36>.

<sup>3</sup> Lisa Aisyah Rasyid et al., *Dampak Pengalaman Traumatis Masa Kecil pada Remaja*, 1, no. 2 (n.d.).

Protection (KemenPPPA), there has been an increase in cases of violence against children from year to year. In 2019, 11,057 cases were recorded, which increased to 11,278 cases in 2020. In 2021, there was a significant increase with 14,517 cases, and this figure continues to increase in 2022 with 14,517 cases. <sup>4</sup>

From data from the Online Information System for the Protection of Women and Children (SIMFONI-PPA), it was recorded that from January 1, 2026 to January 5, 2026, there were 543 cases of violence. Of these, about 462 women dominated victims of violence, while around 91 men dominated male victims. The data displayed is an accumulation of reports that have been verified or are still in the process of verification, especially reports submitted during the ongoing period. Based on the overall cases, most of the victims were women, which was committed by male victims, including the children concerned. This data shows that domestic violence is an ongoing and ongoing problem, based on the analysis of data that has been verified or is still in the process of verification. The high rate of violence shows that existing legal protection and law enforcement measures are not fully effective.

The empirical facts mentioned above highlight the incompatibility between legal norms and real protection for child victims of domestic violence. Although Indonesia has Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) and Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law), there are still many problems in practice, such as overlapping regulations, differences in protection coverage, and the implementation of norms related to children as victims.

Therefore, statistics and facts about domestic violence are essential to evaluate the legal requirements for children more comprehensively. A legal structure is needed that can support the PKDRT Law and the TPKS Law so that both can provide effective legal protection, as well as justice for children who experience violence in their homes. It is hoped that this synchronization can strengthen the child protection system by recognizing the most important principles in law enforcement.

Law Number 23 of 2004 is the legal basis that provides protection to families, one of which is a child who is a victim of domestic violence. The purpose of the formation of this law is to protect victims of domestic violence. This is a positive development because it allows victims of domestic violence to sue and feel safer because it is protected by 4 laws.

However, in law enforcement practice, various problems are still found related to the protection of child victims of domestic violence, especially those related to overlapping regulations, differences in definitions, and insynchronization of norms between the PKDRT Law and the TPKS Law. This

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<sup>4</sup> Endang Prastini, *Kekerasan Terhadap Anak dan Upaya Perlindungan Anak Di Indonesia*, n.d., <https://doi.org/https://doi.org/10.37640/jcv.v4i2.2043>.

condition has the potential to cause legal uncertainty and hinder the fulfillment of the rights of children as victims, especially in terms of handling, recovery, and sustainable protection.

Based on the above, a legal framework is needed that can bridge the gap between the PKDRT Law and the TPKS Law so that the legal protection of children from domestic violence can be implemented efficiently, comprehensively, and clearly. It is important to synchronize the two laws to ensure that every child who is a victim of domestic violence is protected as best as possible in accordance with the principles of the child's best interest and to ensure that children's rights are upheld in the national legal system.

The very limited definition or limitation of the crime of sexual violence is feared to provide overlap of applicable rules in an effort to protect victims. In the provisions of the PKDRT Law which explains "sexual violence" is any act in the form of forced sexual relations, forced sexual relations in an unnatural and/or undesirable way, forced sexual relations with other people for commercial and/or certain purposes. Sexual violence against children is a serious crime that requires special attention and effective and comprehensive legal protection. Children who are victims of sexual violence not only suffer physical, but also psychological and emotional losses that can last a lifetime. The impact of sexual violence on children can be in the form of mental disorders, such as depression, anxiety, and sleep disorders, and can affect a child's ability to form healthy relationships with others.<sup>5</sup> To protect children from sexual violence, the Indonesian government has passed Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law). The TPKS Law aims to provide legal protection for victims of sexual violence, including children, and to increase public awareness about sexual violence. However, the implementation of the TPKS Law faces various significant challenges, including difficulties in identifying and reporting cases, lack of public awareness, and limited resources. Therefore, strong cooperation is needed between governments, law enforcement agencies, and civil society to raise awareness, provide protection, and support victims of child sexual violence.

The synchronization of these laws is important to ensure alignment between one regulation and another, both vertically with higher regulations and horizontally with parallel regulations. The synchronization process aims to avoid overlap, ensure complementarity, and adjust the rules at various levels. Synchronization refers to the process of adjusting and aligning various laws and regulations related to existing regulations that are being formulated to regulate a specific aspect. The purpose of synchronization is to achieve a balance

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<sup>5</sup> Laela Rahmah Putri et al., "Dampak Kekerasan Seksual Terhadap Perempuan: Sebuah Sistematis Review," *Jurnal Psikologi* 1, no. 4 (2024): 17, <https://doi.org/10.47134/pjp.v1i4.2599>.

between various rules, both those in a higher hierarchy and those that are equivalent.

This synchronization of laws and regulations is important to achieve harmonization of the Indonesian legal system and ensure that the regulations implemented are in line with the objectives and legal principles applicable in the country. In this case, regulatory simplification efforts must continue to be the focus to realize regulations that are more targeted, easy to understand, and effective. This process involves an in-depth analysis of existing regulations, the elimination or merging of overlapping or irrelevant rules, and the creation of new regulations that are more in line with the development and needs of the community. Thus, regulatory simplification is an effort to ensure that the applicable law is not only effective, but also accessible and understandable by all parties involved. <sup>6</sup>

Although several studies have examined the protection of children from sexual abuse in the household based on Law Number 23 of 2004 concerning the Elimination of Domestic Violence, as well as several other studies that have analyzed the protection of children from sexual abuse based on Law Number 12 of 2022 concerning the Crime of Sexual Violence, these studies are generally conducted in a concise and partial manner. Currently, there is not much research that specifically explains how the law protects children when there is a normative conflict between the two laws, especially related to sexual incidents that occur in the household. This condition highlights potential overlaps, gaps in norms, or ambiguities in the application of the law, such as *lex specialis* and the best interests of the child. Therefore, research is needed that systematically analyzes the normative synchronization between the PKDRT Law and the TPKS Law to ensure optimal legal compliance and protection for children as victims.

### **Problem Formulation**

The issue of protecting children who are victims of domestic violence becomes more complex when the study of violence includes aspects of sexual violence against children in addition to domestic violence. In this context, it can be found in Law Number 23 of 2004 concerning the Elimination of Domestic Violence and Law Number 12 of 2022 concerning the Crime of Sexual Violence. This condition raises important questions about how to build child safety in the two laws, whether there are gaps or overlaps in the application of

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<sup>6</sup> Firman Freaddy Busroh et al., "Harmonisasi Regulasi Di Indonesia: Simplikasi Dan Sinkronisasi Untuk Peningkatan Efektivitas Hukum," *Jurnal Interpretasi Hukum* 5, no. 1 (2024): 699–711, <https://doi.org/10.22225/juinhum.5.1.7997.699-711>.

norms, and how to synchronize the two appropriately so that the safety of children as victims can be ideally maintained.

Therefore, the purpose of this study is to normatively analyze the construction of child safety in the two mentioned regulations, identify potential disharmony in their development, and propose a legal synchronization model that can provide the best protection and security for children living in households based on the best needs of the child and the specific principles of the Indonesian legal system.

## **Methods**

The research methodology used in this study is the normative legal method, employing three approaches: the legislative approach, the conceptual approach, and the case study approach. The legislative approach was used to analyze the legal provisions contained in Law No. 23 of 2004 on the Elimination of Domestic Violence (Law on Domestic Violence), Law No. 12 of 2022 on Criminal Acts of Sexual Violence (TPKS Law), and Law No. 35 of 2014 on Child Protection. The principles of *lex specialis derogat legi generali* and *lex posterior derogat legi priori* in the harmonization of legislation are applied in conjunction with the concepts of child protection and the best interests of the child.

In addition, this study employs a case-based approach to strengthen the normative analysis through the application of law in judicial practice. The case-based approach was chosen because this study focuses not only on legal norms in their textual form but also on how law enforcement and the courts handle cases involving child victims of domestic violence. With this approach, the researcher can identify consistency between legal norms and their application, including potential overlaps between the Domestic Violence Act and the Child Protection Act in handling cases of sexual violence against children within the household.

This study examines positive legal norms, legal theories, and legal concepts relevant to the Indonesian legal system. This method was chosen because the problems studied were related to the standard alignment between Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) and Law Number 23 of 2004 concerning the Prevention and Control of Domestic Violence (PKDRT Law). Normative legal research can also be referred to as doctrinal law research.<sup>7</sup>

The approach used in this study uses a conceptual approach and a case approach. The conceptual approach is to analyze the basic ideas of the theory

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<sup>7</sup> A. B. Makar et al., "Formate Assay in Body Fluids: Application in Methanol Poisoning," *Biochemical Medicine* 13, no. 2 (1975): 117–26, [https://doi.org/10.1016/0006-2944\(75\)90147-7](https://doi.org/10.1016/0006-2944(75)90147-7).

of victimology, child protection law, and the principle of the best interests of the child. To build a solid theoretical framework in the analysis process, this method requires a case approach.<sup>8</sup> The case approach analyzes court rulings and reports from organizations such as the Indonesian Child Protection Commission (KPAI) to see how child protection is implemented in real practice. This method is useful for determining whether legal standards and legal practices are consistent.<sup>9</sup>

The legal materials used in this study use primary and secondary legal materials. Primary legal materials include court decisions and laws and regulations related to child safety, such as the PKDRT Law and the TPKS Law. Meanwhile, secondary legal materials include journals, scientific articles, research reports, monographs, and investigative findings conducted by government agencies such as the National Commission on Anti-Violence against Women (Komnas Perempuan) and the Indonesian Child Protection Commission (KPAI).

The data collection technique in this study is a literature study (library research), which includes the analysis, evaluation, and cataloguing of legal materials relevant to the research question. In particular, Law Number 23 of 2004 concerning the Elimination of Domestic Violence and Law Number 12 of 2022 concerning the Crime of Sexual Violence, as well as other laws related to child protection, are the basic laws in this field of law. In addition, secondary legal materials such as books, journals, research results, and legal experts relevant to the topic of legislative synchronization are also used. The collection of legal materials is carried out through the review of archival documents, journal databases, and academic literature to strengthen normative analysis related to the construction and harmonization of the two laws.

One of the case examples analyzed in this study is sexual violence against children within the family, which was tried under the Domestic Violence Act and the Child Protection Act prior to the enactment of the Sexual Violence and Harassment Act, as well as a comparison with the application of the Sexual Violence and Harassment Act after its enactment. One of the court decisions that can be used as the subject of analysis is a District Court decision regarding sexual abuse of a child by a family member or other household member, which examines the application of provisions of the PKDRT Law in a specific case. An analysis of these rulings is conducted to observe how judges address the

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<sup>8</sup> Sari Marlina, *Analisis literatur sebagai metode penelitian*, 1, no. 1 (2025).

<sup>9</sup> Averin Dian Boruna Sidauruk, "Kedudukan Komisi Perlindungan Anak Indonesia Sebagai Lembaga Negara Independen Dalam Perlindungan Hak-Hak Anak di Indonesia: Analisa Perbandingan Lembaga Negara Anak di Tiongkok dan Britania Raya," *Neoclassical Legal Review: Journal of Law and Contemporary Issues* 2, no. 1 (2023): 23–35, <https://doi.org/10.32734/nlr.v2i1.11386>.

protection of child victims, the punishment of perpetrators, and the rehabilitation of victims. Through case analysis, this study demonstrates that the TPKS Law provides support for victim protection through a victim-centered approach, particularly in the areas of victim assistance, identity protection, and psychological support for victims.

The data analysis technique used in this study combines qualitative analysis with inductive methods. To understand the relationship, compliance, and potential incompatibility between Law Number 23 of 2004 concerning the Elimination of Domestic Violence and Law Number 12 of 2022 concerning the Crime of Sexual Violence, the analysis was carried out systematically using legal materials from the first and second parties. The inductive method is used by analyzing the conclusions of specific provisions in various laws, which then becomes a general simplification of the construction and synchronization model of children victims of domestic violence.

## **Results and Discussion**

The results of the study show that Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) has normatively recognized children as legal subjects who are protected from domestic violence, as reflected in Article 1 number 3 which includes children in the scope of the household. The 10 PKDRT Law regulates forms of violence relevant to child protection, including physical, psychological, sexual, and domestic neglect violence and establishes criminal sanctions for perpetrators. However, child protection in the PKDRT Law is still general and has not regulated specific protection mechanisms for child victims, such as child-friendly examinations and continuous psychological rehabilitation, so that the emphasis is more on criminalizing the perpetrator than the victim's recovery. This condition shows the limitations of legal protection for child victims of domestic violence and emphasizes the need to synchronize with the Sexual Violence Crime Law (TPKS Law) so that child protection can be implemented more comprehensively and oriented towards the best interests of children.

Arif Gosita emphasized the factors that support services for children victims of crime with the desire to develop justice for children and improve children's welfare, provide welfare laws that support the implementation of

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<sup>10</sup> Ahmad Fuad Rosyadi and Siti Zumrotun, *Analisis Normatif Dan Yuridis Terhadap Implementasi UU Nomor 23 Tahun 2004 Dalam Penganganan Kekerasan Dalam Rumah Tangga Di Indonesia*, Vol. 6 No. 4 (2025): Oktober (2004), <https://doi.org/https://doi.org/10.46773/usrah.v6i4.2175>.

services for children victims of crime, and also facilitate facilities that can be used to carry out services for children victims of crime.<sup>11</sup>

Child protection is an effort to enable the humane implementation of children's rights and obligations. In the Child Protection Law no. 35 of 2014 contained in article 64 paragraph (1) to paragraph (3),<sup>12</sup> namely:

- 1) Special protection for children who are in conflict with the law as referred to in article 59 includes children in conflict with the law and children who are victims of crimes, which are the obligations and responsibilities of the government and society.
- 2) Special protection for children who are in conflict with the law as intended in paragraph (1) is implemented through:
  - a) humane treatment of children in accordance with the dignity and rights of children;
  - b) the provision of special assistance officers for children from an early age;
  - c) provision of special facilities and infrastructure;
  - d) imposition of appropriate sanctions in the best interests of the child;
  - e) continuous monitoring and recording of the development of children who are in conflict with the law;
  - f) providing guarantees to maintain relationships with parents or family; and
  - g) protection from identity reporting through the mass media and to avoid labeling.

In article 3 of the Child Protection Law, it is stated that child protection aims to ensure the fulfillment of children's rights so that they can live, grow, develop and participate optimally in accordance with the dignity and dignity of humanity and receive protection from violence and discrimination, for the realization of quality, noble, and prosperous Indonesian children. Every child has the right to protection in terms of religion, health, education, social, and

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<sup>11</sup> Ahmad Yunus, "Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Kekerasan Dalam Rumah Tangga (Perspektif UU PKDRT Dan UU Perlindungan Anak)," *Khatulistiwa: Jurnal Pendidikan dan Sosial Humaniora* 1, no. 4 (2021): 01–16, <https://doi.org/10.55606/khatulistiwa.v1i4.505>.

<sup>12</sup> Rita Novianti and Muhammad Sahrul, *Implementasi Kebijakan Perlindungan Anak (Telaah UU Nomor 35 Tahun 2014 Pasal 9 Ayat 1)*, 1, no. Vol. 1 No. 2 (2020) (2020), <https://doi.org/https://doi.org/10.24853/jks.v1i2.8604>.

protection by the government. This is mentioned in Articles 37 to 71 of Law No. 35 of 2014 concerning Child Protection.<sup>13</sup>

Sexual violence against a child includes some physically harmful, emotional, and psychological acts committed by someone who is older and has higher power or authority over a child. Sexual violence against children can occur in various forms, ranging from verbal abuse, inappropriate touching, coercion to sexual activity, to rape.<sup>14</sup> Sexual abuse of children is a gross violation of human rights that has a long-term impact on the physical, mental, and emotional well-being of victims. The first step in preventing, protecting, and dealing with situations of sexual violence against children is to understand the meaning, context, and variety of sexual violence experienced by children.

The review of Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) is an important step in understanding how the legal system provides protection to child victims of sexual violence. The main goal in making the TPKS Law is to create a strong and comprehensive legal foundation to deal with various types of sexual violence, including providing special protection for child victims. The TPKS Law affirms several fundamental principles of legal protection for child victims of sexual violence. One of them is the principle of non-discrimination, which guarantees that every child has the same right to protection, regardless of social, economic, or other background. Through a clear understanding of the TPKS Law, we can understand how this legal framework provides better protection for children at risk of sexual abuse and strengthens national efforts to address the issue of sexual abuse comprehensively and humanely.<sup>15</sup>

In the TPKS Law Article 1 paragraph (11), child protection is carried out by the UPTD PPA which is a technical operational implementation unit in the work unit to take care of government affairs in the field of child empowerment and protection, which functions as an integrated service provider for women and children who experience violence, discrimination and other problems. The TPKS Law prioritizes victims as the main entity by providing the ability to obtain psychological support, legal protection, comprehensive assessment of children's health, visum, access to information on case development, protection of identity development, rehabilitation, and the ability

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<sup>13</sup> Helga Aryananda et al., *Perlindungan Hukum Bagi Anak Di Bawah Umur Sebagai Korban Perceraian Menurut Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak*, 01, no. 08 (2023).

<sup>14</sup> Ardian Pratama et al., *Analisis Implementasi Kebijakan Perlindungan Anak Korban Kekerasan Seksual di Indonesia Dalam Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual (UU TPKS)*, n.d.

<sup>15</sup> Yayan Agus Siswanto and Fajar Rachmad Dwi Miarsa, *Upaya Preventif sebagai bentuk Perlindungan Hukum dari Kejahatan Kekerasan Seksual pada Anak*, n.d.

to get rehabilitation. The protection of children from sexual exploitation is regulated by two laws in Indonesia, namely the Child Protection Law (UUPA)<sup>16</sup> and the Sexual Violence Crimes Law (TPKS Law). Law No. 35 of 2014 concerning Child Protection is clear and emphasizes that acts or crimes of exploitation either economically or sexually can be punished.

Comparison with Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) is an important regulation that regulates domestic violence, including sexual violence. However, the PKDRT Law has a narrower scope, only applicable to violence that occurs within the domestic sphere and between husband and wife or family members. Meanwhile, the TPKS Law has a wider scope and is not limited to domestic violence only. This law regulates all forms of sexual violence in various places, both within the household and outside the household. The existence of the TPKS Law is a complement to the PKDRT Law because it regulates more diverse types of sexual violence, such as sexual harassment in the workplace, forced marriage, and forced use of contraceptives, which are not covered by the PKDRT Law. The TPKS Law complements the protection of children by regulating a more detailed mechanism in providing the rights of victims, including children. The TPKS Law provides greater space for handling cases of sexual violence against children with a more sensitive approach, including by emphasizing the importance of legal assistance and psychological recovery for victims.

The TPKS Law and the PKDRT Law, reflect similar and specific laws. Therefore, the researcher uses the Lex Principle of Systematic Specialists. The principle of Lex Specialist Systematic states that if a legal event can be governed by two different laws (Lex Specialis), then the legal event must be analyzed systematically, that is, by paying attention to the scope of the legal event, the subject of the legal event, and the object of the legal event. As stated in the Lex Specialist Systematis, this is a special criminal provision if the lawmaker intends to impose the criminal provision as a special criminal provision or it will be special from the existing special provisions. It is used when a criminal act can be explained by two or more special laws (lex specialis).<sup>17</sup>

The synchronization of the TPKS Law with the PKDRT Law The researcher began by seeing that domestic violence has been specifically regulated in the PKDRT Law and then strengthened again by its inclusion in the TPKS Law Article 4: "(2) In addition to the Crime of Sexual Violence as referred to in

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<sup>16</sup> Tarigan, S., & Rahmi, A., *The Urgency Of Child Protection Of Victims Of Sexual Exploitation: A National And Thai Legal Review*, 2025, <https://doi.org/https://doi.org/10.56370/jhlg.v6i1.825>.

<sup>17</sup> Irwan Nevada and Fitriati, "Penerapan Unsur Tindak Pidana Di Bidang Properti Berdasarkan Asas Lex Specialis Derogat Legi Generali Pada Tingkat Penyidikan," *Jurnal Sakato Ekasakti Law Review* 3, no. 3 (2024): 131–39, <https://doi.org/10.31933/6zd1xb15>.

paragraph (1), the Crime of Sexual Violence also includes: h. sexual violence within the scope of the household.<sup>18</sup> Meanwhile, in the PKDRT Law, sexual violence in Article 5 reads: "Everyone is prohibited from committing domestic violence against people within the scope of his household, by: a. physical violence; b. psychological violence; c. sexual violence; or d. domestic neglect". And in article 8, namely: "Sexual violence as referred to in Article 5 letter c includes: a. forced sexual relations carried out against people who live within the scope of the household; b. forced sexual relations between one person within the scope of his household with another person for commercial purposes and/or certain purposes. According to the explanation of the PKDRT Law, "sexual violence" referred to in this article includes any statement that contains elements of sexual intercourse, unopen and/or unwanted sexual relations, or sexual relations with other people for commercial or other purposes.<sup>19</sup>

In the context of child protection as victims of violence, the partial synchronization between Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) and Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) has been completed. Both laws have specific objectives, such as ensuring health for those affected by violence, including children, a sense of security, justice, and protection for those affected by the effects of violence. The PKDRT Law provides general information on domestic violence, including those involving children, while the TPKS Law has more specific information on sexual crimes and victim protection mechanisms, including childcare behavior.

Some researchers emphasized that the TPKS Law strengthens and complements the shortcomings of the PKDRT Law in terms of child protection of victims of sexual violence. For example, the regulation of the TPKS Law regarding child-friendly examinations, psychological assistance, and prevention of victimization shows greater attention to victims' rights than the norms in the PKDRT Law which focuses more on the criminal aspect. This reflects a paradigm shift towards a victim-centered approach and the principle of the best interests of the child, which is in line with the directives of human rights protection and international legal standards.

In the context of the relationship between the two laws, the principle of *lex specialis derogat legi generali* and the principle of *lex posterior derogat legi priori* are also applied. The TPKS Law is positioned as a more specific and newer regulation in terms of sexual violence against children, so that it can

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<sup>18</sup> Asna Azizia Nikmah, *Sinkronisasi Peraturan Perundang-Undangan Tentang Kekerasan Seksual Pasca Lahirnya Undang-Undang No. 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual*, n.d.

<sup>19</sup> Windy Widya Sistha et al., *Perlindungan Hukum Terhadap Korban Kekerasan Seksual*, 8, no. 1 (2025), <https://doi.org/https://doi.org/10.56301/csj.v8i1.1715>.

override the general provisions in the PKDRT Law if there is an overlap of regulations. The application of this principle is important to ensure legal certainty and the effectiveness of child protection. The evidentiary basis for both positions is unclear, but it highlights the importance of cultural sensitivity and awareness of how power structures, such as racism, can interact with and influence abusive behavior.

Legal protection of crime victims as part of community protection can be realized in various forms, such as through the provision of restitution and compensation, medical services and legal aid.<sup>20</sup> Although the PKDRT Law and the TPKS Law have provided a legal basis for the protection of victims of child violence, there are still several aspects that need to be improved so that the protection can run as well as possible. One of the necessary adjustments is the implementation of special mechanisms designed to protect children from violence in the domestic environment, especially related to psychological and social rehabilitation. In addition, better coordination is needed between law enforcement agencies, child protection agencies, and social institutions to handle cases of domestic violence against children. It is hoped that the protection of victims of child violence can be carried out more efficiently and provide a sense of justice for victims.

Although the Domestic Violence Act and the Sexual Violence Act share the same objective to protect victims of violence there remains a possibility of normative conflict and implementation challenges. Normative conflicts arise because both laws regulate sexual violence within the domestic sphere. While the TPKS Law is more specific and comprehensive, the PKDRT Law is more general. This situation has the potential to widen differences in interpretation regarding the legal basis used by law enforcement officials.

From a substantive perspective, the PKDRT Law focuses more on providing assistance to victims, whereas the TPKS Law adopts a victim-centered approach, such as recovery, support, restitution, and victim identification. This difference in orientation indicates that the support for children under the PKDRT Law is not as comprehensive as that provided for in the TPKS Law.

In practice, the harmonization of these two laws also faces various challenges, such as a lack of interagency coordination, low awareness regarding the application of special laws that deviate from general laws, and a strong patriarchal culture that results in a lower number of reported cases. Furthermore, there is currently no technical method that can effectively establish a link between the Domestic Violence Act and the Sexual Violence Act to prevent legal uncertainty.

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<sup>20</sup> Muhammad Rafi Iftikhar Riyanto, *Program Studi Ilmu Hukum Fakultas Hukum Universitas Muhammadiyah Magelang 202*, n.d.

Therefore, regulations must be harmonized, interagency coordination must be strengthened, and the capacity of law enforcement officials must be enhanced so that children can be protected from domestic violence in a more effective manner that prioritizes the best interests of the child.

### **Analysis**

The purpose of implementing child protection in the PKDRT Law is to provide legal protection for family members who are victims of violence, including children. In practice, this protection is carried out through law enforcement mechanisms, the provision of protection to victims, and recovery efforts for children who experience violence in the domestic environment. Normatively, this law has established various forms of physical, psychological, sexual, and neglect violence within the domestic sphere that can affect children as family members. Given these arrangements, law enforcement officials have a legal basis to protect consumers and provide protection to children through ongoing legal proceedings.

The legal framework for the protection of children victims of domestic violence is built through the integration between the PKDRT Law and the TPKS Law, where the TPKS Law functions as a *lex specialis* in handling sexual violence, while the PKDRT Law is strengthened through an interest-based approach. This construction creates a comprehensive balance between the application of the law for the perpetrator and the recovery of the victim, resulting in the development of a protection system that is preventive and rehabilitative.

The implementation of child protection in legal practice is carried out through several steps, including the submission of cases of violence to police officers, the investigation and investigation process of perpetrators, and the assessment of criminal sanctions in accordance with the PKDRT Law. It is hoped that this law enforcement will have a deterrent effect on the perpetrators, while ensuring that children, as victims, get justice. In addition, in some cases, law enforcement agencies cooperate with other law enforcement agencies, such as the Indonesian Child Protection Commission (KPAI), law enforcement agencies, and law enforcement agencies for witnesses and victims, to provide legal education and psychological support to children who are victims of violence.

However, in practice, the implementation of child protection based on the PKDRT Law still faces several challenges. One of the main challenges is the level of reporting of domestic violence cases. Many cases of child abuse go unreported because they are considered an internal family problem or a problem that needs to be resolved. This situation causes many children to not get adequate protection from the law. In addition, factors such as cultural patriarchy

and inequality in power relations in the family also often hinder law enforcement efforts related to domestic violence.

Psychological violence in the context of domestic violence is a form of non-physical violence that causes mental suffering and emotional burden for the victim (Law of the Republic of Indonesia No. 23 of 2004). In addition, the PKDRT Law expands the definition of "staircase of residence" to include relationships based on blood, marriage, lactation, parenting, and even domestic labor relations. As a result, in addition to the nuclear family, the concept of the *batih* family Parents-in-law, brother-in-law, brother-in-law, daughter-in-law, adopted child, and even domestic workers are all considered part of the family in Indonesian society. The main emphasis of this law lies in the existence of domestic relationships, both because of family ties, marriage, and employment relationships. Therefore, domestic violence can occur outside the residence as long as the domestic relationship is proven.<sup>21</sup>

In the context of recovery in a broad sense, reintegration, compensation and prevention of the recurrence of violence are an integral part of recovery. The victim also has the right to obtain recovery as stipulated in article 39 of Law No. 23 of 2004 and more detailed in its implementation rules, namely PP No. 4 of 2006 which clearly states that.<sup>22</sup>

- a. Victim recovery is all efforts to strengthen victims of domestic violence to be deceived, both physically and mentally.
- b. Services and assistance to victims of domestic violence are two examples of recovery implementation.
- c. Mentoring is all actions in the form of counseling, psychological therapy, advocacy, and spiritual guidance, in order to solve the problems faced to strengthen themselves for victims of domestic violence.
- d. Collaboration is a structured and unwavering method among recovery practitioners when offering advice on how to deal with domestic violence.
- e. Health workers, social workers, accompanying volunteers, and/or spiritual guidance are examples of recovery organizers.

Based on these considerations, it can be concluded that the implementation of child protection in the PKDRT Law normatively has provided a strong legal basis for the protection of children from domestic violence. However, in practice, the effectiveness of the protection in question

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<sup>21</sup> Moerti Hadiati, "Kekerasan Dalam Rumah Tangga Dalam Perspektif Hukum Pidana," *Perspektif* 6, no. 2 (2006): 82, <https://doi.org/10.30742/perspektif.v6i2.525>.

<sup>22</sup> Lily Arista Cahyatunnisa, *Tantangan dan Peluang Implementasi Undang-Undang Perlindungan Perempuan dan Anak dalam Kasus KDRT*, 02, no. 09 (n.d.).

is still influenced by other aspects, such as law enforcement, community culture, and the availability of protection facilities for victims. Therefore, coordination between law enforcement agencies, the community, and organizations that protect children is needed, as well as increased public awareness of the law so that the protection of children from domestic violence can be implemented as well as possible.

The synchronization between Law Number 23 of 2004 concerning the Prevention and Control of Domestic Violence and Law Number 12 of 2022 concerning the Crime of Sexual Violence is an important step in ensuring comprehensive legal protection against violence, especially for children who experience sexual violence in the household. The two laws have a similar goal, namely to prevent violence, provide protection for victims, and prevent violations of the law against consumers. However, each law has a different regulatory focus, so harmonization is needed to prevent overlapping norms.

Normatively, the PKDRT Law describes several types of physical, psychological, sexual, and neglect violence that occur within the scope of the household. The main focus of this law is the relationship between power and violence that occurs in the family or the domestic sphere. As a family member, the child falls under the subject protected by this law. In this case, if a child experiences violence by parents, relatives, or other family members, it can be handled in accordance with the guidelines listed in the PKDRT Law.

On the other hand, the TPKS Law has a more specific function, namely creating various forms of sexual violence and providing a more comprehensive protection mechanism for victims. In addition to focusing on sentencing perpetrators, this law also provides more detailed information about the rights of victims, such as handling, protection, and rehabilitation. This approach highlights the paradigm shift from victim-centered strategies (victim-centered approaches) to the imposition of perpetrators, legal protections for victims of sexual violence are inadequate.<sup>23</sup> In addition, it said that the new approach can address the racial biases contained in the current approach.

In the context of synchronization, the two laws mentioned above are complementary. While the TPKS Law provides more specific information about sexual violence, the PKDRT Law provides legal guidelines to prevent violence that occurs within the family. Therefore, the two laws mentioned above can be used simultaneously to apply the principle of *lex specialis derogat legi generali*, where the TPKS Law can be used as a more specific rule applicable to cases of sexual harassment.

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<sup>23</sup> Hamidah Abdurrachman, "Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Dalam Putusan Pengadilan Negeri Sebagai Implementasi Hak-Hak Korban," *JURNAL HUKUM IUS QUA IUSTUM* 17, no. 3 (2010): 475–91, <https://doi.org/10.20885/iustum.vol17.iss3.art7>.

The focus of the PKDRT Law is more on victim protection and criminalization of perpetrators in the domestic context. Furthermore, Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) provides more comprehensive and progressive regulations. This law expands the definition of sexual violence and places consent as an important element in sexual relations. In Article 4 paragraph (1) of the TPKS Law, several forms of sexual violence are mentioned, including forced sexual relations. The TPKS Law also emphasizes that sexual violence can occur in various relationships, including marriage. Sanctions for perpetrators of sexual violence are regulated in various ways depending on the form of their actions, with criminal threats that can reach dozens of years in prison.<sup>24</sup>

However, in practice, there is still a possibility of inconsistency between the two regulations in question. Both in the PKDRT Law and the TPKS Law, several types of sexual violence within the domestic sphere can be categorized as criminal acts. Differences in the types of criminal acts, criminal sanctions, and victim protection mechanisms can cause ambiguity for law enforcement officials in determining the legal basis used in certain situations. Research shows that the TPKS Law strengthens victim protection, but its implementation still faces challenges such as a lack of understanding by law enforcement officials and the public in fulfilling victims' rights. The TPKS Law regulates the protection of the identity of victims, so that the victim's personal identity is not revealed to the public, which can worsen the victim's position, such as in cases related to sexual violence. The regulation of protection mechanisms in the implementation of criminal law where the legal process is expected to take place by paying attention to the sustainability of protection for victims from the threat of revenge or intimidation, both during the judicial process and afterwards.<sup>25</sup>

Therefore, synchronization between the two laws mentioned above must be carried out through the harmonization of appropriate legal norms and principles. While the PKDRT Law serves as a general legal framework that regulates violence within the domestic sphere, the TPKS Law can be used as a regulation that provides special protection for victims of sexual violence. With the approach mentioned above, protection for victims of domestic violence can be carried out more comprehensively, both in terms of law enforcement and victim recovery.

One of the main problems in the protection of child victims of violence is the potential for overlap between several regulations, such as the PKDRT Law, the TPKS Law, and the Child Protection Law. The disharmony of these

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<sup>24</sup> Lion Hidjun et al., *Analisis Implementasi Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual Dari Perspektif Teori Keadilan (Studi Kasus Di Kota Gorontalo)*, n.d.

<sup>25</sup> Dwi Dasa Suryantoro, *Efektivitas Perlindungan Hukum Terhadap Korban Pemerkosaan Dalam Undang-Undang Tindak Pidana Kekerasan Seksual (UU TPKS)*, n.d.

regulations can create legal uncertainty in building an appropriate legal framework to protect consumers or provide protection to victims. Therefore, it is necessary to harmonize laws and regulations through revisions or derivative regulations that prevent gaps between the two laws. The purpose of this harmonization is to ensure that all regulations are consistent and do not create normative conflicts in the application of the law.<sup>26</sup>

The TPKS Law has established a more comprehensive victim protection mechanism, such as health services, psychological examinations, and social interactions. However, in practice, the implementation of victim protection still faces a number of challenges, such as lack of service facilities, difficulty in obtaining professional companions, and lack of public awareness of victims' rights.<sup>27</sup> According to the study, one of the challenges in implementing protection for victims of sexual violence is to understand the views of law enforcement regarding the perspective of victims and the protection mechanisms regulated in the TPKS Law.<sup>28</sup>

Cases of domestic violence are often overlooked because they are considered a personal family problem. This causes many victims to not get the legal protection they deserve. Therefore, increasing public awareness is an important factor in the successful implementation of the law.<sup>29</sup>

An effective child protection system requires coordination between the various regulations governing child protection. In practice, there is still regulatory overlap between several laws related to child protection, which makes legal uncertainty in handling cases difficult. Therefore, it is necessary to harmonize regulations through norms and policies so that all regulations are consistent and do not cause conflicts of norms. This harmonization is essential to ensure that the best interests of children are the basis for all policies related to children. Without effective coordination between various institutions, such as law enforcement officials, child protection agencies, local governments, and community organizations, the system cannot function effectively. Lack of coordination among these agencies often results in inadequate levels of

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<sup>26</sup> Ihsanul Maarif, *Dinamika Kedudukan Peraturan Lembaga dalam Hierarki Perundang-Undangan: Tinjauan Yuridis dan Perspektif Praktis*, n.d.

<sup>27</sup> Eko Nurisman, "Risalah Tantangan Penegakan Hukum Tindak Pidana Kekerasan Seksual Pasca Lahirnya Undang-Undang Nomor 12 Tahun 2022," *Jurnal Pembangunan Hukum Indonesia* 4, no. 2 (2022): 170–96, <https://doi.org/10.14710/jphi.v4i2.170-196>.

<sup>28</sup> Niken Fernanda et al., "Perlindungan Korban dalam Tindak Pidana Kekerasan Seksual," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 2 (2025): 1041–50, <https://doi.org/10.61104/alz.v3i2.1268>.

<sup>29</sup> Dwi Haryadi et al., "Edukasi Hukum Penghapusan Kekerasan dalam Rumah Tangga untuk Peningkatan Ketahanan Keluarga: Legal Education on Eliminating Domestic Violence to Increase Family Resilience," *PengabdianMu: Jurnal Ilmiah Pengabdian kepada Masyarakat* 11, no. 2 (2026): 482–90, <https://doi.org/10.33084/pengabdianmu.v11i2.11298>.

protection for child victims of violence. Therefore, an integrated work system is needed that connects all institutions involved in handling children's cases.

Child protection efforts should not only focus on law enforcement after violence, but also on prevention efforts. The findings suggest that the child protection system must strengthen preventive measures through education, socialization, and public awareness of children.<sup>30</sup> Children who are victims of violence have high psychological and social needs, so they require a comprehensive learning approach. Legal protection must ensure the availability of psychological, social, and medical rehabilitation for victims, in addition to imposing sanctions on the perpetrators. Law enforcement's approach to children should focus on recovery and protection, not punishment. The concepts of restorative justice and diversity have been adopted by the juvenile justice system in Indonesia, but their implementation still faces some challenges, such as a lack of awareness of appearance and the environment.

The contribution of this study is based on the view that it is not possible to understand violence against child victims in the domestic setting in a sectoral manner by relying solely on a single law. This study proposes an integrative strategy by using the Domestic Violence Act as the general legal framework within the household setting and the Sexual Violence Act as a specific focus on sexual violence that is more victim-centered (a victim-centered approach). Consequently, this study offers a theoretical contribution in the form of a legal synchronization model that can serve as a foundation for developing more comprehensive and effective child protection policies.

In addition, this study provides practical guidance for law enforcement officials and child protection organizations in establishing appropriate legal standards for handling cases of child sexual abuse in orphanages. This study emphasizes the importance of harmonizing regulations and inter-agency coordination to prevent legal uncertainty and ensure that the principle of the best interests of the child is upheld. Thus, this study is not only normative and descriptive but also provides insights into the legal framework of the child protection system in Indonesia.

## **Conclusion**

The synchronization between the PKDRT Law and the TPKS Law basically shows a consistently positive relationship, but in practice, there is still the potential for overlapping norms, especially when sexual violence against

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<sup>30</sup> Wahyudi et al., "Perlindungan Hukum Terhadap Anak Korban Tindakan Kekerasan Di Sekolah," *JURNAL HUKUM DAS SOLLEN* 9, no. 2 (2023): 825–40, <https://doi.org/10.32520/das-sollen.v9i2.2982>.

children occurs within the household. In this situation, the application of the principles of *lex specialis derogat legi generali* and *lex posterior derogat legi priori* is essential to determine which law is more appropriate to apply. In the case of sexual violence, the TPKS Law can be prioritized because it provides more specific and detailed arrangements, while the PKDRT Law still serves as a general framework in the prevention of sexual violence in the household. Given this, the two laws must be understood in harmony to prevent legal uncertainty.

Therefore, it is necessary to develop policies and law enforcement to create a more effective and integrated child protection system. Harmonization of regulations, inter-agency coordination, capacity building of law enforcement officials, provision of recovery services for victims, and raising public awareness are strategic steps to ensure that protection for children victims of domestic violence can be implemented optimally. With proper coordination between the PKDRT Law and the TPKS Law, legal protection for children is not only formal but also substantive, ensuring that the best interests of children are met.

Several strategic approaches are needed to improve coordination between the Domestic Violence Act and the Child Protection Act regarding the protection of children within the country. To prevent overlapping regulations and differing interpretations, the government must first implement integrated technical guidelines on the application of both laws. Additionally, an integrated response system must be developed involving the UPTD PPA, KPAI, LPSK, healthcare workers, and social workers to ensure the effectiveness of victim recovery and protection. Third, a victim-centered approach and systematic child protection training are necessary to enhance the capacity of law enforcement officials. Fourth, the government must provide access to protective services, such as housing, legal aid, and psychological counseling for children. Therefore, prevention efforts must be strengthened through education and outreach regarding the impact on children within the family, school, and community. With this approach, child protection can be implemented in a more effective, integrated, and child-centered manner.

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