

# Protection for Victims of Sexual Violence from Secondary Victimization: Lessons from Malaysian Regulations



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## ARTICLE INFO

### Article history

Received: August 29, 2025

Revised: August 7, 2026

Accepted: August 20, 2026

### Keywords

Comparison;

Protection;

Sexual Violence;

Secondary Victimization;

Victim;

## ABSTRACT

Secondary victimization remains a serious concern for victims of sexual violence who encounter criminal justice institutions and public authorities in Indonesia and Malaysia. Although both countries have reformed their laws to strengthen victim protection, existing legal mechanisms do not always prevent victims from experiencing further psychological and institutional harm during legal proceedings. This study examines and compares the legal safeguards against secondary victimization established under Indonesia's Sexual Violence Crimes Law and Malaysia's Anti Sexual Harassment Act and identifies regulatory lessons for improving future victim protection. The study applies normative legal research supported by interviews with two psychologists and one gender expert. It employs statutory, case, and comparative approaches and draws on feminist legal theory and psychological perspectives on trauma. The findings demonstrate that, first, both countries address secondary victimization through rules governing professional competence, prohibited conduct, procedural safeguards, and mechanisms for resolving sexual violence cases. Second, Indonesian law regulates professional competence and prohibited conduct more comprehensively, but its reliance on judicial proceedings may place additional psychological pressure on victims. Malaysia provides an alternative mechanism through its tribunal system, although this approach also presents institutional and procedural challenges. Third, psychological perspectives reveal that formal legal proceedings may aggravate existing trauma when legal institutions fail to recognize victims' experiences, vulnerabilities, and psychological needs.



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## Introduction

Criminal acts, such as sexual violence, are the subject of ongoing research. According to data from the Ministry of Women's Empowerment and Child Protection's website, sexual violence was the most common form of violence against victims (2022-2025). In 2022, there were 11,682 cases, in 2023 consists of 13,156, in 2024 consists of 14,459, and in 2025 was 15,305. The number continues to

increase each year.<sup>1</sup> Sexual violence is not limited to Indonesia; Malaysia is also among the countries experiencing an increase in sexual violence occurrences. According to Royal Malaysian Police (RMPS) statistics, there has been an increase in sexual violence cases (2022-2025). There were 477 cases in 2022, rising to 522 cases in 2023, then significantly increasing to 788 cases in 2024, and then reaching 1,038 cases in 2025.<sup>2</sup> This research covers the entire region of Indonesia and Malaysia. More broadly, the World Health Organization (WHO) estimates that 35% of women globally have suffered sexual violence.<sup>3</sup>

The rising number of victims and cases of sexual violence can be attributed in part to the government's ineffective response to the matter.<sup>4</sup> Because of the lack of government engagement, there are no explicit mechanisms in place to protect victims of sexual violence, such as aid, the investigation process, victims' rights, and so on.<sup>5</sup> Furthermore, the Indonesian judicial system is focused only on legal and procedural certainty, resulting in inadequate handling of sexual abuse cases.<sup>6</sup> Another issue is that some of these unregulated clauses may fail to provide victims of sexual abuse with adequate care, causing them to be victimized again during the course of their cases. This is referred to as secondary victimization. For example, at a court hearing, the victim may be questioned by the public prosecutor, judge, or legal counsel, causing the victim to undergo psychological distress for the second time. One of the factors that causes victims to experience secondary victimization is not receiving the expected decision outcome.<sup>7</sup>

Secondary victimization happens when questions are asked incorrectly and do not consider the victim's psychology or sentiments.<sup>8</sup> The government is obliged to

<sup>1</sup> SIMFONI-PPA, 'Ringkasan', *Kemenpppa.Go.Id*, 2023 <https://kekerasan.kemenpppa.go.id/ringkasan> [accessed 17 Juni 2026].

<sup>2</sup> Kementerian Pembangunan Wanita Keluarga dan Masyarakat, *Siaran Media Usaha Bersepadu Tangani Isu Gangguan Seksual* (Kuala Lumpur, 2026) [chrome-extension://efaidnbmnnnnibpcajpcglclefindmkaj/https://www.kpwkm.gov.my/uploads/content-downloads/file\\_20260520115905.pdf](chrome-extension://efaidnbmnnnnibpcajpcglclefindmkaj/https://www.kpwkm.gov.my/uploads/content-downloads/file_20260520115905.pdf), [accessed 17 Juni 2026].

<sup>3</sup> Amelia Roskin-Frazee, 'Protection for Marginalised Women in University Sexual Violence Policies', *International Journal for Crime, Justice*, 9 (2020), 13–30 <https://doi.org/10.5204/ijcsd.v9i1.1451>.

<sup>4</sup> Vience ratna Multiwijaya, Ermania Widjajanti, and Rini Purwaningsih, 'Kebijakan Hukum Pidana Bagi Pelaku Kekerasan Seksual Terhadap Perempuan', *Hukum Pidana Dan Pembangunan Hukum*, 4.2 (2022), 26–37 <https://doi.org/https://doi.org/10.25105/hpph.v4i2.14774>.

<sup>5</sup> Siti Aminah Tardi, *Apa Pentingnya RUU Penghapusan Kekerasan Seksual Sebagai Hukum Pidana Khusus* (Yogyakarta: Kanal Pengetahuan FH UGM, 2020) <https://www.youtube.com/watch?v=SnwtPahVN38>; Kahar Akeb Muzaqar, Ihyani Malik, and Dian Lestari, 'Peran Pemerintah Dalam Menangani Kasus Kekerasan Pada Perempuan Di Kota Makassar', *PENA BANGSA: BISNIS DAN TATA KELOLA PUBLIK ADAPTI*, 1.1 (2025), 712–85 <https://doi.org/DOI: 10.69616/pb.v1i1.260>.

<sup>6</sup> Aroma Elmina Martha, 'Advokasi Perempuan Korban Kekerasan Melalui Model Clinic Legal Education', *Jurnal Ius Quia Iustum*, 27.3 (2020), 547–67 <https://doi.org/10.20885/iustum.vol27.iss3.art7>.

<sup>7</sup> Shana L. Maier, 'Advocates' Perception of the Secondary Victimization of Rape Survivors by Law Enforcement, the Legal System, and Hospital Professionals', *Violence Against Women*, 2024 <https://doi.org/10.1177/10778012241292260>.

<sup>8</sup> Hilda Adinta Wulandari, 'Urgensi Perlindungan Hukum Terhadap Anak Sebagai Korban Pencabulan Yang Mengalami Viktimisasi Sekunder (Secondary Victimization) Dalam Sistem Peradilan Pidana', *JURNAL*

protect against secondary victimization. In this study, the researcher limits the study of secondary victimization to secondary victimization arising from law enforcement officers and the court process. Several statutes in Indonesia address sexual violence, Law number 1 of 1946 concerning the Criminal Code (the procedural rules are found in Law number 8 of 1981 concerning the Criminal Procedure Code), Law Number 35 of 2014 concerning Child Protection, and Law Number 23 of 2004 concerning the Elimination of Domestic Violence.<sup>9</sup> However, several of the current legislation do not particularly address measures that could reduce secondary victimization in sexual violence cases, such as provisions governing the authorities handling cases, their methods, and the mechanisms of the court system. The Criminal Procedure Code (KUHP) does not even regulate victim protection.<sup>10</sup> Therefore, regulations related to the judicial system and law enforcement are needed to minimize this. However, the regulations that should provide protection are not included in this legislation.<sup>11</sup>

In 2022, the government passed legislation expressly addressing sexual violence, known as Law Number 12 of 2022 Concerning Criminal Acts of Sexual Violence (UU-TPKS). This law was created in response to the demands of many parties about the large number of sexual violence cases in Indonesia, the lack of comprehensive regulations protecting victims, and the emergence of new forms of sexual violence, which make further action difficult. For example, the clause governing content involving intimate personal scenes that is distributed without consent has not been regulated, making further processing difficult.<sup>12</sup> Previously, law enforcement officers used the Electronic Information and Transactions (ITE) Law to handle similar cases, which has the potential to criminalize victims (another kind of secondary victimization). This took place in 2019, with the victim in Tangerang and the perpetrator in Padang. In this case, law enforcement agents applied the ITE Law (since there were no particular provisions regarding Online Gender-Based Violence).<sup>13</sup> Observations made by psychologists are that victims

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NALAR KEADILAN, 3.2 (2023), 53–67  
<https://web.archive.org/web/20250331105449/https://jurnal.universitaskabupatenjakarta.ac.id/index.php/jurnal-fh-unija>  
 [accessed 14 June 2024].

<sup>9</sup> Nita Anggraeni and Humaeroh, 'Problematika Tindak Pidana Kekerasan Seksual Dalam Sistem Hukum Di Indonesia', *Al-Ahkam*, 17.2 (2021), 36–45 <https://doi.org/10.37035/ajh.v17i2.5429>.

<sup>10</sup> Sheila Maulida Fitri, 'Studi Kritis Formulasi Kebijakan Hukum Pidana Pada Rancangan Undang-Undang Penghapusan Kekerasan Seksual', *Rio Law Jurnal*, 2.2 (2021), 43–61 <https://doi.org/http://dx.doi.org/10.36355/rlj.v2i2>.

<sup>11</sup> Prianter Jaya Hairi and Marfuatul Latifah, 'Implementasi Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual', *Negara Hukum*, 14.2 (2023), 163–79 <https://doi.org/10.22212/jnh.v14i2.4108>.

<sup>12</sup> IJRS, 'Bagaimana Sih Peraturan Kekerasan Seksual Sebelum Adanya UU TPKS?', *Ijrs.or.Id*, 2022 <https://ijrs.or.id/wp-content/uploads/2022/05/2-Peraturan-Kekerasan-Seksual-Sebelum-Adanya-UU-TPKS.pdf> [accessed 13 June 2024]; Putri Eka Zaltina and Lidwina Inge Nurtjahyo, 'Right To Be Forgotten as a Legal Protection for The Victims of Electronic Sexual Violence Cases', *The Indonesian Journal of Socio – Legal Studies*, 3.2 (2024) <https://doi.org/DOI: 10.54828/ijsls.2024v3n2.4>.

<sup>13</sup> Nathania Theora and others, *Catatan Tahunan LBH APIK Jakarta 2021* (Jakarta, December 2021) <https://drive.google.com/file/d/184JB9O9OUFPSkvgj90e9oIVfRoYN-7x/view> [accessed 22 September 2024];

consider resolving cases through legal processes to be too long,<sup>14</sup> this can also be a loophole for secondary victimization to occur.

Similar issues have been identified in Malaysia. The Women's Center for Change (WCC) is an official institution focused on victims of gender-based violence. The WCC has made efforts to amend laws and regulations, such as the 1994 Domestic Violence Act, the Criminal Procedure Code, and the 2001 Children's Act. These changes focus on better victim advocacy, specifically the efficient and sensitive handling of victims within the criminal justice system. The WCC has also assisted in conducting training to increase the sensitivity of law enforcement officers to victims in order to reduce secondary victimization. The report issued by the WCC also shows that secondary victimization persists in Malaysia, particularly in relation to law enforcement officers.<sup>15</sup>

Therefore, a comparison with existing sexual violence provisions in Malaysia can serve as a benchmark for future efforts to minimize secondary victimization in Indonesia. Although Malaysia (Civil Law) and Indonesia (Common Law) have different legal systems, there are other inseparable similarities: the same location in Southeast Asia; similar historical, cultural, and geographical backgrounds; colonization by European countries; cultural and social aspects such as ethnic and religious diversity; and the same constitutional basis.<sup>16</sup> Thus, Malaysia and Indonesia face similar challenges in secondary victimization. Furthermore, studies of legal disparities emphasize the importance of social, political, economic, and cultural contexts as factors shaping a country's legal system. In an academic context, this also serves as an important foundation for progressive national legal reform.<sup>17</sup>

In a comparable provision, Part II of Malaysian Federal Law states, "All persons are equal before the law and are entitled to equal protection under the law."<sup>18</sup> This

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Klara Putri Ningsih, Cici Ramadhani Putri, and Siti Khairuna Salwa Lubis, 'Pengaruh Trauma Masa Lalu Terhadap Kesehatan Mental Seseorang', *Tsaqofah*, 4.2 (2024), 614–22 <https://doi.org/https://doi.org/10.58578/tsaqofah.v4i2.2337>; Aloysius Wisnubroto and Hilaire Tegan, 'Preventing AI Crime Towards A New Legal Paradigm: Lessons From United States', *Journal of Human Rights, Culture and Legal System*, 5.2 (2025), 630–58 <https://doi.org/https://doi.org/10.53955/jhcls.v5i2.606>.

<sup>14</sup> Retno Kumolohadi, 'Interview with Psychologist: Retno Kumolohadi' (Yogyakarta, 2025); Lucia Peppy Novianti, 'Interview with Psychologist: Lucia Peppy Novianti' (Yogyakarta, 2025).

<sup>15</sup> Prema E. Devaraj and Tan Pek Leng, *Standing with Sexual Crime Victims: WCC Support ServiCeS* (Penang, 2021) <chrome-extension://efaidnbmnnnibpcajpcglefindmkaj/https://www.wccpenang.org/wp-content/uploads/2021/06/VSS.pdf>, [accessed 17 Juni 2026].

<sup>16</sup> Rohani Hj. Ab Ghani and others, 'Hubungan Kontemporer Malaysia-Indonesia: Tahap Pengetahuan Dan Pemahaman Gen X Dan Y Malaysia', *Jurnal Politik Profetik*, 9.1 (2021), 135–52 <https://doi.org/https://doi.org/10.24252/profetik.v9i1a8>.

<sup>17</sup> Sulthoni Ajie Sahidin and Handar Subhandi Bakhtiar, 'Analisis Perbandingan Sistem Hukum Konstitusi Indonesia Dan Malaysia Dalam Pemilihan Kepala Pemerintahan', *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia*, 2.3 (2025), 317–27 <https://doi.org/https://doi.org/10.62383/amandemen.v2i3.1120>.

<sup>18</sup> Wan Fariza Alyati and Wan Zakaria, 'Gender Equity and Equality from Islamic Perspective: Malaysian Context', *KAFAAH JOURNAL*, 7.2 (2017), 123–29 <https://doi.org/http://dx.doi.org/10.15548/jk.v7i2.183>;

indicates that *a quo* regulation governs the same protections that all members of society receive without exception. This protection undoubtedly includes protection against secondary victimization. Malaysia has issued several laws and regulations addressing sexual violence, including the Malaysia Penal Code, the Criminal Procedure Code Act 593<sup>19</sup> of the Employment Act 1995, the Communications and Multimedia Act 1998, the Sexual Offences Against Children Act 2017, the New Anti-Sexual Harassment Bill 2021, and the Anti-Sexual Harassment Act 2022 (Act 840) (ASHA).<sup>20</sup> ASHA is the latest regulation addressing sexual violence.

A case that occurred was the case of F bin AI, Accused R [2021] 10 MLJ 539. In this case, the victim was forced to defend herself during the trial, and the court did not give her more time to obtain legal assistance.<sup>21</sup> Another case occurred in a sex trafficking case in Malaysia, where some victims became fed up and withdrew their complaints. They were treated as defendants rather than victims. This has led to criticism of the Malaysian justice system for being gender biased and unaccommodating towards victims.<sup>22</sup>

Violence against women is a social and health issue with significant negative impacts.<sup>23</sup> The impact of secondary victimization on victims of sexual violence, apart from pushing them into deeper psychological trauma, also encourages the perpetrator to show their supremacy through violence and sexual attacks.<sup>24</sup> Pushing psychological trauma deeper because experiencing sexual violence at the beginning has an impact on the emergence of disorders, frustration, anxiety, stress

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Zulazhar Tahir and others, 'IMPLICATIONS OF THE CONCEPT OF "JUSTICE" TOWARDS THE EMPLOYEES AND ELDERLY IN MALAYSIA: A DISCUSSION', *The Malaysian Journal of Social Administration*, 13.1 (2018), 1–23 <https://ijie.um.edu.my/index.php/MJSA/article/view/13153>; Luthfia Nareswari Rasendriya, 'Pemenuhan Hak Korban Kekerasan Seksual (Studi Komparasi Indonesia Dan Malaysia)' (Universitas Muhammadiyah Surakarta, 2024) <https://eprints.ums.ac.id/122197/10/LUTHFIA - SKRIPSI FINAL FIX.pdf> [accessed 24 August 2025].

<sup>19</sup> Fatin najwa Rani, Zaiton Hamin, and Faridah Hussain, 'Recent Development in Sexual Harassment Law in Malaysia: Whither the Victim's Protection?', *International Journal of Academic Research in Business and Social Sciences*, 12.11 (2022), 3089–99 <https://doi.org/10.6007/IJARBS/v12-i11/15225>.

<sup>20</sup> Anis Amni Rohime, Mastika Nasrun, and Norazlina Abdul Aziz, 'Assessing the Anti-Sexual Harassment Act 2022: Progress, Pitfalls, and the Path toward Effective Enforcement', *IJRISS*, 9.10 (2025), 5409–16 <https://doi.org/10.47772/IJRISS.2025.910000440>.

<sup>21</sup> Nasreen Miza Hilmy Nasrijal, Zuramaznum Sainan, and Rachel Samuel, 'Empirical Analysis of Court Cases on Sexual Violence in Malaysia', *International Journal of Research and Innovation in Social Science*, 2024, 2437–47 <https://doi.org/https://dx.doi.org/10.47772/IJRISS.2024.8090201>.

<sup>22</sup> Haezreena Begum, 'Exploring Victim Blaming Attitudes in Cases of Rape and Sexual Violence: The Relationship with Patriarchy', *Malaysian Journal of Social Sciences and Humanities*, 6.11 (2021), 273–84 <https://doi.org/https://doi.org/10.47405/mjssh.v6i11.1147>.

<sup>23</sup> Marlene Matos, Rita Conde, and Anita Santos, 'Multiple Victimisation in Socially Excluded Women: From Prevalence to Meanings', *Procedia - Social and Behavioral Sciences*, 161 (2014), 70–76 <https://doi.org/10.1016/j.sbspro.2014.12.012>; Rebeca García-Montes and others, 'The Impact of Violence on Women's Health. The Present as a Reflection of the Past: A Qualitative Study', *PLoS ONE Journal*, 17.9 (2022) <https://doi.org/https://doi.org/10.1371/journal.pone.0273973>.

<sup>24</sup> Milica Boskovic and Gordana Misev, 'Secondary Victimization of Sexually Assaulted Women', *Victimology*, 2022, 341–61 [https://doi.org/https://doi.org/10.1007/978-3-031-12930-8\\_15](https://doi.org/https://doi.org/10.1007/978-3-031-12930-8_15).

and trauma.<sup>25</sup> Generally, women are the most common victims of sexual violence.<sup>26</sup> This occurs because women are regarded as inferior, whilst men are deemed superior.<sup>27</sup>

The state should provide protection to victims through law enforcement officials,<sup>28</sup> so that individuals can live free of all sorts of violence, torture, and activities that jeopardize their human rights, including dignity.<sup>29</sup> The Indonesian constitution also states that everyone has the right to certain legal rights, including protection, clarity, equal treatment, acknowledgment, and assurances.<sup>30</sup> To reduce secondary victimization, states must implement criminal laws that can also aid in crime prevention.<sup>31</sup>

Similar research with the theme raised by the author includes Sheren Sesiola's research entitled Legal Protection for Child Victims of Violence Who Experience Re-victimization (Secondary Victims).<sup>32</sup> The results obtained for legal protection for children can be seen in the Child Protection Law and the Witness and Victim Protection Law. Among them are the protection of personal security, obtaining information on case developments, and obtaining legal advice. Although both discuss secondary victimization, this research differs from the author's research. The difference is that the author's research examines the provisions contained in the TPKS and ASHA Laws that can minimize secondary victimization. Another study by Margie G. Sopacua entitled Victimization in the Criminal Justice Process (Rape Case Study).<sup>33</sup> Judges' decision-making in cases is frequently centered on

<sup>25</sup> Kennedy Diema Konlan and Muriel Mavis Dangah, 'Students' Experiences of Sexual Harassment; a Descriptive Cross-Sectional Study in a College of Education, Ghana ', *Heliyon*, 9.4 (2023), 1–8 <https://doi.org/https://doi.org/10.1016/j.heliyon.2023.e14764>.

<sup>26</sup> Andry Harijanto, Siti Hatikasari, and Juliet Musabula, 'The Model of Legal Protection for Children Victims of Domestic Violence Based on Justice', *Journal of Human Rights, Culture and Legal System*, 2.2 (2022), 100–112 <https://doi.org/https://doi.org/10.53955/jhcls.v2i2.33>.

<sup>27</sup> Ni Nyoman Juwita Arswati and others, 'Anak Korban Kekerasan Seksual Akibat Ketimpangan Gender', *Legislasi Indonesia*, 16.2 (2019), 237–49 <https://doi.org/https://doi.org/10.54629/jli.v16i2.476>.

<sup>28</sup> Diana Yusyanti, 'Perlindungan Hukum Terhadap Anak Korban Dari Pelaku Tindak Pidana Kekerasan Seksual', *Jurnal Penelitian Hukum De Jure*, 20.4 (2020), 619–36 <https://doi.org/10.30641/dejure.2020.v20.619-636>.

<sup>29</sup> Rosania Paradias and Eko Soponyono, 'Perlindungan Hukum Terhadap Korban Pelecehan Seksual', *Pembangunan Hukum Indonesia*, 4.1 (2022), 61–72 <https://doi.org/https://doi.org/10.14710/jphi.v4i1>.

<sup>30</sup> Undang-Undang Dasar 1945 <https://www.dpr.go.id/jdih/uu1945> [accessed 14 January 2024]; Fandy Prabowo, 'Prinsip Perlindungan Yang Sama Dalam Pemberian Bantuan Hukum Terhadap Pelaku Tindak Pidana Berat', *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam*, 21.125–144 (2018) <https://doi.org/https://doi.org/10.15642/alqanun.2018.21.1.125-144>; Sekaring Dyah Ika Wulan and others, 'Justice for Child Offenders: A Humanistic Legal Approach', *Journal of Human Rights, Culture and Legal System*, 5.3 (2025), 749–79 <https://doi.org/https://doi.org/10.53955/jhcls.v5i3.773>.

<sup>31</sup> RR. Putri A. Priamsari, 'Kebijakan Integral Penanggulangan Tindak Pidana Penyalahgunaan Narkotika', *Jurnal Hukum Progresif*, 10.2 (2022), 99–111 <https://doi.org/https://doi.org/10.14710/jhp.10.2.99-111>.

<sup>32</sup> Sheren Sesiola, 'Perlindungan Hukum Terhadap Anak Korban Pencabulan Yang Mengalami Reviktimisasi (Viktimisasi Sekunder)', *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humaniora*, 1.1 (2022), 1–25 <https://doi.org/10.11111/nusantara.xxxxxxx>.

<sup>33</sup> Margie G. Sopacua, 'Viktimisasi Dalam Proses Peradilan Pidana (Studi Kasus Perkosaan)', *Jurnal Sasi*, 21.2 (2015), 10–16 <https://doi.org/10.47268/sasi.v21i2.182>.

formal reasons and rarely takes into account the victim's psychological features. The low punishments imposed on the culprits demonstrate minimal protective efforts that are insufficient in light of the victim's suffering. This is considered secondary victimization of the victim. The author's research differs in that it investigates the measures of protection that can be adopted to minimize secondary victimization under the TPKS and ASHA Laws, whereas this study explores it more broadly. Finally, the research conducted by Graciela Natasha, entitled *Comparison of the Criminal Justice System between Indonesia and Malaysia regarding Sexual Violence*,<sup>34</sup> although it also examines the comparison between two countries, namely Indonesia and Malaysia, however, in that study, it examines the criminal justice system in general. Meanwhile, the author's research limits the study to provisions that can support minimizing secondary victimization in the two most recent regulations in each country (the TPKS and ASHA Laws). Thus, there has been no research that has examined secondary victimization by comparing the latest sexual violence laws between Indonesia and Malaysia.

The novelty of this study lies in its comparative examination of legal protection against secondary victimization under the most recent legislative frameworks governing sexual violence in Indonesia and Malaysia. Rather than limiting the analysis to existing forms of victim protection, this study identifies additional legal and institutional safeguards that Indonesia may consider to prevent victims from experiencing further harm during legal proceedings. The comparison provides a basis for developing a more responsive approach to secondary victimization that considers victims' experiences, psychological vulnerabilities, and interactions with criminal justice institutions. These findings contribute to future regulatory reform by offering legal considerations for strengthening the protection of victims of sexual violence against secondary victimization. Accordingly, this study aims to analyze the mechanisms established under Indonesia's Sexual Violence Crimes Law and Malaysia's Anti Sexual Harassment Act to prevent secondary victimization, compare the approaches adopted by both jurisdictions, and identify relevant regulatory lessons that may strengthen Indonesia's future legal framework for victim protection.

## Research Method

This study conducted doctrinal legal research: "offers an explanation of the legal rules covering a particular area of law or evaluates the connection between various legal rules or explains the difficulty zone and sometimes predicts the development

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<sup>34</sup> Graciela Natasha Lektonpessy and Irfa Ronaybod, 'Comparison of Criminal Justice Systems Between Indonesia and Malaysia Regarding Sexual Violence', *Novum: Jurnal Hukum*, 11.4 (2024), 614–37 <https://doi.org/https://doi.org/10.2674/novum.v1i1.60382>.

in law which may occur in the future”.<sup>35</sup> This research method is in accordance with the objectives of this research, which is to analyze legal regulations related to secondary victimization between Indonesian and Malaysian law, and to conduct a comparison. This research is limited to the TPKS and ASHA laws related to secondary victimization used by Indonesia and Malaysia. To get better results, this research is supplemented with interview results as supporting data.

To achieve the objectives of this study, normative legal research was used, utilizing a statutory, case-based approach, and comparative approach. A statutory approach is employed to analyze Law Number 12 of 2022 concerning Sexual Violence Crime and the Anti-Sexual Harassment Act 2022. The focus of the analysis is centered on norms aimed at safeguarding sexual violence victims from experiencing secondary victimization. The case approach is used to provide real examples in the field of secondary victimization forms. A comparative approach is used to analyze two state regulations that are the objects of this research, namely TPKS and ASHA law, and to find additional material to update the law that will be a solution for protecting secondary victimization in the future.

The researchers relies on secondary data sources, which are data that were not gathered directly.<sup>36</sup> The legal materials utilized in this research are primary legal materials. This study examines Law Number 12 of 2022 concerning Sexual Violence Crimes, the Anti-Sexual Harassment Act 2022, and the Pekanbaru District Court Decision Number 46/PID.B/2022/PN.PBR, 2022. The secondary legal materials utilized consist of books, journal articles, previous research findings, and expert opinions. The selection of these materials is specifically limited to literature concerning secondary victimization, sexual violence victims, and psychology. Data were gathered through a literature review, which included information obtained from journals and other sources.<sup>37</sup> To further ensure comprehensive findings, the analytical process is supplemented by interviews with two psychologists specializing in sexual violence cases and one gender studies expert. Thus, this study uses data collection techniques in the form of literature studies and interviews. The nature of the interviews conducted was structured. The researcher had prepared the questions to be asked in advance.

The two psychologists are Retno Kumolohadi and Lucia Peppy Novianti. The gender studies expert is Alimatul Qibtiyah. The selection of these three sources was based on their experience and expertise. These two psychologists are experienced in handling sexual violence cases. This will help provide a better perspective from

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<sup>35</sup> Nasir Majeed, Amjad Hilal, and Arshad Nawaz Khan, ‘Doctrinal Research in Law: Meaning, Scope and Methodology’, *Bulletin of Business and Economics*, 12.4 (2023), 559–63 <https://doi.org/https://doi.org/10.61506/01.00167>.

<sup>36</sup> Nuning Indah Pratiwi, ‘Penggunaan Media Video Call Dalam Teknologi Komunikasi’, *Jurnal Dinamika Sosial*, 1.2 (2017), 202–24 <https://doi.org/10.38043/jids.v1i2.219>.

<sup>37</sup> Maklonia Meling Moto, ‘Pengaruh Penggunaan Media Pembelajaran Dalam Dunia Pendidikan’, *Indonesian Journal of Primary Education*, 3.1 (2019), 20–28 <https://doi.org/https://doi.org/10.17509/ijpe.v3i1.16060>.

the victim's perspective. Only two were chosen because they were sufficient to compare the data obtained. The gender expert chosen is a gender expert with a well-known expertise in the field of gender. This will be very helpful in providing perspectives from the perspective of gender and feminist legal theory. Therefore, this data source is limited to one source.

To conduct the analysis, feminist legal theory and psychology were used. This research utilizes feminist legal theory to analyze legislation concerning sexual violence, a crime that overwhelmingly affects women. This approach reflects the theory's central goal of ensuring women's involvement in legal drafting. Additionally, a psychological perspective is employed as the interests of the victim are paramount in sexual violence cases. Integrating psychological insights allows for a more profound understanding of the victim's experience, especially since the primary impact of sexual violence is rooted in psychological trauma. The research data is analyzed using a qualitative method, which focuses on non-numeric data. Identifying regulations that contained the substance of secondary victimization protections were undertaken. The findings were explained using feminist legal theory and a psychological perspective, drawing on secondary data and interviews. The analysis was also conducted following the chosen approaches: legal, case-based, and comparative. The analysis results are then explained descriptively in narrative form.

## Results and Discussion

### *The TPKS Law: Protection against Secondary Victimization*

The results of our study indicate that provisions related to secondary victimization are indeed regulated in the TPKS Law. Several provisions protect secondary victimization that may arise from the criminal justice system and law enforcement officials.

Table 1. Findings of Secondary Victimization Rules in the TPKS Law

| Related                               | Contents of the Article                                                                                                                                                                                                                                                                                        |
|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Competence of Apparatus</b>        | Officers to have a variety of case handling competencies, including victim perspectives, human rights, and case-specific training                                                                                                                                                                              |
| <b>Prohibition of the authorities</b> | Officers, when conducting examinations of various parties, including victims, must uphold human rights, honor, and dignity, without intimidation, without justifying mistakes, and without victimization based on lifestyle, morality, or sexual experiences, with questions that are traumatic for the victim |
| <b>Case Settlement</b>                | That cases of sexual violence cannot be settled outside of court                                                                                                                                                                                                                                               |
| <b>Apparatus prerequisites</b>        | Victim advocates, who must possess several competencies from a gender and human rights perspective and have received training related to handling the case. The gender of the advocate is also                                                                                                                 |

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taken into consideration, with preference given to those  
of the same sex as the victim

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Source: Processed by the Authors, Based on TPKS Law

Several provisions in the regulation can reduce secondary victimization for victims of sexual violence. The law, which has twelve chapters and ninety-three articles, includes procedural rules beginning in Chapter 4. The most recent regulation focuses on the designation of law enforcement officials who can handle sexual violence cases. It requires officers to have a variety of case handling competencies, including victim perspectives, human rights, and case-specific training.<sup>38</sup> This is obviously a positive step toward reducing secondary victimization. The reality is that police officers continue to corner victims and be uncooperative with their legal representation or family.<sup>39</sup> Many judicial examinations also disregard the victims' human rights, such as the absence of medical aid throughout the examination.<sup>40</sup>

Another provision to minimize secondary victimization can be seen in Article 22, which states that officers, when conducting examinations of various parties, including victims, must uphold human rights, honor, and dignity, without intimidation, without justifying mistakes, and without victimization based on lifestyle, morality, or sexual experiences, with questions that are traumatic for the victim.<sup>41</sup> In practice, victims often receive questions from judges, prosecutors, and advocates that actually re-trigger the victim's trauma, even accusing and blaming the victim's lifestyle as a factor causing sexual violence. This action by officers can be seen in a case at a university in Riau. In the decision, the officers discussed the female victim's smoking lifestyle and the occurrence of sexual violence in the case.<sup>42</sup> The judge also asked quite a lot of vulgar questions.<sup>43</sup> Sexual violence instances can lead to various forms of victim blaming against women who have experienced sexual violence, such as not fully believing the victim, cornering the victim for what happened, and failing to take the attack seriously.<sup>44</sup>

The evident challenge in this case is that law enforcement agents lack a sufficient perspective on victims and human rights, as well as a clear grasp of how to handle sexual violence crimes, which should be addressed differently than

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<sup>38</sup> Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual, 2022.

<sup>39</sup> Iqbal. Muhammad, 'Pengaruh Perilaku Menyalahkan Korban Dalam Tindak Pidana Asusila Di Indonesia', *JOM Fakultas Hukum Universitas Riau*, 7.2 (2020), 1–15  
<https://jom.unri.ac.id/index.php/JOMFHUKUM/article/view/28875/27831#>.

<sup>40</sup> Sopacua.

<sup>41</sup> Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual.

<sup>42</sup> Pengadilan Negeri Pekanbaru, 'Putusan Pengadilan Negeri Pekanbaru Nomor 46/PID.B/2022/PN. PBR', 2022.

<sup>43</sup> Sopacua.

<sup>44</sup> Sri Wahyuni and others, 'Korban Dan/Atau Pelaku: Atribusi Victim Blaming Pada Korban Kekerasan Seksual Berbasis Gender Di Lingkungan Kampus', *Brawijaya Journal of Social Science*, 2.01 (2022), 1–17  
<https://doi.org/10.21776/ub.bjss.2022.002.01.1>.

other instances. Attempts can be made to improve these officers' professional performance. Victims of crime can benefit from more integrated and effective law enforcement.<sup>45</sup> Furthermore, the notion of law as a tool of justice states that regulations are helpful (justice and public welfare) when their implementing authorities are intellectually sound and trustworthy. Poor-quality rules, on the other hand, will not impede the accomplishment of justice and public welfare if they are administered wisely and judiciously.<sup>46</sup> As a result, law enforcement officers play an important role in the world of law. Unprofessional law enforcement officials might cause secondary victimization for victims of sexual violence. Improving the quality of police personnel is critical.

The Center for Human Rights Studies at the University of Indonesia (UII) has historically improved human rights perspectives through officer training, particularly at the police academy. The purpose of the police academy is to train future police officers. Character education is currently the primary means of motivating police officers to respect human rights.<sup>47</sup> This was also done by the National Commission on Violence Against Women (KOMNAS Perempuan), which provided sexual violence prevention training to law enforcement officers, service providers, and victim advocates throughout multiple regions. This initiative aims to improve human rights, victims' rights, and gender views, as well as understanding of how to deal with sexual violence incidents. The training enhanced participants' knowledge, which was measured using the Most Significant Change (MCS) approach.<sup>48</sup> Training can bring important long-term career benefits, such as helping employees carry out their obligations. This can surely reduce secondary victimization for all individuals engaged in instances of sexual violence.

Regulatory mandates for improving law enforcement competence—aimed at reducing secondary victimization—are supported by psychological practitioners. The results of interviews with psychologists that the author found showed that the victim's psychological state is profoundly affected by the initial response of law enforcement. A significant barrier identified is the tendency of officials to remain

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<sup>45</sup> Agus Takariawan and Sherly Ayuna Putri, 'Perlindungan Hukum Terhadap Korban Human Trafficking Dalam Perspektif Hak Asasi Manusia', *Jurnal Ius Quia Iustum*, 25.2 (2018), 237–55 <https://doi.org/10.20885/iustum.vol25.iss2.art2>.

<sup>46</sup> Bernard L Tanya, *Teori Hukum: Strategi Tertib Manusia Lintas Ruang Dan Generasi* (Yogyakarta: Genta Publishing, 2013), page 40.

<sup>47</sup> PUSHAM UII, 'Training Hak Asasi Manusia Bagi Tenaga Pelatih Akademi Kepolisian Semarang', *Pusham.Uii.Ac.Id*, 2013 <https://pusham.uii.ac.id/training-hak-asasi-manusia-bagi-tenaga-pelatih-akademi-kepolisian-semarang/> [accessed 18 October 2024].

<sup>48</sup> Alimatul Qibtiyah and others, 'Pelatihan Penghapusan Kekerasan Seksual Bagi Aparat Penegak Hukum, Tenaga Pengada Layanan, Dan Pendamping Dengan Perspektif SPPT-PKKTP', *Komnasperempuan.Go.Id* <https://komnasperempuan.go.id/kabar-perempuan-detail/pelatihan-penghapusan-kekerasan-seksual-bagi-aparat-penegak-hukum-tenaga-pengada-layanan-dan-pendamping-dengan-perspektif-sppt-pkkt> [accessed 13 June 2024].

skeptical when cases do not involve penetration.<sup>49</sup> To mitigate the psychological burden on victims during legal proceedings, practitioners emphasize the need for procedural law reform.<sup>50</sup> Psychological evidence suggests that legal processes inherently exacerbate the trauma of sexual violence victims. Addressing this issue reflects a commitment to gender equality, especially for women who are often targeted for secondary victimization based on gender constructs. Thus, requiring officials to possess gender competence is a fundamental manifestation of gender equality.<sup>51</sup> Strengthening the competence of law enforcement officials is an integral part of protecting female victims. This aligns with the core objectives of feminist legal theory, which advocates for the incorporation of women's lived experiences into the formation of legal regulations.

Another measure to reduce secondary victimization is Article 23, which states that cases of sexual violence cannot be settled outside of court.<sup>52</sup> This exception, however, only applies to child perpetrators. Resolving these cases outside of court makes it more difficult for authorities to ensure that the rights of victims of sexual violence are protected. Furthermore, resolving matters outside of court reduces criminal repercussions for the perpetrator, even though victims naturally desire a just penalty (victims always expect a harsh punishment). Victims are generally awarded compensation, which, no matter how large, is insufficient to compensate for the losses they have incurred. This arises because pressure from certain parties, particularly officials, leaves victims with no choice except to settle their cases outside of court. This condition puts them in a position of secondary victimization. As a result, requiring court-resolved sexual violence cases reduces the probability of secondary victimization. Within his conception of law as a socio-ethical order, Aristotle understood corrective justice as a principle aimed at restoring fairness by rectifying wrongful conduct and providing appropriate redress to individuals who have suffered harm or injustice.<sup>53</sup> Criminals must face consequences. Similarly, in this type of violence, after the culprit has committed the crime of sexual violence, they should face legal consequences through the criminal justice system. This at least gives compensation and justice for the harmed victims.

Prohibiting out-of-court settlements serves as a strategic measure to curb secondary victimization from a gender perspective. Eddyono's research indicates that previous restorative approaches often failed to deliver justice, as women's

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<sup>49</sup> Novianti.

<sup>50</sup> Kumolohadi.

<sup>51</sup> Alimatul Qibtiyah, 'Interview with Professor of Gender: Alimatul Qibtiyah' (Yogyakarta, 2025).

<sup>52</sup> *Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual*.

<sup>53</sup> Bernard L Tanya, Yoan N Simanjuntak and Markus Y Hage, *Teori Hukum* (Yogyakarta: Genta Publishing, 2013).

positions were systematically undermined.<sup>54</sup> Thus, bypassing the judicial system in sexual violence cases inherently compromises gender equality. Psychologists also report that while victims are frequently motivated to seek legal justice, they are often hindered by systemic barriers. Counseling sessions are therefore crucial for helping victims navigate their options, with psychologists frequently advocating for formal legal proceedings to protect the victim's rights.<sup>55</sup> In summary, from a psychological perspective, counseling sessions can empower victims to maintain their resolve in pursuing legal action. Furthermore, it is fundamentally unacceptable for crimes that constitute human rights violations to be settled out of court without criminal punishment. The mandate requiring sexual violence cases to be resolved through the judiciary aligns with the objectives of feminist legal theory, which advocates for legal provisions that robustly strengthen the protection of female victims.

However, interviews with psychologists also revealed that resolving cases through the long-term criminal justice system increases the victim's psychological stress.<sup>56</sup> Based on feminist legal theory, which advocates for women's experiences to be considered in legal drafting, the impact of increased psychological stress on victims on the criminal justice system must also be considered. This means that forcing resolution through the criminal justice system may not always be beneficial for victims. The next provision addresses victim advocates, who must possess several competencies from a gender and human rights perspective and have received training related to handling the case. The gender of the advocate is also taken into consideration, with preference given to those of the same sex as the victim.<sup>57</sup> All of these provisions can be found in Article 26. This regulation also prevents secondary victimization during the various stages of the advocate's support and the recurrence of the same crime. This has occurred at the Integrated Service Center for the Empowerment of Women and Children (P2TP2A) or the East Lampung Safe House, where the advocate, who should have provided support and protection, instead perpetrated sexual violence against the victim.<sup>58</sup> Other data also shows that vulnerable groups (women), whether victims or perpetrators, report that 1.5% have experienced sexual violence by state officials. This provision can certainly minimize secondary victimization by advocates.<sup>59</sup> This provision will likely reduce secondary victimization among caregivers.

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<sup>54</sup> Sri Wiyanti Eddyono, 'Restorative Justice for Victim ' s Rights on Sexual Violence : Tension in Law and Policy Reform in Indonesia', *Journal of Southeast Asian Human Rights* , 5.2 (2021), 176–201 <https://doi.org/10.19184/jseahr>.

<sup>55</sup> Kumolohadi; Novianti.

<sup>56</sup> Novianti; Kumolohadi.

<sup>57</sup> *Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual*.

<sup>58</sup> Heri Fulistiawan, 'Cabuli Gadis 13 Tahun, Pendamping Korban Kekerasan Divonis Kebiri Kimia', *Sindonews.Com*, 2021 <https://daerah.sindonews.com/read/331874/174/cabuli-gadis-13-tahun-pendamping-korban-kekerasan-divonis-kebiri-kimia-1613019725> [accessed 8 February 2024].

<sup>59</sup> Arsawati and others.

Long before the TPKS Law, victim protection was completely absent from the Criminal Procedure Code (KUHP) and only briefly mentioned in other specific criminal laws, particularly those about female victims. According to Feminist Legal Theory (FLT), the law is developed in a male-centered framework, with a focus on male experience and power while neglecting women's perspectives.<sup>60</sup> This is why earlier legislation had limited measures for protecting female victims. However, the law should also take into account the victim's perspective, particularly for female victims, who are overrepresented in cases of sexual violence. Finally, the FLT movement is now beginning to bear fruit with the emergence of laws that favor female victims, such as the TPKS Law. Victim assistants are appointed based on specialized criteria, most notably gender competence and the advancement of gender equality.<sup>61</sup>

Forms of revictimization or secondary victimization and protection efforts have been discussed in Sheren Sesiola's research entitled *Legal Protection for Child Victims of Violence Who Experience Revictimization (Secondary Victims)*, Margie G. Sopacua's research entitled *Victimization in the Criminal Justice Process (Rape Case Study)*, and Graciela Natasha's research entitled *Comparison of Criminal Justice Systems between Indonesia and Malaysia regarding Sexual Violence*. However, there is another interesting finding from our research that has not been found in the literature we studied. Psychologists say that victims tend to be reluctant to resolve cases through the criminal justice system due to the long time it takes to resolve cases. This time can also create secondary victimization for victims, which harms their psychology.

Another innovation that the author observes remains unaddressed by the Law on Sexual Violence Crimes (TPKS) is a specific time limit for court decisions in sexual violence cases. This observation aligns with the insights provided by psychologists, who note that victims are often reluctant to pursue legal action due to the excessively lengthy proceedings.<sup>62</sup> Key obstacles in sexual violence litigation include evidentiary hurdles, ongoing psychological trauma, and the slow realization of victim rights. Establishing a statutory timeframe is essential to urge law enforcement toward swifter case management. This is particularly vital given that evidence in these cases is often fragile and easily compromised. Moreover, aligning with psychological findings, legal proceedings often prolong the victim's suffering. Thus, a faster process is a form of trauma mitigation. Rapid resolution also accelerates the delivery of recovery rights mandated by the UU TPKS, such as restitution, compensation, and comprehensive rehabilitation. From feminist legal theory, this innovation significantly protects the position of women, who are disproportionately represented as victims of sexual violence. Expediting the legal

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<sup>60</sup> Tanya, Simanjuntak and Hage.

<sup>61</sup> Qibtiyah.

<sup>62</sup> Kumolohadi; Novianti.

process inherently provides essential relief for the victim. Furthermore, it effectively minimizes the opportunity for secondary victimization, which as previously established, it often stems from law enforcement officials and a criminal justice system that remains indifferent to the victim's plight.

Furthermore, Indonesia currently has provisions regarding sexual violence occurring in higher education institutions that impose limited administrative sanctions, with resolution outside the courts. Furthermore, the TPKS Law upholds the principle of the best interests of the victim. According to Alimatul Qibtiyah, these interests include ensuring the best interests of the victim in the case resolution process,<sup>63</sup> including considering the victim's psychological well-being.

#### ***ASHA: Protection against Secondary Victimization and Comparison with the TPKS Law***

This study found that ASHA also includes several provisions that can minimize secondary victimization, which originates from the criminal justice system and the authorities involved. It should be emphasized that the justice system referred to in ASHA is not the same as the criminal justice system in general. Rather, it is a tribunal justice system that aims to restore the losses suffered by victims of sexual violence.

Table 2. Findings of Secondary Victimization Rules in the ASHA

| Related                               | Contents of the Article                                                                        |
|---------------------------------------|------------------------------------------------------------------------------------------------|
| <b>Competence of Apparatus</b>        | Only those with knowledge or practical experience related to sexual harassment                 |
| <b>Prohibition of the authorities</b> | Those who discredit the Tribunal through their behavior may have their membership disqualified |
| <b>Case Settlement</b>                | Closed trials                                                                                  |
| <b>Apparatus prerequisites</b>        | The requirement for women's involvement in the Panel                                           |

Source: Processed by the Authors, Based on ASHA

In accordance with the goal of this law, which is to give victims of sexual violence the ability to seek compensation through a Tribunal, many requirements for creating the Tribunal are included. Therefore, this law stipulates several provisions for establishing the Tribunal. Below, the author outlines several provisions that the author believes can help minimize secondary victimization. Part II, Chapter I, Number 4, point (c), states that only those with knowledge or practical experience related to sexual harassment can become members of the Tribunal. A related provision is found in Part II, Chapter I, Number 5, point (d), where those who discredit the Tribunal through their behavior may have their membership disqualified.<sup>64</sup>

<sup>63</sup> Qibtiyah.

<sup>64</sup> *The Anti-Sexual Harassment Act 2022*, 2022.

The two provisions discussed above provide important safeguards for reducing the risk of secondary victimization among victims of sexual violence. Officials who possess adequate knowledge, professional competence, and practical experience in addressing sexual violence are better equipped to respond to victims sensitively and manage cases without causing additional psychological harm. Although the Malaysian framework reflects a similar principle, the TPKS Law establishes more detailed requirements concerning the competence and qualifications of officials responsible for handling sexual violence cases. In particular, the TPKS Law requires relevant officials to demonstrate a comprehensive understanding of sexual violence, apply a human rights perspective, recognize victims' experiences and vulnerabilities, and adopt a victim-oriented approach throughout the legal process. These requirements strengthen institutional capacity to prevent insensitive treatment, inappropriate questioning, victim blaming, and other practices that may contribute to secondary victimization. Provision 5(d) emphasizes the importance of integrity, dignity, and appropriate conduct in determining an individual's eligibility to serve as a member of the Tribunal. In comparison, the TPKS Law adopts a more specific approach by expressly defining forms of conduct prohibited for officials involved in handling sexual violence cases. The law prohibits officials from disregarding the human rights, dignity, and personal integrity of victims, engaging in intimidation, blaming victims, or judging them on the basis of their lifestyle, morality, or sexual history. It also requires officials to avoid questions or forms of examination that may trigger traumatic experiences or cause further psychological harm. These provisions demonstrate a more explicit effort to prevent institutional practices that may expose victims to secondary victimization during legal proceedings.

These requirements can contribute to reducing the risk of secondary victimization among survivors of sexual violence who seek remedies through the Tribunal. The conduct, integrity, and professional attitudes of Tribunal members directly influence how they interact with victims and respond to their experiences throughout the proceedings. Appropriate conduct therefore serves not merely as a formal qualification for Tribunal membership but also as an institutional safeguard that protects victims from intimidating, insensitive, judgmental, or degrading treatment. This perspective corresponds with the concept of law as an instrument for achieving justice, since effective victim protection depends on both the quality of legal norms and the manner in which legal institutions implement them. Lawrence M. Friedman's legal system theory provides a relevant framework for understanding this relationship. Friedman identifies three interconnected elements that determine the operation of a legal system: legal substance, legal

structure, and legal culture.<sup>65</sup> From the perspective of secondary victimization, legal substance establishes the normative standards for victim protection, while legal structure determines how Tribunal members and other responsible authorities implement those standards in practice. Legal culture further shapes institutional attitudes and broader social responses toward victims of sexual violence. Effective protection against secondary victimization therefore requires these three elements to operate coherently. Comprehensive legislation alone cannot provide meaningful protection when institutional actors lack appropriate competence and sensitivity or when prevailing legal and social cultures continue to tolerate practices that blame, stigmatize, or disadvantage victims.

From a psychological perspective, this provision can certainly reduce the impact of trauma on victims of sexual violence during the handling of their cases. Results of the psychologist's interview that the victim's psychological state is profoundly affected by the initial response of law enforcement. The conditions of victims cannot be compared to those of perpetrators, and victims suffer a variety of negative consequences as a result of sexual abuse, for example, prolonged trauma.<sup>66</sup> Officers who understand the practical aspects of sexual violence will understand which actions can increase the victim's trauma and which ones won't. Significant impacts of training on sexual violence include improved officer perceptions, decisions to process cases, and police knowledge and behavior.<sup>67</sup> From a feminist legal theory perspective, this provision demonstrates the inclusion of women's experiences in existing regulations, highlighting the frequent secondary victimization experienced by victims at the hands of law enforcement. Understanding sexual violence will make it easier for law enforcement to process cases. This provision appears to have taken into account women's experiences.

The requirement for women's involvement in the Panel is stipulated in Part II, Chapter I, Number 12, point (2).<sup>68</sup> Given that women make up the majority of victims of sexual abuse, including them on the Tribunal panel can help to reduce secondary victimization.<sup>69</sup> Women will naturally hold different viewpoints from men. At the very least, it can reflect women's experiences in general. This is consistent with Feminist Legal Theory, which advocates for the inclusion of women's perspectives in judicial procedures. Women's involvement empowers

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<sup>65</sup> Izzy Al Kautsar and Danang Wahyu Muhammad, 'Sistem Hukum Modern Lawrance M. Friedman: Budaya Hukum Dan Perubahan Sosial Masyarakat Dari Industrial Ke Digital', *Jurnal Sapientia et Virtus*, 7.2 (2022), 84–99 <https://doi.org/https://doi.org/10.37477/sev.v7i2.358>.

<sup>66</sup> Emilio Ulloa and others, 'Posttraumatic Growth and Sexual Violence: A Literature Review', *Journal of Aggression, Maltreatment & Trauma*, 25.3 (2016), 286–304 <https://doi.org/10.1080/10926771.2015.1079286>.

<sup>67</sup> David S. Lapsey Jr and others, 'Evaluating the Impact of Sexual Assault Training on Police Officers: A Systematic Review and Meta-Analysis', *Journal of Criminal Justice*, 95 (2024) <https://doi.org/https://doi.org/10.1016/j.jcrimjus.2024.102321>.

<sup>68</sup> *The Anti-Sexual Harassment Act 2022*.

<sup>69</sup> Liqing Li and others, 'Sexual Violence against Women Remains Problematic and Highly Prevalent around the World', *BMC Women's Health*, 23.196 (2023), 1–9 <https://doi.org/https://doi.org/10.1186/s12905-023-02338-8>.

them to express themselves and participate actively, including in affirmative action.<sup>70</sup> The TPKS Law also requires that women be involved in the treatment of sexual violence cases. This includes ensuring that officers of the same gender as the victim are assisted in the assistance process (where the majority of victims are women, female officers are expected to also assist).

Closed trials are regulated in Part II, Chapter I, Number 14.<sup>71</sup> As the author stated previously, the stigmatization of sexual violence as a major shame that must be covered up and affects the mental state of the victim is still strong; holding closed trials also protects victims of sexual violence from other forms of secondary victimization. Such as news that uses casual language to attract people to read without considering the victim, substance related to the victim's identity, and so on.<sup>72</sup> In Indonesia, for cases involving elements of morality or children, the trial of cases is regulated by closed courts.<sup>73</sup> From a psychological perspective and a feminist legal theory perspective, this provision can also reduce the impact of trauma on victims who receive a verdict that does not meet their expectations, which is also the experience of many female victims of sexual violence. According to Lucia Peppy, a psychologist who has worked with survivors of sexual abuse, the likelihood of recurring memories of sexual violence exists indefinitely.<sup>74</sup> At the very least, these two methods enable victims to fight for their rights.

The similarities between several provisions in both countries are that they both accommodate protection against secondary victimization through competence, prohibitions, case resolution, and apparatus prerequisites. The differences are evident in the competence and prohibitions, which the TPKS Law regulates more comprehensively, as previously described. Regarding case resolution, the TPKS Law states that it cannot be resolved outside of court, while ASHA stipulates that trials must be held behind closed doors. In Indonesia, cases involving immoral content are also held behind closed doors. Regarding conditions of involvement, both countries stipulate the same requirement that women must be present in the case handling process. However, other research findings found that ASHA still has flaws. The Tribunal can prosecute perpetrators of sexual violence if their identities are revealed. The Tribunal cannot prosecute a perpetrator whose identity is unknown. Furthermore, *a quo* law cannot require the removal of content

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<sup>70</sup> Parid Sidik, 'Keterwakilan Perempuan Dalam Politik Di Indonesia Perspektif Legal Feminism', *At-Tanwir Law Review*, 2.1 (2022), 90–101 <https://doi.org/10.31314/atlarev.v2i1.1856>.

<sup>71</sup> *The Anti-Sexual Harassment Act 2022*.

<sup>72</sup> Febra Anjar Kusuma and others, 'Analisis Studi Kasus Dampak Sosiologis Terhadap Korban Pelecehan Seksual Di Indonesia', *SOSMANIORA (Jurnal Ilmu Sosial Dan Humaniora)*, 4.1 (2025), 77–88 <https://doi.org/10.55123/sosmaniora.v4i1.4927>.

<sup>73</sup> Rizqi Nurul Awaliyah, *Sifat Pelaksanaan Persidangan Yang Tertutup Untuk Umum Pada Perkara Tindak Pidana Kekerasan Dalam Rumah Tangga* (Sumedang) [https://pn-sumedang.go.id/file\\_jama/Paper 2 sidang tertutup untuk umum perkara KDRT Nurul.pdf](https://pn-sumedang.go.id/file_jama/Paper%20sidang%20tertutup%20untuk%20umum%20perkara%20KDRT%20Nurul.pdf) [accessed 25 August 2025].

<sup>74</sup> Novianti.

that has aspects of harassment.<sup>75</sup> The TPKS Law regulates one of the victims' rights, the right to be forgotten, as outlined in Article 66 letter i.<sup>76</sup> This means that the TPKS Law provides a more comprehensive understanding of this victim's rights than the ASHA Law. Failure to remove sexual content from victims will undoubtedly increase the victim's psychological burden and lead to secondary victimization. However, this secondary victimization does not originate from the criminal justice system and authorities. Therefore, it was not the regulation the authors focused on in this study.

Several key points from the research findings by Graciela Natasha Tesselonica Lektonpessy and Irfa Ronaboyd indicate that Indonesia could adopt a tribunal like Malaysia's as an alternative for victims, as it is considered easily accessible, less complicated and expensive, and less likely to cause victims to report to authorities. It is further stated that this effort could be implemented by establishing a special court for sexual violence, similar to a corruption court and a juvenile court.<sup>77</sup> This is good because it can minimize secondary victimization by avoiding lengthy judicial processes. However, is this meant to be a trial for compensation alone, or a criminal trial, such as a corruption trial? If the intended purpose is a tribunal, like in Malaysia, then the focus is only on compensation for the perpetrator, not the handling of sexual violence crimes as in conventional courts. If a specialized court, such as a corruption court, is recommended, then there should be no difference from conventional courts (the lengthy process). The only difference is the specific nature of the crimes within its jurisdiction.<sup>78</sup> To avoid confusion, the special court in question should not be modeled after a corruption trial. The trial process for corruption is more or less the same as in other general courts. Respondents had unpleasant emotions and virtually all experienced secondary victimization, with the majority believing they were treated worse. One of the reasons for this is the lengthy case-handling procedure.<sup>79</sup>

However, the authors' findings from a psychological and FLT perspective reveal different findings. First, victims of sexual violence experience trauma. Second, resolving the situation through criminal justice can generally lead to increased psychological distress (trauma). Substantial research has been conducted on the unpleasant experiences of crime victims after they become victims, both within society and in organizations associated with law enforcement

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<sup>75</sup> Pavitra Kalaiselvan, Haezreena Begum, and Jal Zabdi, 'Cyber Sexual Harassment & Victim Protection Laws: A Comparative Study of Malaysia, Singapore, and Australia', *Journal of Malaysian and Comparative Law*, 51.1 (2024) <https://ejournal.um.edu.my/index.php/JMCL/article/view/62060> [accessed 24 August 2025].

<sup>76</sup> Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual.

<sup>77</sup> Lektonpessy and Ronaboyd.

<sup>78</sup> Dean Raphael Pakasi, Daniel Franzel Aling and Bobby Pinasang, 'Penindakan Hukum Tentang Tindak Pidana Korupsi Oleh Militer Yang Menduduki Jabatan Sipil', *Lex Privatum*, 14.2 (2024).

<sup>79</sup> Amelia Roskin-Fraze, "'Terrifying and Exhausting": Secondary Victimization in Title IX Proceedings at U.S. Higher Education Institutions', *Feminist Criminology*, 18.2 (2023), 114-32 <https://doi.org/10.1177/15570851221105853>.

and the criminal justice system.<sup>80</sup> Most studies refer to secondary victimization as the distress endured by a victim of an offence due to the negative psychological, social, legal, and financial impact of being processed by the justice system and the victim's relationship with the criminal legal system.<sup>81</sup> This woman's experience should be accommodated in the law. Demands for provisions to minimize secondary victimization are essential, as this is also based on the experiences of female victims. Feminist legal theory states that the law must consider women's experiences.<sup>82</sup>

Therefore, the most appropriate and feasible approach, based on previous research, is to follow the Malaysian tribunal's expedited provisions, which do not limit compensation. However, it will be challenging to see whether a quick trial like the Malaysian tribunal can be implemented, while adapting to the Indonesian legal system while also accommodating criminal justice, which goes beyond compensation. Another aspect that must be considered is that the TPKS Law adheres to the principle of the best interests of the victim, even placing it above the principles of legal certainty, justice, and expediency.<sup>83</sup> Therefore, it is no longer a question of what form the trial takes. Rather, it is a matter of prioritizing what is best for the victim.

The TPKS and ASHA Laws regulate protection against secondary victimization that may arise from the judicial system and authorities. Regarding the competence and prohibitions of officers, the TPKS Law provides more comprehensive provisions. The difference lies in the form of case resolution. The author's findings suggest that, to address victim trauma as a form of protection against secondary victimization, it is necessary to update Article 23 of the TPKS Law by adding exceptions to cases that can be resolved outside the courts. This idea further demonstrates strengthening victim protection from secondary victimization that arises from the criminal justice system and authorities. The best interests of the victim are prioritized as a key point in resolving sexual violence cases.<sup>84</sup> Forcing victims to resolve cases through criminal justice, while the victims are actually unable to follow the existing process due to trauma, will actually create a gap for secondary victimization to occur. Research from a psychological perspective indicates that experiences of secondary victimization (legal system) and negative social reactions are the most significant factors in post-traumatic stress disorder

<sup>80</sup> Antony. Pemberton and Eva Mulder, 'Bringing Injustice Back in: Secondary Victimization as Epistemic Injustice', *Criminology and Criminal Justice*, 2023, 1–20 <https://doi.org/10.1177/17488958231181345>.

<sup>81</sup> Miguel Clemente and Dolores Padilla-Racero, 'The Effects of the Justice System on Mental Health', *Psychiatry, Psychology and Law*, 27.5 (2020), 865–79 <https://doi.org/10.1080/13218719.2020.1751327>.

<sup>82</sup> Aditya Yuli Sulistyawan, 'Feminist Legal Theory Dalam Telaah Paradigma: Suatu Pemetaan Filsafat Hukum', *Masalah - Masalah Hukum*, 47.1 (2018), 56–62 <https://doi.org/https://doi.org/10.14710/mmh.47.1.2018.56-62>.

<sup>83</sup> Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual.

<sup>84</sup> Qibtiyah.

severity.<sup>85</sup> Thus, the implementation of tribunal justice, similar to Malaysia's, is feasible if it can be adapted to the Indonesian legal system and regulates matters beyond compensation. However, it is more recommended that case resolution be based on what is in the best interests of the victim, as emphasized by the principle of the best interests of the victim. Malaysia should also consider this principle to minimize secondary victimization of sexual violence victims.

## Conclusion

The TPKS Law and ASHA contain several provisions that contribute to preventing secondary victimization, particularly through requirements concerning officer competence, prohibited conduct, procedural safeguards, adjudicatory mechanisms, and institutional involvement. Although both legal frameworks share similar protective principles, important differences remain. The TPKS Law establishes more detailed competency requirements for officials handling sexual violence cases, while the Indonesian framework places greater emphasis on resolving cases through the criminal justice system. Interviews with psychologists indicate that victims commonly experience psychological trauma following sexual violence and that prolonged involvement in criminal proceedings may intensify their existing distress. Repeated questioning, recollection of traumatic experiences, lengthy proceedings, and insensitive institutional responses may cause further psychological harm and increase the risk of secondary victimization. Feminist Legal Theory supports this finding by emphasizing that legal rules should recognize women's experiences, vulnerabilities, and interests rather than treating victims merely as participants in criminal proceedings.

Malaysia's Tribunal mechanism, particularly its capacity to provide relatively expeditious remedies and compensation, offers a relevant regulatory lesson for Indonesia. However, Indonesia should not simply transplant the Malaysian model because differences in legal institutions and procedural structures require contextual adaptation. A more appropriate reform would involve reconsidering Article 23 of the TPKS Law. The requirement to resolve sexual violence cases through formal legal proceedings serves an important purpose by preventing informal settlements that may pressure victims, conceal perpetrators' responsibility, or undermine access to justice. Nevertheless, rigid application may create additional harm when formal proceedings aggravate trauma and expose victims to repeated institutional pressure. Indonesia should therefore consider introducing narrowly defined exceptions that allow certain cases to use appropriate mechanisms outside conventional court proceedings. Such exceptions should require voluntary and informed consent, professional assessment of the victim's psychological condition, adequate procedural safeguards, and careful

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<sup>85</sup> Jungtae Choi, Jae-Won Kim, and Kihyun Kim, 'Associations of Secondary Victimization and Social Reactions with PTSD Symptoms among Young Adult Female Survivors of Sexual Assault in South Korea', *Children and Youth Services Review*, 180 (2026) <https://doi.org/10.1016/j.childyouth.2025.108676>.

consideration of the victim's best interests. This reform would not eliminate perpetrator accountability but would strengthen a victim centered framework that balances legal accountability, access to justice, psychological recovery, and protection against secondary victimization.

## Acknowledgement

The authors are really thankful to the financial support provided by the Indonesian Education Scholarship (BPI), the Center for Higher Education Funding and Assessment Ministry of Higher Education, Science, and Technology of Republic Indonesia (PPAPT), and the Indonesian Endowment Fund for Education (LPDP).

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