



A Legal Analysis of the Shift from the Principle of Corroboration to a Victim-Centered Approach in the TPKS Law

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Article	Abstract
Keywords: principle of corroboration; sexual violence; criminal evidence; victim-centered approach; TPKS Law. Article History Received: Apr 17, 2026; Reviewed: Apr 22, 2026; Accepted: Apr 29, 2026; Published: May 1, 2026;	<i>Cases of sexual violence in Indonesia often encounter evidentiary barriers due to strict requirements in the Criminal Procedure Code (KUHAP), including the need for at least two valid pieces of evidence and the principle of unus testis, nullus testis. These provisions tend to disadvantage victims, as such crimes usually occur without witnesses and leave limited physical evidence. This study examines the shift toward a victim-centered approach under Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) and its implications for the evidentiary system. Using normative legal research with statutory and conceptual approaches, the study finds that the UU TPKS introduces significant reforms. It expands the scope of admissible evidence and strengthens the evidentiary value of victims' testimonies, allowing them to be sufficient when supported by at least one additional valid piece of evidence. The law also recognizes scientific evidence, including expert testimony from forensic psychologists and psychiatrists, to support judicial conviction. Overall, this shift marks a transition from a rigid, formalistic evidentiary system to a more substantive, victim-oriented approach. Thus, the victim-centered approach in the TPKS Law represents a progressive reform of criminal procedure aimed at achieving more inclusive and just justice for victims, without neglecting the protection of the rights of suspects or defendants.</i>



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INTRODUCTION

Sexual violence is an act that degrades, harasses, or attacks a person's body and reproductive functions as a result of power imbalances or gender differences, which can cause physical and psychological suffering and disrupt reproductive health. This phenomenon is becoming increasingly common, even in educational settings such as schools, universities, and Islamic boarding schools, making it a serious issue in human development in Indonesia.(Efren Nova, 2025) According to the 2021 National Survey on Women's Life Experiences (SNPHPN), approximately 1 in 4 women aged 15–64 have experienced physical or sexual violence, while 34% of boys and 41% of girls aged 13–17 have also experienced one or more forms of violence.(Sopyandi, 2023)

Many sexual violence cases stall during the investigation or result in acquittal due to the difficulty of meeting the evidentiary standards of the Criminal Procedure Code (Articles 183–184), which require at least two valid pieces of evidence and the judge's conviction—in cases that almost always occur in private and without eyewitnesses. The principle of “*unus testis nullus testis*” (one witness is no witness) in Article 185 of the Criminal Procedure Code (KUHP) means that the testimony of a single victim is often insufficient to convict the perpetrator, thereby contributing to acquittals or the dismissal of cases.(Adi Herisasono, Anggraini Rosiana Efendi, 2023) At the investigative stage, cases are often not pursued or reports are withdrawn because the victim is unsure there is sufficient evidence, fears stigma, or is in a power or emotional relationship with the perpetrator, causing the legal process to halt before it reaches trial.(Putri, 2022)

The Criminal Procedure Code (Articles 183 and 185(2)) requires at least two pieces of valid evidence and upholds the principle of “*unus testis nullus testis*”: a single witness alone is insufficient to prove the defendant's guilt. In cases of sexual violence, incidents almost always occur in closed spaces, involving only the perpetrator and the victim; the victim is often the sole eyewitness. Consequently, the requirement for two witnesses or one witness plus other strong evidence is often difficult to meet, resulting in the defendant's acquittal. The “*unus testis nullus testis*” principle, established to protect the defendant, actually conflicts with the nature of sexual violence, which almost always occurs without eyewitnesses. Without a flexible interpretation and the full utilization of non-physical and electronic evidence, this conflict will continue to perpetuate a gap in justice for victims.

After more than ten years of advocacy, the Draft Law on Sexual Violence Crimes (RUU TPKS) was finally officially enacted into law on April 12, 2022. Law No. 12 of 2022 (the TPKS Law) significantly shifts the focus of evidence from “case-centered” to victim-centered and from crimes against public decency to serious human rights violations, requiring a reconstruction of how judges, prosecutors, and investigators evaluate evidence.(Iyan Masita Wahid1, 2025)

Thus, the paradigm shift in the burden of proof introduced by the TPKS Law is crucial to examine from a legal perspective, particularly in assessing the extent to which the transition from the principle of corroboration toward a victim-centered

approach can address the limitations of the conventional evidentiary system and deliver more substantive justice for victims of sexual violence.

METHOD

This study is a normative legal study employing a statutory approach and a conceptual approach, focusing on a legal analysis of the paradigm shift in the burden of proof from the dominance of the corroboration principle toward the strengthening of a victim-centered approach following the enactment of No. 12 of 2022 on Sexual Violence Crimes. The data sources relied upon consist of primary legal materials, including the Criminal Procedure Code (KUHAP) and the Sexual Violence Crimes Act (UU TPKS); secondary legal materials derived from literature, academic journals, and legal scholars' doctrines; as well as tertiary legal materials serving as supporting instruments to clarify terminology. The collection of legal materials was conducted through library research, which was then analyzed qualitatively using a descriptive-analytical method to thoroughly examine the shift in the orientation of proof in Indonesian criminal procedure law. The process of drawing conclusions in this study was conducted using deductive logic, namely by deriving propositions from general legal norms to address the specific legal issues that are the subject of this study in a systematic and comprehensive manner.

RESULTS AND DISCUSSION

The defendant's testimony constitutes valid and strong evidence in criminal cases (criminal case evidence) however, it is always necessary to supplement this with other forms of evidence (witness testimony), thereby establishing its validity and strength as provided for in the Criminal Procedure Code. In imposing a sentence, the judge must rely on two valid pieces of evidence, from which the judge must be convinced that the alleged criminal act actually occurred and that the defendant committed it, as stipulated in Article 183 of Law No. 8 of 1981 on the Criminal Procedure Code. This principle is reflected in the case of the murder of Nofriansyah Yosua Hutabarat involving Ferdy Sambo, where the court relied on multiple forms of evidence such as witness testimonies, electronic evidence, and expert opinions to meet the requirement of at least two valid pieces of evidence and establish judicial conviction in line with Article 183 KUHAP. However, in practice, these evidentiary requirements are often not fully aligned with an approach that places the victim at the center of the criminal justice process.

Victimology theory emphasizes the importance of a victim-centered approach in delivering justice to victims of sexual violence, with a focus on comprehensive legal protection and the victim's psychological recovery. In the context of higher education in Indonesia, regulations such as Minister of Education Regulation No. 55 of 2024 and the Law on Sexual Violence Crimes already provide for victim protection; however, the implementation of a more victim-oriented approach still needs to be strengthened

to ensure substantive justice. Studies in Nigeria and several other countries indicate that criminal justice systems adopting restorative justice mechanisms and victim-centered approaches can improve victims' access to justice and effective support, although challenges such as a lack of resources and oversight persist. Restorative justice approaches are also considered crucial for helping victims recover from trauma by facilitating agreements between victims, perpetrators, families, and the community without coercion. Furthermore, social stigma against victims often serves as a major barrier to obtaining adequate protection and justice, making the management of this stigma an urgent priority in efforts to provide specialized protection for victims of sexual violence. The Islamic legal perspective also highlights the need to prioritize the best interests of the victim as a core principle within the legal system to ensure holistic and responsive protection tailored to the victim's needs. In line with this perspective, Law No. 12 of 2022 on Sexual Violence Crimes (TPKS Law) is founded on respect for human dignity and a commitment to supporting victims.

Law No. 12 of 2022 on Sexual Violence Crimes (TPKS Law) is founded on respect for human dignity and a commitment to supporting victims. These principles are reflected in the law's objectives of prevention, response, victim recovery, and the fair and gender-equitable punishment of perpetrators. The substance of the TPKS Law emphasizes preventive measures, victim assistance and recovery, the imposition of legal sanctions, the creation of a safe environment free from sexual violence, and guarantees to prevent the recurrence of violence. This is referred to as the implementation of respect for human dignity and the prioritization of the best interests of the victim. The TPKS Law does not differentiate criminal sanctions based on the type of crime; this is viewed as a form of respect for human dignity in all social relationships. The TPKS Law is positioned as the state's commitment to guaranteeing human rights, marking a shift in focus from merely punishing perpetrators to prioritizing the recovery and protection of victims aspects that were previously often neglected. The expansion of the definition of a victim to include not only women but also men and other vulnerable groups is an expression of gender justice and recognition of the dignity of all people. The implications of this broad definition of a victim are also evident in the shift in the burden of proof paradigm, particularly in cases of sexual violence, which often face challenges due to limitations in physical evidence or delays in reporting by victims.

A. A Shift in the Paradigm of Proof

In cases of sexual violence, the requirement for physical evidence (medical examination) plus at least one other piece of evidence often clashes with reality: many cases leave no clear physical traces, or victims report the incident too late. Forensic research and legal studies indicate that an overreliance on physical evidence allows many perpetrators to evade justice, even when violence is highly likely to have occurred.

1. Limitations of Physical Evidence/Medical Examinations

Injuries are often absent or subtle, A large study in Brazil found that only 14.8% of 11,725 reports of child/adolescent rape could be “confirmed” through physical findings; 85–96% of examinations resulted in “inconclusive” or “undetermined” findings even though the victims reported sexual violence. Examinations in Pakistan showed that only 13% of female victims had genital injuries, even though 79.2% of vaginal swabs tested positive for semen; among males, many lacked the complete combination of “injuries + biological evidence.” This review confirms that sexual violence can occur without visible injuries, so the absence of injuries should not be interpreted as “no rape”.

2. Issues of Timing & Medical Procedures

The longer it takes to examine a victim, the lower the likelihood of finding injuries or DNA; only 2% of victims who present more than 7 days later still have clinical findings that support the case. Delays, improper collection, and laboratory backlogs often render biological samples inadmissible as evidence, even though the examinations are highly invasive for the victim.

3. Legal System Bias: Overreliance on Physical Evidence

Many question whether the law and practice place too much emphasis on the medical examination as the primary evidence; when physical findings are “negative/inconclusive,” cases are often dismissed. An Italian study shows that convictions occur more frequently when there is clinical documentation combined with other evidence (other witnesses, a history of repeated violence, use of weapons), while medical documents “alone” rarely determine the outcome.

This situation highlights serious limitations in the conventional evidentiary system, which relies too heavily on physical evidence and is therefore often unable to accommodate the specific characteristics of sexual violence crimes. Therefore, Article 25 of the TPKS Law introduces a significant change by affirming that the testimony of the victim or a witness, supported by one other valid piece of evidence, is sufficient to prove the perpetrator’s guilt unlike the more rigid approach of the Criminal Procedure Code (KUHAP), which does not give special weight to the victim’s testimony. Article 25 of the TPKS Law significantly alters the standard of proof for sexual violence cases. In essence, the victim’s/witness’s testimony plus one other valid piece of evidence is sufficient to convict the perpetrator, unlike the Criminal Procedure Code (KUHAP), which requires a minimum of two pieces of evidence without giving special weight to the victim.

Article 24 of the TPKS Law expands the types of evidence beyond the five classic types of evidence under the Criminal Procedure Code (KUHAP):

Types of Evidence under the TPKS Law	Examples	Source
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Victim testimony	Detailed narrative of the victim's experience at all stages of the process	(Nova & Elda, 2022)
Medical/forensic evidence	Medical records, forensic reports, physical/psychological examinations	(Nuari, 2021)
Electronic documents	Chats, photos, videos, audio recordings, screenshots	(Wulandari & Sugama, 2025)
Expert statements (psychologist/psychiatrist)	Clinical psychological/psychiatric reports on the victim's trauma	(Nuari, 2021)
Other physical evidence	Objects related to the act (clothing, tools, etc.)	(Mardianto et al., 2024)

TABLE 1 Types of evidence that can be used by the TPKS

This expansion is crucial for non-physical and technology-based violence, which is often not directly witnessed by a third party. Article 25 states: testimony from a witness and/or the victim is sufficient to prove the perpetrator's guilt if accompanied by at least one other valid piece of evidence. This differs from past practices that often interpreted the Criminal Procedure Code (KUHP) narrowly, leading to the view that the victim's testimony alone was insufficient to prove guilt. In cases of non-physical sexual violence, research confirms that the victim's testimony holds significant value, but it must still be supported by other forms of evidence (electronic evidence, evidence under the Criminal Procedure Code, relevant physical evidence) to achieve full probative value.(Lestari et al., 2025) This standard is designed to address the classic challenges faced by victims: the scarcity of direct witnesses, trauma, and barriers to recounting the incident. Article 25 reinforces a victim-centered orientation within a gender-just integrated judicial system, while maintaining the principle of proof through the requirement of one additional valid piece of evidence and the judge's conviction.(Putri, 2022) This strengthening of evidentiary standards subsequently implies the implementation of a victim-centered approach that demands the use of modern corroboration, particularly through the support of forensic psychology and psychiatry in evaluating the victim's testimony. In this context, the TPKS Law not only reaffirms the victim as a legal subject who must be protected but also encourages judicial practices to recognize scientific evidence as a valid and relevant means of proof in cases of sexual violence.(Pandu Irawan Riyanto(1*), 2025)

B. Implementation of a Victim-Centered Approach

Cases of sexual violence often lack physical evidence and witnesses, thus requiring modern corroboration through psychology and psychiatry, as well as a reevaluation of victims' rights and judges' discretion in assessing evidence. (Prianter Jaya Hairi, 2023) The TPKS Law positions victims as rights-holders, while judicial practice is beginning to recognize forensic psychological and psychiatric reports as valid and compelling scientific evidence. (Aghna Laili, Rangga Jayanuarto, Hendi Sastra, 2025)

Modern Corroboration: Forensic Psychology & Psychiatry as Scientific Evidence

1. Forensic psychological reports may serve as valid documentary evidence and expert testimony; in child molestation cases, judges use the results of the victims forensic psychological examination to strengthen their conviction and assess the trauma resulting from the perpetrators actions.
2. In cases of serial rape, the Supreme Court has ruled that expert testimony from a forensic psychiatrist regarding the victims mental condition constitutes strong evidence, and the appellate court was overruled for disregarding it, despite the limited number of witnesses.
3. In cases of psychological violence within the household, the results of assessments by forensic psychologists/psychiatrists hold accurate evidentiary value and can serve as a basis for the judges decision to conclude the presence of psychological disorders resulting from the violence. (Perempuan, 2023)

The Role of Psychiatric Expert Testimony

Main Function	Case Examples	Source
Describing trauma and patterns of victim responses	Child molestation; psychological domestic violence (KDRT)	(Damayanti & Ravizki, 2024)
Strengthening the causal relationship between the act and mental disorder	Rape (concurus)	(Novrianto & Zuhir, 2023)
Serving as documentary and expert evidence in accordance with Article 184 of the Criminal	Written and oral forensic psychological examinations in court	(Mangkudilaga, 2023)

Procedure Code

(KUHAP)

TABLE 2. The Role of Psychology/Psychiatry in the Presentation of Evidence

Victims' Procedural Rights under the TPKS Law (Relevant to Article 26))

The TPKS Law stipulates that victims are entitled to assistance, protection, and recovery from the moment a criminal act occurs, with these rights being established as state obligations and tailored to the victims circumstances. (Hasanuddin Muhammad, 2022) The right to assistance includes information regarding the case proceedings, documentation of assistance provided, legal services, psychological support, health services, services tailored to specific needs, and the removal of sexually explicit content. (Triantono1 et al., 2022) Protection rights include confidentiality of identity, protection from threats or retaliation, protection from abusive conduct by law enforcement officials, and protection from criminal or civil lawsuits arising from reports filed by the victim. Restoration rights apply before, during, and after the judicial process, including psychological and social restoration as well as restitution or compensation. (Dewi & Hapsoro, 2025) These rights create a safer evidentiary process victims may be accompanied, are not pressured when giving testimony, and are guaranteed confidentiality, so that evidence and psychological examinations are more scientifically and legally reliable. (Jazmine Azzahra1, 2025)

Implications for Judicial Conviction & the Beyond a Reasonable Doubt Standard

Under the system of negative legal proof, a judge must have at least two pieces of valid evidence and be convinced in their heart the probative value of expert testimony is formally regulated, but its final weight is determined by the judge as long as it is accompanied by reasoning in the judgment. (Rudi et al., 2025) In cases with limited witnesses, the Supreme Court has ruled that disregarding forensic psychiatric testimony constitutes a legal error specifically, in cases such as rape, the victim's psychiatric expert testimony can serve as the primary basis for the judge's conviction. (Iyan Masita Wahid1, 2025) In cases of psychological violence, a judge may even base the rationale for their decision on the results of a psychological evaluation, even if the formal request for an expert opinion did not originate from the investigator, provided the judge is substantively convinced. Psychological/psychiatric evidence helps meet the standard of proof beyond a reasonable doubt not by adding formalities, but by providing scientifically verifiable explanations regarding trauma, the consistency of the victims behavior, and long-term impacts. (Hasanuddin Muhammad, 2022) Supplementing the victims testimony with scientific evidence ensures the minimum requirement of two pieces of evidence is met, even when physical evidence which is often unavailable is lacking. (Fauzia & Hamdani, Fathul, 2023)

C. Challenges and Future Projections

The TPKS Law was enacted to address impunity for sexual violence, yet it remains within a human rights framework that guarantees the protection of both victims’ and suspects’/defendants’ rights.(Poetri & Kunci, 2024) Research highlights that the primary challenge lies in its implementation within law enforcement agencies and its synchronization with other criminal laws, not merely in the text of the law itself.

Risk of False Accusations and the Balance of Rights

Studies on false accusations emphasize that victim protection must not undermine the presumption of innocence, the right to defense, and control over evidence a verdict relying solely on a single testimony without cross-examination and evidence correlation risks resulting in legal errors.(Lestari et al., 2025) A number of studies advocate for a standard of proof that is sensitive to victims but still requires a minimum of corroboration and allows for reconsideration if the evidence is later found to be weak (for example, through judicial review).

An example of a balancing mechanism in the implementation of the TPKS Law can be seen in the prohibition on interrogations that protects victims, as well as provisions that uphold the dignity of victims, without neglecting the rights of suspects in the judicial process. Additionally, penalties for false accusers are viewed as a measure to curb the possibility of arbitrary accusations, while still providing a safe space for victims to report incidents.(Lestari et al., 2025)

On the other hand, the readiness and resistance of law enforcement officials (LEOs) are crucial factors in the implementation of the TPKS Law. Various studies indicate that investigators play a central role, yet they still face challenges such as limited human resources, inadequate facilities, low understanding of gender perspectives, and social pressures that often lead to the informal resolution of cases. Therefore, capacity building is needed through victim-centered and gender-sensitive training, accompanied by the establishment of internal regulations and the provision of supporting infrastructure such as specialized service rooms and psychological support. These efforts are essential to ensure that the values enshrined in the TPKS Law are fully internalized, particularly during the investigation and inquiry stages.(Abrari & Aisyah, 2025)

Focus of Law Enforcement Training

Focus	Objective	Source
Gender and victim perspective	Reducing bias and “credibility discount” toward victims	(Tuerkheimer, 2017)

Fair legal process and human rights	Preventing interrogations/examinations that violate the right to defense	(Prado Falconí & Sotomayor Plaza, 2022)
Multidisciplinary approach	Involving psychologists, social workers, LPSK, and local support services	(Abrari & Aisyah, 2025)

TABLE 3. Key Areas for Strengthening Law Enforcement Capacity Regarding the Sexual Violence Crimes Act

Integration of the Sexual Violence Crimes Act (UU TPKS) with the New Criminal Code

The Sexual Violence Crimes Act (UU TPKS) is positioned as a *lex specialis* that serves to complement and strengthen the provisions in the Criminal Code, particularly regarding the definition and types of sexual violence, the rights of victims, and procedural rules that are more victim-centered. (Fauzia & Hamdani, Fathul, 2023) The existence of the Sexual Violence Crimes Act provides a more comprehensive and responsive legal framework to meet victims' protection needs compared to previous regulations.

Furthermore, through an analysis based on a due diligence framework, it can be understood that the Sexual Violence Crimes Act has covered comprehensive aspects, ranging from prevention, protection, handling, punishment, to reparations for victims. Therefore, moving forward, efforts are needed to synchronize the TPKS Law with the Criminal Code (KUHP) and other implementing regulations to prevent overlapping norms or even a weakening of the victim protection standards established in the TPKS Law. (Rudi et al., 2025)

CONCLUSION

A. Conclusion

The shift from the principle of corroboration to a victim-centered approach in Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) represents a progressive step in the reform of criminal procedure law in Indonesia, particularly in the handling of sexual violence cases. The classical corroboration principle, which relies on a minimum of two pieces of evidence, often fails to address the unique characteristics of sexual violence crimes, which typically occur without witnesses and with minimal physical evidence. Consequently, many cases result in a lack of justice for the victims.

Through the UU TPKS, there has been a paradigm shift in the burden of proof, placing the victim as the central figure in the judicial process. The provisions of Articles 24 and 25 of the TPKS Law expand the types of evidence and strengthen the victims testimony; if supported by one other valid piece of evidence, this is sufficient to prove the perpetrators guilt. This demonstrates a shift from a formalistic approach toward a substantive approach that is more responsive to the empirical realities of sexual violence.

Furthermore, the recognition of scientific evidence such as expert testimony from forensic psychologists and psychiatrists as a form of modern corroboration further enriches the evidentiary system. This approach not only strengthens the judges conviction in reaching a standard beyond a reasonable doubt but also provides a more humane and victim-centered space for justice. Thus, this shift can be viewed as a form of criminal procedural law reform that integrates the values of human rights protection, gender justice, and restorative justice.

B. Recommendations

First, it is necessary to develop more technical and comprehensive implementing regulations regarding standards of proof in sexual violence cases, particularly concerning procedures for examining victims, the use of electronic evidence, and the validation of expert testimony from forensic psychologists and psychiatrists, to prevent ambiguity at the implementation level. Second, law enforcement officials (investigators, prosecutors, and judges) need to receive ongoing training that is victim-centered and gender-sensitive to ensure that the values promoted by the TPKS Law are fully internalized in judicial practice. Without adequate human resources, this paradigm shift risks being ineffective. Third, it is crucial to maintain a balance between victim protection and the protection of the rights of suspects/defendants, while upholding the presumption of innocence. Therefore, the examination of evidence, including victim testimony, must be conducted objectively, professionally, and accountably. Fourth, synergy among institutions including victim service agencies, psychological/psychiatric experts, and witness and victim protection agencies is necessary to create an integrated system that genuinely supports a victim-centered approach. Fifth, in the long term, harmonization is needed between the TPKS Law and the new Criminal Code (KUHP) and Criminal Procedure Code (KUHAP) to prevent normative disharmony, while ensuring that the victim-centered approach becomes an integral part of Indonesia's national criminal justice system.

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