



SIGn Jurnal Hukum

E-ISSN: 2685 – 8606 || P-ISSN: 2685 – 8614

<https://jurnal.penerbitsign.com/index.php/sjh/article/view/v7n2-24>

Vol. 7 No. 2: October 2025 - March 2026

Published Online: January 13, 2026

Article Title

Reconstruction of the Penal System Based on Triple Vulnerability: Harmonization of Lex Generalis and Lex Specialis in Handling Sexual Violence against Girls with Disabilities

Author(s)

Nurisnah Nurisnah*

Universitas Hasanuddin, Indonesia || nurisnahh@unhas.ac.id

*Corresponding Author

Asbudi Dwi Saputra

Universitas Hasanuddin, Indonesia || asbudidwisaputra@unhas.ac.id

Nuriyah Fara Muthia

Universitas Hasanuddin, Indonesia || nfaramuthia@unhas.ac.id

Muhammad Fitratallah Dahlan

Universitas Hasanuddin, Indonesia || muh.fitratallahdahlan@unhas.ac.id

Syarif Saddam Rivanie

Universitas Hasanuddin, Indonesia || syarifsaddam@unhas.ac.id

How to cite:

Nurisnah, N., Saputra, A. D., Muthia, N. F., Dahlan, M. F., & Rivanie, S. S. (2026). Reconstruction of the Penal System Based on Triple Vulnerability: Harmonization of Lex Generalis and Lex Specialis in Handling Sexual Violence against Girls with Disabilities. *SIGn Jurnal Hukum*, 7(2), 1022-1039. <https://doi.org/10.37276/sjh.v7i2.616>



This work is licensed under a CC BY-4.0 License

ABSTRACT

The escalation of sexual violence cases against girls with disabilities has reached a crisis stage, exacerbated by the fragmentation of legal regulations operating sectorally. The failure of the judicial system to respond to the complexity of victim vulnerability frequently creates impunity loopholes, perpetuating victimization practices. This research aims to analyze the legal anatomy of “triple vulnerability” and reconstruct the “Integrated Juridical Trident” model as a harmonization solution for the national penal system. Using a normative juridical research method with statute and conceptual approaches, this study examines the synchronization of norms among Law Number 1 of 2023, Law Number 20 of 2025, and related specific laws. The results prove that the intersection of child, female, and person with disabilities statuses constitutes a juridical determinant automatically triggering the application of the absolute rape offense and state accommodation obligations. The constructed trident model positions Law Number 1 of 2023 as the material legality foundation and Law Number 20 of 2025 as the formal legality foundation, synergized horizontally with Law Number 23 of 2002 as the subject determinant, Law Number 8 of 2016 as the procedural rights guarantor, and Law Number 12 of 2022 as the recovery guarantee. The effectiveness of this model is secured by a precision law enforcement strategy, through the validation of proof of equality between witnesses with disabilities and the application of an absolute prohibition on restorative justice. This study concludes that such system integration is necessary to close legal loopholes and guarantee maximum sentencing certainty for perpetrators of these crimes against humanity.

Keywords: *Girls with Disabilities; Harmonization of Laws; Integrated Juridical Trident; Sexual Violence; Triple Vulnerability.*

INTRODUCTION

Sexual violence against girls with disabilities constitutes a violation of human rights that undermines humanitarian values and social justice. Philosophically, the Second Precept of Pancasila mandates fair and civilized treatment for every citizen without exception, including vulnerable groups with physical or intellectual limitations (Oktimalasari & Ediyono, 2023). However, the reality of law enforcement frequently contradicts these constitutional ideals. The trend of such violence indicates an alarming escalation annually. While the KemenPPPA (2022) previously noted violence figures as an early crisis signal, recent data recorded in the Simfoni-PPA (2026) throughout 2025 confirms a significant surge. The data records that 15,323 out of 20,270 cases of child violence involved girls. These statistics are not merely figures but serve as authentic evidence that girls, particularly those with additional vulnerabilities, are the primary targets of exploitation within an unequal social structure (Sari et al., 2021).

The complexity of victimization in this group requires a profound analysis of “triple vulnerability.” Hutabarat (2020), in a report by the National Commission on Violence Against Women, identified that women with disabilities face massive structural barriers in fulfilling their fundamental rights. These barriers range from the neglect of legal identity to deeply ingrained social stigmas. When the status of “female” and “disability” intersects with the status of “child,” it creates a layer of extreme vulnerability that renders victims with nearly zero legal bargaining power before the

perpetrator (Pratama, 2024). Hutabarat et al. (2021) and Azhar et al. (2023) agreed that this accumulation of status is frequently exploited by perpetrators to commit repeated sexual offenses without fear of legal repercussions. Perpetrators recognize that victims have limitations in reporting the crime and defending themselves.

Although legal instruments continue to evolve, procedural barriers in the criminal justice system remain a formidable obstacle for justice seekers. Abidin et al. (2022) found that investigators frequently encounter difficulties in processing rape cases involving disabilities due to the absence of visual eyewitnesses and unaccommodated communication barriers of the victims. This finding is reinforced by recent research by Hoke and Tuasikal (2026), which indicates that field investigation processes at the onset of the new legal regime still struggle to interpret the need for reasonable accommodation. The absence of competent expert assistants frequently results in the victim's testimony being annulled or deemed invalid. According to Anugrah (2025), this condition undermines the principle of equality before the law, particularly for victims with multiple sensory disabilities. Larasati et al. (2025) added that ability-neutral legal norms fail to fairly address these specific needs.

The discourse on criminal sanctions remains a subject of intense debate in the national legal literature, particularly regarding the pragmatic confusion of law enforcement officials in selecting legal grounds during the transitional period (Rivanie & Ashar, 2025). Nasrullah (2023) highlighted the polemic surrounding the application of chemical castration as an effort to maximize deterrence; however, its effectiveness and compliance with human rights remain questionable. Conversely, Sulistio and Ibrahim (2023) emphasized the urgency of formulating more measurable sentencing enhancements within specific regulations. In practice, however, judges and prosecutors are often hesitant in determining the priority between the principles of *lex specialis* and *lex posterior*. This hesitation potentially weakens court rulings. Previous studies have generally operated sectorally. Barkah (2018) focused on witnesses with intellectual disabilities, while Pitaloka et al. (2025) highlighted the role of advocacy centers. Few studies have integrated empirical data from state institutions with legal-dogmatic analysis to build a cohesive penal system architecture that addresses such official hesitation.

A fundamental analytical void emerges regarding the enforcement of Law Number 1 of 2023, which has radically altered Indonesia's material legal landscape. Yuliana et al. (2025) proposed an ideal concept of inclusive legal protection. However, this concept requires recalibration in light of the current enactment of Law Number 1 of 2023, which revoked criminal provisions in sectoral laws. Salsabila et al. (2025) emphasized the principle of procedural justice. Its implementation requires technical harmonization between general procedural law and specific procedural law under Law Number 12 of 2022. Recent court decisions analyzed by Tawaang (2025) concerning

physical harassment must also be situated within this broader, integrated penal system framework to prevent the formation of partial jurisprudence.

The greatest challenge at present lies in reconstructing the relationship between norms scattered across various regulations to address legal fragmentation detrimental to victims (Fathan et al., 2025). The study on harmonization ideas by Rofiah (2017) and on legislation by Salsabilla et al. (2023) is relevant for review in the context of Law Number 1 of 2023 and Law Number 20 of 2025, which have been in effect since January 2, 2026. A new conceptual model is required to synthesize the certainty of subject status and offense selection in Law Number 23 of 2002¹, the affirmation of procedural rights in Law Number 8 of 2016, and the guarantee of restitution in Law Number 12 of 2022. This model serves as a unified system, supported by the operative legality foundation of Law Number 1 of 2023 and secured by the procedural safeguards of Law Number 20 of 2025. Without this integration, overlapping regulations potentially create legal uncertainty that perpetuates impunity for perpetrators of sexual violence against vulnerable groups.

Based on this problem formulation, this research formulates three specific objectives. First, to analyze the anatomy of “triple vulnerability” law by elucidating the juridical implications of the statuses of “child,” “female,” and “person with disabilities” as determinant factors that automatically trigger the application of absolute rape offenses, accommodation obligations, and sentencing enhancements. Second, to reconstruct the “Integrated Juridical Trident” model by establishing a harmonization mechanism that positions three specific laws as the foundation of legality, reinforced by Law Number 1 of 2023 and Law Number 20 of 2025 to close legal loopholes. Third, to formulate a precision law enforcement strategy through the discovery of valid evidentiary formulas based on the equality of witnesses with disabilities and the affirmation of the prohibition of restorative justice to guarantee maximum sentencing certainty.

METHOD

This research employs a normative juridical research type, utilizing a statute approach and a conceptual approach (Qamar & Rezah, 2020). The selection of these methods is based on the necessity to dissect the anatomy of prescriptive legal norms within various regulations governing child protection, persons with disabilities, and criminal acts of sexual violence. The primary focus of the study is on the inventory and harmonization of positive legal rules to address normative vacuums and inter-regulatory conflicts in the era of full enforcement of Law Number 1 of 2023. The conceptual approach is used to construct the “triple vulnerability” framework as an

¹Law Number 23 of 2002, as amended several times, lastly by Article 622 section (1) letter n and section (6) of Law Number 1 of 2023.

analytical tool to understand the position of victims with multi-layered vulnerabilities within the criminal law structure.

The legal materials used in this research consist of primary legal materials and secondary legal materials (Sampara & Husen, 2016). Primary legal materials include statutory regulations serving as authoritative foundations, namely Law Number 23 of 2002, Law Number 8 of 2016, Law Number 12 of 2022, Law Number 1 of 2023, and Law Number 20 of 2025. Secondary legal materials include legal literature, scientific journals, reports from state institutions, and other official documents that explain the primary legal materials.

The technique for collecting legal materials involves library research using a systematic, structured retrieval mechanism. This process commences with inventorying all regulations related to issues of sexual violence, children, and disabilities, followed by the classification of norms based on their hierarchy and subject matter. Norm identification is critical to separate provisions that remain in force, those that have been revoked, and new provisions that replace or reinforce existing ones. This step is crucial to ensure that the constructed analysis is not based on expired articles or those that are no longer binding. Validation of legal materials is carried out through cross-checking of legal documents to ensure the authenticity and timeliness of the data used.

The analysis of legal materials is conducted qualitatively using the deductive syllogism method (Irwansyah, 2020). This analysis technique begins by positioning positive legal rules as the major premise and legal facts related to the vulnerability of victims with disabilities as the minor premise, to subsequently draw a prescriptive legal conclusion. In the harmonization analysis process, a systematic interpretation technique is employed to connect articles scattered across various sectoral laws to form a unified, comprehensive understanding. Furthermore, a teleological interpretation technique is also used to explore the philosophical and sociological objectives behind the formation of sentencing enhancement norms for perpetrators of sexual violence against vulnerable groups. The entire analysis culminates in the effort to reconstruct an integrated legal protection model that relies not merely on a single legal instrument but synergizes the strengths of various regulations within a juridical trident model.

RESULTS AND DISCUSSION

A. The Legal Anatomy of Triple Vulnerability: Juridical Determinants in the Victimization of Girls with Disabilities

The reality of victimization against girls with disabilities in Indonesia has reached a critical nadir, demanding an extraordinary juridical response. Empirical data indicate an escalation that is not merely a statistical fluctuation but a reflection

of systemic failure in state protection. Referring to data from the [KemenPPPA \(2022\)](#), the trend of sexual violence against this group consistently occupies the highest rank. This fact is exacerbated by the findings of [Sari et al. \(2021\)](#), stating that children with disabilities face a risk 3 to 4 times higher of becoming victims compared to non-disabled children. The peak of this crisis is confirmed by data from the [Simfoni-PPA \(2026\)](#) throughout 2025, which records that 15,323 out of 20,270 child violence cases involved girls. These figures are not merely digits but represent thousands of bodies exploited because they are perceived as weak and silenced by perpetrators. The failure of partial legacy legal instruments to respond to this complexity creates a sphere of impunity. Perpetrators feel secure, convinced that their victims lack the legal capacity to fight back. Therefore, a profound understanding of the legal anatomy of “triple vulnerability” becomes an absolute prerequisite in constructing a fair penal system. This anatomy consists of intersecting vulnerabilities of age, gender, and disability.

The first layer of vulnerability, serving as the most fundamental juridical determinant, is the status of age or childhood ([Afrianti & Lubis, 2025](#)). In the Indonesian positive legal regime, the status of a child is not merely a biological category but a legal status that carries the consequences of absolute protection. Article 1 point 1 of Law Number 35 of 2014 expressly limits the legal subject of a child to those under 18 years of age. [Pratama \(2024\)](#), in his analysis of rape typologies, asserted that at this age, the concept of consent is legally deemed non-existent. The juridical implication of this status is fundamental within the new criminal law architecture. Article 473 section (4) of Law Number 1 of 2023 fundamentally shifts the prosecution paradigm. Any sexual intercourse with a child is qualified as rape without the necessity of proving elements of force or threats of force. [Mutmainah \(2025\)](#) termed this shift as the definitive barrier closing the defense loophole for perpetrators who frequently hide behind the pretext of mutual consent. Consequently, this age determinant automatically activates a specific minimum criminal threat of 3 years and a maximum of 15 years. This renders the child’s status an undeniable offense trigger.

The second layer, gender vulnerability, operates within a more sociological dimension yet possesses significant juridical impact. Girls with disabilities live under the shadow of a patriarchal culture that views the female body as a sexual object. This condition is aggravated by the stigma of ableism, which perceives the disabled body as defective or powerless. [Azhar et al. \(2023\)](#) found that this vulnerability is frequently manipulated by perpetrators who are the victim’s closest confidants. Perpetrators exploit imbalanced power relations to commit repeated sexual exploitation. [Hutabarat \(2020\)](#), in her report, highlighted that women with disabilities often experience neglect regarding reproductive health rights post-violence. This neglect constitutes a form of structural revictimization perpetuated

by gender-insensitive service systems. [Salsabilla et al. \(2023\)](#) emphasized that without affirmative legal intervention, the position of women with disabilities remains inferior before the law. Addressing this, Article 5 section (2) letter d of Law Number 8 of 2016 emerges as a corrective instrument. This provision grants the right to extra protection for women with disabilities from sexual violence. This provision is not merely a promise but a legal mandate obliging law enforcement officials to apply a gender perspective in every stage of examination. Officials are obligated to reject sexist myths detrimental to the victim.

The third, and often the most fatal layer, is vulnerability resulting from physical and mental disability conditions. [Tawaang \(2025\)](#), through a review of recent jurisprudence in the Central Jakarta District Court Decision No. 486/Pid. Sus/2024, exposed the *modus operandi* of perpetrators specifically targeting persons with intellectual disabilities. Perpetrators exploit the victim's cognitive barriers in understanding the concept of sexuality. They manipulate the situation so the victim is unaware that she is being raped. [Oktimalasari and Ediyono \(2023\)](#) noted that this condition is frequently misinterpreted by untrained investigators as consent. However, medically and psychologically, the inability to refuse due to mental disability is not consent. In this context, the disability determinant triggers specific procedural obligations as stipulated in Article 30 section (1) of Law Number 8 of 2016, which mandates expert involvement. Without this understanding, the judicial system becomes merely a machine that punishes the wounded body of the victim rather than punishing the perpetrator of the crime.

When these three layers of vulnerability accumulate in one body—that of a girl with disabilities—a condition of “triple vulnerability” is created, totally paralyzing the victim's legal bargaining power. [Anugrah \(2025\)](#) described this position as “civil death,” a term adopted from the concept of *civiliter mortuus* to depict the loss of a person's legal capacity, rendering their voice unheard and their right to demand justice annulled by the state. [Larasati et al. \(2025\)](#) strongly criticized conventional “ability-neutral” legal norms for failing to capture the nuance of this exploitation. A law that treats everyone explicitly the same despite differing conditions is the highest form of injustice. In a situation of triple vulnerability, victims require not only fair law but partial law. This intersection of status demands that the state cease using passive approaches. The state must conduct active intervention through layered sentencing enhancements, acknowledging that crimes against this group are fundamental crimes against humanity.

As a synthesis, this analysis of legal anatomy confirms that the victimization of girls with disabilities is not a sociological destiny. Such victimization is a consequence of the void in integrated legal protection. The juridical determinants of age, gender, and disability, currently scattered across sectoral regulations,

must be restitched into a unified penal framework. Failure to comprehend this anatomy will only perpetuate the cycle of violence. Therefore, a reconstruction of a legal model capable of translating this vulnerability anatomy diagnosis into an operational criminal policy prescription is required. This model not only punishes the perpetrator but also restores the victim's dignity by precisely harmonizing national legal instruments. This is the foundational urgency underlying the formulation of the "integrated juridical trident model" to be discussed in the subsequent section.

B. Reconstruction of the Conceptual Model: The Integrated Juridical Trident

The fragmentation of legal regulations over the past few decades has created legal loopholes detrimental to victims. Victims with multi-layered vulnerabilities are frequently neglected within the judicial system. Yuliana et al. (2025), in their study on the concept of ideal protection, strongly criticized the sectoral approach, which results in overlapping authority among institutions. The confusion of law enforcement officials in selecting the appropriate legal instrument has become a serious issue. Field reality demonstrates that victims are often tossed between the utilization of Law Number 23 of 2002 or Law Number 12 of 2022. This condition ultimately weakens the prosecutor's indictment. Rofiah (2017) emphasized the importance of legal harmonization as a solution. However, in the era of the full enforcement of Law Number 1 of 2023 in 2026, conventional harmonization is no longer adequate (Irwan et al., 2025). A radical model reconstruction is required to synthesize these scattered norms into a cohesive unified system. This research formulates the "Integrated Juridical Trident" model. This model serves as a legal architecture that synergizes the strength of *lex generalis* as a reinforcing foundation with three elements of *lex specialis* as operational spearheads.

The first element of the juridical trident focuses on the certainty of subject status and the selection of criminal offenses. Law Number 23 of 2002, along with its amendments, serves as the primary instrument within this element. The main function of this law in the integrated model is to determine absolute legal subject status and to provide the maximum sentencing enhancement options. Article 1 point 1 of Law Number 35 of 2014 establishes the age limit of a child as under 18 years. This article functions as a trigger key for the application of Article 473 section (4) of Law Number 1 of 2023. Mutmainah (2025) asserted that the certainty of this subject status is vital to dismantling the perpetrator's self-defense argument, which frequently hides behind the pretext of mutual consent. A layered analysis of this construction also provides an internal enhancement mechanism through Article 473 section (9) of Law Number 1 of 2023. This article asserts that if the perpetrator has a family or custodial relationship with the child, the criminal threat is increased by one-third. This provision closes the loophole for

incest perpetrators who often shield themselves behind domestic power relations. Furthermore, this harmonization is reinforced by Article 81 section (5) of Law Number 17 of 2016, which provides objective severity parameters. If the crime results in a catastrophic impact, such as reproductive function damage or death, the judge possesses the grounds to apply the heaviest criminal sanction. This horizontal synergy ensures that every victim identified as a child automatically triggers the operation of the penal machinery under Law Number 1 of 2023, with the option to escalate sentencing based on the perpetrator's status and the consequences of the act.

The second element of the juridical trident focuses on the guarantee of procedural rights and evidentiary validation. Law Number 8 of 2016 holds a central role as *lex specialis*. [Pitaloka et al. \(2025\)](#) demonstrated through field studies that the role of advocacy centers mandated by this law is vital. Victim accompaniment in navigating the complex litigation process is frequently the determining factor in a case's success. Within this model construction, Article 30 section (1) of this law mandates expert involvement before the examination is conducted. This provision synergizes with Article 128 section (2) of the said law, which obliges the government to guarantee the freedom of persons with disabilities from all forms of violence. This specific norm is subsequently validated in strength by the formal *lex generalis*. Article 228 section (1) of Law Number 20 of 2025 mandates the presiding judge to appoint a companion or interpreter for witnesses with disabilities. This technical support is perfected by Article 236 section (3) of Law Number 20 of 2025, which guarantees equal evidentiary weight for witnesses with disabilities. [Anugrah \(2025\)](#) highlighted that this synergy transforms the victim's testimony, which was often doubted, into valid evidence with perfect probative value before the judge.

The third element of the juridical trident functions as a guarantee of recovery and restitution for the victim. Law Number 12 of 2022 undergoes a functional transformation within this model. This law is no longer merely an instrument of corporal punishment but also an instrument for the recovery of material rights for the victim. Article 30 section (1) of this Law establishes the victim's absolute right to restitution and recovery services. This provision is reinforced by Article 35 section (1) of the said Law, which provides a safety net in the form of a Victim Assistance Fund if the convict's assets are insufficient. This recovery mechanism is tightly locked by Article 82 section (1) letter d of Law Number 20 of 2025, which explicitly prohibits the use of restorative justice mechanisms for criminal acts of sexual violence. [Hoke and Tuasikal \(2026\)](#) identified that this provision is crucial to close the loophole of peaceful settlements that frequently disadvantage victims with disabilities. Consequently, the perpetrator faces an uncompromised double consequence. The perpetrator undergoes the maximum corporal punishment

prescribed by Law Number 1 of 2023 and is obliged to pay the victim's recovery costs as mandated by Law Number 12 of 2022, without out-of-court negotiation options.

The integration of these three trident elements forms a mutually supporting legal ecosystem. No single law operates in isolation. Law Number 1 of 2023 and Law Number 20 of 2025 serve as a support system, strengthening the operational power of specific laws. Furthermore, this integration is designed to facilitate judicial conviction in proving and delivering the verdict. With a clear distinction between general and specific rules, judges are no longer faced with the dilemma of mutually exclusive legal choices. This reconstruction addresses the critique regarding legal disharmony presented by Rofiah (2017) by offering a concrete solution in the form of a precise penal system. The following table summarizes how each element in the "Integrated Juridical Trident" model operates harmoniously with the others. This matrix juxtaposes specific and general legal foundations to generate a comprehensive protection work mechanism.

Table 1. Integrated Juridical Trident Model in the Current Penal System

Juridical Trident Element	<i>Lex Specialis</i> Foundation	<i>Lex Generalis</i> Foundation	Harmonization Work Mechanism
Trident 1: Subject Status Certainty & Offense Selection	Article 1 point 1 and Article 59 section (1) of Law Number 35 of 2014, and Article 81 section (5) of Law Number 17 of 2016	Article 473 section (4) and section (9) of Law Number 1 of 2023	Delict Trigger & Severity Parameter: The definition of "Child" in <i>lex specialis</i> locks the victim's subject status. Meanwhile, for status and perpetrators, law enforcers select the instrument: either <i>lex generalis</i> (including aggravation for family perpetrators) or the heaviest criminal parameter in <i>lex specialis</i> if the crime's impact meets the worst-effect qualification.
Trident 2: Rights Guarantee & Evidentiary Proof	Article 30 section (1) and Article 128 section (2) of Law Number 8 of 2016	Article 228 section (1) and Article 236 section (3) of Law Number 20 of 2025	Procedural Validation & Technical Support: <i>Lex specialis</i> establishes expert assessment requirements at the investigation stage. <i>Lex generalis</i> responds by providing technical support in trial and legitimizing witness testimony. This synergy prevents charges from being dismissed on grounds of doubt about the victim's capacity to testify.
Trident 3: Recovery & Restitution Guarantee	Article 30 section (1) and Article 35 section (1) of Law Number 12 of 2022	Article 82 section (1) letter d of Law Number 20 of 2025	Uncompromised Recovery: <i>Lex specialis</i> mandates financial compensation for victim recovery. Subsequently, <i>lex generalis</i> locks the door to settlement, ensuring restitution is not a bargaining chip to erase corporal punishment. The victim receives double justice: retributive and restorative.

Source: Author's Analysis (2026).

C. Precision Law Enforcement Strategy: Closing Impunity Loopholes through Evidentiary Validation and the Prohibition of Restorative Justice

Implementing the integrated juridical trident model faces real challenges in the procedural law dimension. The investigation stage frequently becomes a “black hole” perpetuating impunity for perpetrators of sexual violence. Previous studies by [Abidin et al. \(2022\)](#) identified that the most significant obstacles in uncovering sexual violence cases against persons with disabilities are the absence of visual eyewitnesses and the victim’s communication difficulties with investigators. This factual condition evidently persists into the early enforcement period of the new legal regime. [Hoke and Tuasikal \(2026\)](#), in their recent research, found empirical facts that investigators in the field still struggle to translate the need for reasonable accommodation for victims. This ineptitude results in victim revictimization, as reports are frequently not processed further because they are deemed not to meet conventional evidentiary standards. Therefore, the precision law enforcement strategy cannot rely solely on the material rules in Law Number 1 of 2023. This strategy must focus on technical evidentiary reform to close procedural loopholes long exploited by perpetrators.

The primary strategy to overcome this investigation deadlock is the application of evidentiary validation based on an inclusive scientific crime investigation ([Rambe et al., 2024](#)). [Larasati et al. \(2025\)](#) argued for the need to reconstruct norms that are more sympathetic to victims to overcome ability bias (*ableism*). In an operational context, this demands the full integration of the second trident element. [Barkah \(2018\)](#) emphasized that for victim witnesses with intellectual disabilities, the presence of an expert companion is an absolute prerequisite. This strategy obliges law enforcement officials to adhere to a linear flow commencing from Article 30 of Law Number 8 of 2016 regarding capacity assessment by experts. The results of this assessment must then be followed up in court through the application of Article 228 section (1) of Law Number 20 of 2025. The presiding judge is obliged to appoint a companion or interpreter to assist the victim witness in providing testimony. Without complying with this technical procedure, the validity of the witness’s testimony is vulnerable to annulment by the defendant’s legal counsel.

The juridical legitimacy of this evidentiary validation strategy is locked by the evidentiary provisions within the new criminal procedural law architecture. Article 236 section (3) of Law Number 20 of 2025 serves as a revolutionary corrective instrument. This article explicitly states that the testimony of witnesses and/or victims with disabilities has the same legal force as that of non-disabled witnesses. This provision synergizes with Article 25 section (4) of Law Number 12 of 2022. [Anugrah \(2025\)](#) highlighted that this equality norm is a tangible

manifestation of the principle of equality before the law for victims with multiple sensory disabilities who have frequently experienced “civil death” in the legal process. With this legal framework in place, judges no longer have grounds to disregard the testimony of disabled victims simply because their mode of delivery differs from that of general witnesses. This validation transforms the victim’s status from an object of doubt into a subject whose testimony determines the defendant’s fate.

The effectiveness of applying maximum sanctions in the first instance relies heavily on the judge’s conviction in selecting the appropriate legal basis. In Indonesian judicial practice, a dialectic frequently occurs between the principles of *lex specialis derogat legi generali* and *lex posterior derogat legi priori*. Although Law Number 1 of 2023 is *lex posterior*, judges possess the discretion to select the indictment whose elements are most perfectly proven. Therefore, the prosecution strategy must focus on proving the element of consequence. Public prosecutors may utilize the parameters in Article 81 section (5) of Law Number 23 of 2002 as an objective evidentiary standard. If trial facts prove that the victim suffered grievous injury, mental disorder, infectious disease, or damage to reproductive function, the judge possesses a strong juridical conviction to apply the heaviest criminal sanction. Proving these specific elements becomes key to closing the loophole for sentence leniency and ensuring the perpetrator receives retribution commensurate with the destructive impact of their actions.

The subsequent precision law enforcement strategy focuses on ensuring victim recovery through the execution of the third trident. The practice of peace settlements or mediation in sexual violence cases frequently places disabled victims in a weak bargaining position and eliminates the right to proper compensation. [Oktimalasari and Ediyono \(2023\)](#) critically highlighted the misalignment of justice values if crimes against humanity are resolved amicably. Addressing this challenge, Article 82 section (1) letter d of Law Number 20 of 2025 establishes an absolute prohibition against restorative justice mechanisms for criminal acts of sexual violence. This prohibition aims not only to imprison the perpetrator but also to guarantee the certainty of restitution verdicts as mandated by Article 30 and Article 35 of Law Number 12 of 2022. [Salsabila et al. \(2025\)](#) asserted that justice for victims is incomplete without recovery. By locking the door to settlement, the court is forced to examine the victim’s losses and deliver a restitution verdict with executive power, or to oblige the state to pay compensation if the perpetrator is unable to do so.

In summary, the synergy among evidentiary validation, impact-based prosecution strategies, and the prohibition of restorative justice is the operational key to the success of the integrated juridical trident model. This strategy ensures

that the substantive protection offered by Law Number 1 of 2023 and specific laws does not remain a static document but becomes a living instrument with teeth. By closing the loophole of doubt regarding evidence under Articles 228 and 236 of Law Number 20 of 2025, and locking the door to negotiation under Article 82 of Law Number 20 of 2025, the latest Indonesian criminal justice system possesses the full capacity to respond to the complexity of “triple vulnerability” cases. This precision law enforcement ultimately aims to restore the dignity of girls with disabilities as citizens whose constitutional rights are protected fully, absolutely, and uncompromisingly by the state.

CONCLUSIONS AND SUGGESTIONS

This study concludes that victimization against girls with disabilities is not merely a sociological phenomenon. Such victimization is a juridical consequence of the legal system’s failure to respond to the anatomy of “triple vulnerability.” The analysis of juridical determinants proves that the intersection of the statuses of “child,” “female,” and “person with disabilities” simultaneously creates a condition of extreme vulnerability historically exploited by perpetrators to obtain impunity. However, this vulnerability has been effectively addressed by positive legal instruments that treat age under 18 as an absolute offense trigger under Law Number 1 of 2023. This status negates the element of consent and automatically activates maximum protection. Furthermore, disability and gender statuses function as aggravating factors obliging the state to provide specific procedural accommodations to guarantee equal access to justice.

Efforts to overcome legal regulation fragmentation have been successfully formulated through the reconstruction of the “Integrated Juridical Trident” model. This model demonstrates that harmonization of national criminal law cannot be conducted piecemeal. Law Number 1 of 2023 must be positioned as the primary legal foundation for the rape offense. Upon this foundation, three elements of *lex specialis* work synergistically in a coordinated line. Law Number 23 of 2002 establishes legal certainty. Law Number 8 of 2016 guarantees the validity of evidence by allowing experts to testify. Law Number 12 of 2022 functions as a sanction escalator multiplying the punishment. This working mechanism ensures no normative overlap exists as each law possesses a specific, complementary function within a unified penal system architecture.

The effectiveness of this model relies heavily on precision law enforcement strategies in the field. This research asserts that the key to closing impunity loopholes lies in two main operational strategies. The first strategy is inclusive evidentiary validation utilizing the provisions of Law Number 20 of 2025. The testimony of witnesses with disabilities must be assessed as equal to that of other witnesses

through expert support, thereby ensuring that communication barriers are no longer grounds for terminating the investigation. The second strategy is the application of an absolute prohibition against restorative justice. Excluding criminal acts of sexual violence from peaceful settlement mechanisms serves as the final fortress to prevent victim revictimization due to power relation imbalances. The synergy between valid evidence and the closure of non-litigation avenues ensures that every perpetrator of crimes against this vulnerable group will face the maximum legal sanctions.

Based on the aforementioned conclusions, it is recommended that law enforcement officials, particularly the police and prosecution, immediately adopt integrated standard operating procedures based on the juridical trident model in handling sexual violence cases. Investigators are obliged to involve competent experts from the initial examination stage to ensure evidentiary validity as mandated by Law Number 8 of 2016 and Law Number 20 of 2025. It is also recommended that judges dare to apply layered criminal sanctions by combining the principal punishment under Law Number 1 of 2023 with the one-third enhancement under Law Number 12 of 2022, as a manifestation of retributive justice. Finally, the Central Government and Regional Governments need to strengthen the criminal justice system supporting infrastructure, including the provision of sign language interpreters and quality legal companions at every examination level, as a fulfillment of the state's responsibility to guarantee citizen protection from all forms of violence.

REFERENCES

- Abidin, N. F., Hamid, A. H., & Zubaidah, S. (2022). Tinjauan Hukum Tindak Pidana Pemerkosaan Terhadap Penyandang Disabilitas di Kota Makassar. *Clavia*, 20(3), 364-373. <https://doi.org/10.56326/clavia.v20i3.2015>
- Afrianti, T., & Lubis, S. D. (2025). The Crime of Kidnapping with Aggravation According to Islamic Criminal Law. *SIGn Jurnal Hukum*, 7(1), 454-470. <https://doi.org/10.37276/sjh.v7i1.492>
- Anugrah, Y. R. (2025). The Principle of Equality Before the Law for Rape Victims of Persons with Dual Sensory Disabilities in Criminal Law Perspective. *Jurnal Impresi Indonesia*, 4(4), 1240-1250. <https://doi.org/10.58344/jii.v4i4.6429>
- Azhar, J. K., Hidayat, E. N., & Raharjo, S. T. (2023). Kekerasan Seksual: Perempuan Disabilitas Rentan Menjadi Korban. *Share: Social Work Journal*, 13(1), 82-91. <https://doi.org/10.24198/share.v13i1.46543>
- Barkah, A. L. (2018). Perlindungan Hak Penyandang Disabilitas Tuna Grahita Sebagai Saksi Korban dalam Proses Peradilan Pidana di Indonesia. *Adliya: Jurnal Hukum dan Kemanusiaan*, 12(2), 123-140. <https://doi.org/10.15575/adliya.v12i2.4494>

- Fathan, R., Rivanie, S. S., Karim, M. S., Iskandar, I., Sriyana, S., & Halim, H. (2025). The Integration of the LPSK into the Criminal Justice System: The Urgency of Witness and Victim Protection Amidst an Illusion of Criminal Procedure Law Reform. *SIGn Journal of Social Science*, 6(1), 69-87. <https://doi.org/10.37276/sjss.v6i1.517>
- Government Regulation in Lieu of Law of the Republic of Indonesia Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection (State Gazette of the Republic of Indonesia of 2016 Number 99, Supplement to the State Gazette of the Republic of Indonesia Number 5882). <https://peraturan.go.id/id/perppu-no-1-tahun-2016>
- Hoke, Y. Y., & Tuasikal, H. (2026). The Investigation Process of Sexual Abuse Crimes Against Victims with Disabilities. *Justisi*, 12(1), 89-103. <https://doi.org/10.33506/js.v12i1.4073>
- Hutabarat, R. M. (Ed.). (2020). *Laporan Ringkas Kajian Disabilitas Pemenuhan Hak Perempuan Disabilitas Korban Kekerasan Seksual: Capaian dan Tantangan*. Komisi Nasional Anti Kekerasan Terhadap Perempuan. <https://komnasperempuan.go.id/pengembangan-pengetahuan-detail/laporan-ringkas-kajian-disabilitas-pemenuhan-hak-perempuan-disabilitas-korban-kekerasan-seksual-capaian-dan-tantangan>
- Hutabarat, R. M., Ratnawati, R., & Hodijah, S. N. (Eds.). (2021). *Hidup dalam Kerentanan dan Pengabaian: Urgensi Pemenuhan Hak Layanan Kesehatan Reproduksi dan Seksual Perempuan Penyandang Disabilitas dan Lansia*. Komisi Nasional Anti Kekerasan Terhadap Perempuan. <https://komnasperempuan.go.id/pengembangan-pengetahuan-detail/hasil-kajian-disabilitas-dan-manual-pemetaan-disabilitas>
- Irwan, M., Rahman, A., & Amaliyah, A. (2025). Judicial Law-Finding in the Criminal Justice System: Harmonizing Legal Certainty and Substantive Justice. *SIGn Jurnal Hukum*, 7(2), 647-663. <https://doi.org/10.37276/sjh.v7i2.502>
- Irwansyah. (2020). *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*. Mirra Buana Media.
- KemenPPPA. (2022, February 10). *KemenPPPA: Perempuan dan Anak Penyandang Disabilitas Alami Kerentanan Berlapis*. Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia. <https://www.kemenpppa.go.id/index.php/siaran-pers/kemenpppa-perempuan-dan-anak-penyandang-disabilitas-alami-kerentanan-berlapis>
- Larasati, A. P., Aditya, M. D., Febrianti, S. A. C., Azzahro, R. F., Arum, M. J., & Tanjaya, G. A. (2025). Reconstruction of Norms for Women with Disabilities as Victims of Sexual Violence. *Disable: Law Review*, 1(1), 38-58. <https://doi.org/10.26740/disable.v1i1.40301>
- Law of the Republic of Indonesia Number 23 of 2002 on Child Protection (State Gazette of the Republic of Indonesia of 2002 Number 109, Supplement to the State Gazette of the Republic of Indonesia Number 4235). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/322>

- Law of the Republic of Indonesia Number 35 of 2014 on Amendment to Law Number 23 of 2002 on Child Protection (State Gazette of the Republic of Indonesia of 2014 Number 297, Supplement to the State Gazette of the Republic of Indonesia Number 5606). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/1617>
- Law of the Republic of Indonesia Number 8 of 2016 on Persons with Disabilities (State Gazette of the Republic of Indonesia of 2016 Number 69, Supplement to the State Gazette of the Republic of Indonesia Number 5871). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/1667>
- Law of the Republic of Indonesia Number 17 of 2016 on Enactment of Government Regulation in Lieu of Law Number 1 of 2016 on the Second Amendment to Law Number 23 of 2002 on Child Protection Into Law (State Gazette of the Republic of Indonesia of 2016 Number 237, Supplement to the State Gazette of the Republic of Indonesia Number 5946). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/1680>
- Law of the Republic of Indonesia Number 12 of 2022 on the Crime of Sexual Violence (State Gazette of the Republic of Indonesia of 2022 Number 120, Supplement to the State Gazette of the Republic of Indonesia Number 6792). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/1800>
- Law of the Republic of Indonesia Number 1 of 2023 on the Penal Code (State Gazette of the Republic of Indonesia of 2023 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 6842). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/1818>
- Law of the Republic of Indonesia Number 20 of 2025 on the Criminal Procedure Code (State Gazette of the Republic of Indonesia of 2025 Number 188, Supplement to the State Gazette of the Republic of Indonesia Number 7149). <https://peraturan.go.id/id/uu-no-20-tahun-2025>
- Mutmainah, S. (2025). Beyond the Shadows: Strengthening Legal Protection for Children with Disabilities Survivors of Sexual Violence. *Widya Gama Law Review*, 2(1), 85-93. <https://doi.org/10.31328/wglr.v2i1.710>
- Nasrullah, N. (2023). Implementing Chemical Castration Punishment: A Perspective on Criminal Law and Human Rights. *SIGn Jurnal Hukum*, 4(2), 402-413. <https://doi.org/10.37276/sjh.v4i2.282>
- Oktimalasari, F., & Ediyono, S. (2023). Ketidakselarasan Nilai Sila Kedua dengan Peristiwa Kekerasan Seksual Perempuan Disabilitas Korban Pemerkosaan di Sumbawa. *Abdi Implementasi Pancasila: Jurnal Pengabdian kepada Masyarakat*, 3(2), 49-54. <https://doi.org/10.35814/abdi.v3i2.5207>
- Pitaloka, Z., Nurgiyanti, T., Wiratma, H. D., & Subandi, Y. (2025). Upaya Sentra Advokasi Perempuan, Difabel, dan Anak (Sapda) dalam Menangani Kekerasan Seksual Terhadap Perempuan Disabilitas di Yogyakarta Tahun 2022-2023. *Innovative: Journal of Social Science Research*, 5(1), 1802-1812. Retrieved from <https://j-innovative.org/index.php/Innovative/article/view/17784>

- Pratama, S. W. (2024). Perlindungan Hukum Terhadap Anak Penyandang Disabilitas Korban Pemerkosaan. *Hakim: Jurnal Ilmu Hukum dan Sosial*, 2(2), 243-257. Retrieved from <https://journal.stekom.ac.id/index.php/Hakim/article/view/1777>
- Qamar, N., & Rezah, F. S. (2020). *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal*. CV. Social Politic Genius (SIGn). <https://books.google.co.id/books?id=TAQHEAAAQBAJ>
- Rambe, S. M., Risdalina, R., & Kumalasari, I. (2024). The Role of the North Sumatra Regional Police in Combating Pornography in the Digital Era: A Criminal Psychology Perspective. *SIGn Jurnal Hukum*, 6(2), 219-232. <https://doi.org/10.37276/sjh.v6i2.382>
- Rivanie, S. S., & Ashar, M. S. I. (2025). Reorientation of Indonesian Criminal Law Politics: Shifting Paradigm from Retributive to Restorative in Death Penalty Regulation. *SIGn Jurnal Hukum*, 7(2), 869-885. <https://doi.org/10.37276/sjh.v7i2.544>
- Rofiah, S. (2017). Harmonisasi Hukum sebagai Upaya Meningkatkan Perlindungan Hukum bagi Perempuan Penyandang Disabilitas Korban Kekerasan Seksual. *Qawwam: Journal for Gender Mainstreaming*, 11(2), 133-150. Retrieved from <https://journal.uinmataram.ac.id/index.php/qawwam/article/view/747>
- Salsabila, A. A., Cahyani, S. A., Ardesta, F. R., Khoirunnisa, A., & Setiani, A. R. (2025). Principles of Justice for Persons with Disabilities in the Judicial Process. *Realism: Law Review*, 3(1), 73-95. <https://doi.org/10.71250/rlr.v3i1.60>
- Salsabilla, S., Razif, I. B., & Albab, U. (2023). Legal Protection against Sexual Violence on Women: A Study on Legislation. *SIGn Jurnal Hukum*, 5(2), 249-262. <https://doi.org/10.37276/sjh.v5i2.288>
- Sampara, S., & Husen, L. O. (2016). *Metode Penelitian Hukum*. Kretakupa Print.
- Sari, N. P., Dewi, A. A. S. L., & Suryani, L. P. (2021). Perlindungan Hukum Terhadap Anak Penyandang Disabilitas Sebagai Korban Kekerasan Seksual. *Jurnal Preferensi Hukum*, 2(2), 359-364. Retrieved from <https://ejournal.warmadewa.ac.id/index.php/juprehum/article/view/3338>
- Simfoni-PPA. (2026, January 3). *Timeline for Reporting Cases of Violence Against Children until 2025*. Ministry of Women's Empowerment and Child Protection of the Republic of Indonesia. <https://kekerasan.kemenpppa.go.id/ringkasan>
- Sulistio, D. C., & Ibrahim, A. L. (2023). Pemberatan Pidana dalam Tindak Pidana Kekerasan Seksual Terhadap Penyandang Disabilitas. *Mimbar Keadilan*, 16(2), 181-194. <https://doi.org/10.30996/mk.v16i2.8601>
- Tawaang, B. S. (2025). Memanfaatkan Kerentanan Penyandang Disabilitas untuk Melakukan Pelecehan Seksual Fisik Sebagai Tindak Pidana Kekerasan Seksual (Putusan PN Jakarta Pusat No. 486/Pid.Sus/2024 PN Jkt.Pst). *Lex Privatum*, 16(1), 1-10. Retrieved from <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/62057>

Yuliana, Y., Hertini, M. F., Ichsani, I., & Mukti, P. V. (2025). Konsep Ideal Perlindungan Hukum terhadap Perempuan dan Anak Disabilitas Korban Kekerasan Seksual. *Al-Sulthaniyah*, 14(2), 592-609. <https://doi.org/10.37567/al-sulthaniyah.v14i2.4307>