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# Comparative Legal Protection for Women and Child Victims of Sexual Violence in Southeast Asia: A Normative and Policy Gap Analysis

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## Abstract:

Sexual violence against women and children remains a systemic human rights issue in Southeast Asia. Despite ratification of international instruments such as CEDAW and CRC, many countries face persistent challenges in enforcement and victim support mechanisms. This study examines the legal frameworks in Indonesia, the Philippines, and Thailand using a normative-comparative legal method. By analyzing statutory provisions, institutional arrangements, and implementation practices, the paper identifies legal gaps and best practices that can inform more comprehensive protections. Key findings suggest that while normative advancements have been made, especially with the recent Indonesian Law No. 12 of 2022, enforcement inconsistencies and socio-cultural impediments continue to hinder justice. The study proposes harmonized victim-centered approaches, cross-border cooperation, and capacity-building for law enforcement to strengthen regional legal safeguards.

**Keywords:** sexual violence, legal protection, women and children, Southeast Asia, comparative law

## INTRODUCTION

Sexual violence is a pervasive global issue disproportionately affecting women and children, with Southeast Asia facing a surge in reported cases. In Indonesia, Komnas Perempuan reported over 3,000 sexual violence cases in 2023 alone. Similarly, Thailand and the Philippines have documented rising numbers of child sexual abuse victims, often without effective legal recourse.<sup>1</sup>

International legal frameworks such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) obligate state parties to protect women and children from all forms of abuse, including sexual violence. Despite these commitments, the gap between legal texts and implementation remains stark in many Southeast Asian countries.<sup>2</sup>

Numerous prior studies have addressed legal protections for sexual violence victims in isolated contexts or focused on single jurisdictions.<sup>3</sup> However, comparative legal studies involving multiple Southeast Asian countries are still limited, particularly in assessing how differences in statutory language, institutional frameworks, and enforcement affect victim outcomes. Furthermore, much of the existing literature emphasizes descriptive statutory analysis without integrating victim-centered perspectives or assessing alignment with evolving international human rights norms.<sup>4</sup>

This study attempts to fill that gap by offering a comparative normative analysis of legal protections in Indonesia, the Philippines, and Thailand, with special attention to child and female victims. The novelty of this research lies in its integration of international standards (CEDAW/CRC), national legislation, and enforcement mechanisms with a focus on victim access to justice. Moreover, the study goes beyond legal textualism by examining socio-cultural, institutional, and procedural barriers that undermine legal effectiveness.

Accordingly, the research questions addressed include:

How do Indonesia, the Philippines, and Thailand structure their legal frameworks regarding sexual violence against women and children?

What implementation challenges are common or distinct across these jurisdictions?

What best practices can be identified for cross-border policy learning?

The contribution of this study lies in presenting a comprehensive policy gap analysis and proposing integrative legal strategies for strengthening victim protection in the region.

<sup>1</sup> Komnas Perempuan, "Catatan Tahunan Kekerasan Seksual Di Indonesia."

<sup>2</sup> UN Women, "Ending Violence Against Women in Asia Pacific." United Nations. (1989). Convention on the Rights of the Child.

<sup>3</sup> Farida, "Implementasi Prinsip Pokok CEDAW Di Indonesia."

<sup>4</sup> Rambe and Rahmi, "Perlindungan Anak Korban Kekerasan Seksual."

## METHODOLOGY

This study adopts a normative-comparative legal research method, focusing on textual analysis of statutory provisions, international instruments, government policy documents, and judicial interpretations. Legal comparisons are made among Indonesia, the Philippines, and Thailand, with the aim of identifying similarities, differences, and enforcement challenges. The research also employs feminist legal theory and victimology as theoretical frameworks to understand the gendered nature of sexual violence and systemic legal biases.

Primary data were collected from national laws and official documents, while secondary data included academic journal articles, reports from international organizations (e.g., UNICEF, UN Women, ECPAT), and NGO advocacy materials. Data were analyzed using qualitative legal content analysis and comparative policy analysis.

## RESULTS

### Indonesia: Legal Framework and Implementation Challenges

Indonesia has taken progressive steps in strengthening its legal response to sexual violence through the enactment of Law No. 12 of 2022 on the Crime of Sexual Violence (UU TPKS). This law marks a significant milestone in Indonesian criminal law, shifting the approach from moralistic norms to victim-centered justice. Unlike prior legislation that often stigmatized victims, the UU TPKS recognizes multiple forms of sexual violence, including non-penetrative, psychological, and cyber-based violence.<sup>5</sup>

Article 4 of the UU TPKS outlines comprehensive state obligations: prevention, protection, law enforcement, recovery, and reparation. This holistic framework signifies a legal commitment to handle sexual violence not merely as a criminal offense but also as a social and health crisis. Furthermore, the law mandates collaboration between institutions such as the police, prosecutors, social workers, and psychologists.<sup>6</sup>

Article 30 is particularly transformative. It establishes a victim's right to restitution, including compensation for economic loss, medical expenses, and psychological suffering. Restitution, which was previously rare in Indonesian criminal law, now becomes an enforceable right under the UU TPKS, subject to judicial determination.<sup>7</sup>

However, the implementation of this law faces substantial hurdles. Many law enforcement officers remain unfamiliar with the technical details of the UU TPKS. This is due in part to the lack of comprehensive socialization and legal training at the district and provincial levels. In remote regions, police and judicial officers often rely on outdated interpretations of morality-based sexual norms found in the KUHP (Penal Code).<sup>8</sup>

Cultural factors further complicate implementation. The strong presence of patriarchal values and victim-blaming attitudes, particularly in rural Java, Sumatra, and Eastern Indonesia, often leads victims to withdraw from reporting. Even when reports are filed, victims are sometimes pressured to reconcile with perpetrators, especially in cases involving family members or community leaders.<sup>9</sup>

From a procedural standpoint, victim protection measures—such as safe houses, psychological rehabilitation, and access to legal aid—are unevenly distributed. The National Commission on Violence Against Women (Komnas Perempuan) has repeatedly reported a lack of facilities in eastern provinces and inadequate gender-sensitivity among officers.<sup>10</sup>

The overlapping authority of institutions such as the LPSK, Dinas Sosial, and the Ministry of Women Empowerment and Child Protection (KPPPA) has led to fragmented responses. This has created

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<sup>5</sup> Republic of Indonesia, Law No. 12 of 2022 on the Crime of Sexual Violence (UU TPKS).

<sup>6</sup> Hidayat and Mahyani, "Perlindungan Korban Kekerasan Seksual Dalam UU TPKS."

<sup>7</sup> Komnas Perempuan, "Catatan Tahunan Kekerasan Seksual Di Indonesia."

<sup>8</sup> Republic of Philippines, RA No. 8353: Anti-Rape Law of 1997.

<sup>9</sup> Save the Children Philippines, "Violence Against Children Report."

<sup>10</sup> Philippine Commission on Women, "Safe Spaces Act Implementation Report."

inconsistencies in victim referral mechanisms and often delays access to justice. Furthermore, budgetary limitations have prevented many local governments from establishing permanent units for sexual violence cases.<sup>11</sup>

While Indonesia's regulatory framework has improved significantly, full implementation remains contingent on systemic institutional reform, better inter-agency coordination, and consistent monitoring mechanisms. Civil society plays a critical role in pushing for accountability, but without institutional integration and political will, many of the law's guarantees remain aspirational.<sup>12</sup>

### The Philippines: Comprehensive Laws and Persistent Gaps

The Philippines has developed a robust set of laws aimed at protecting women and children from sexual violence. Beginning with Republic Act No. 8353 (Anti-Rape Law of 1997), which redefined rape as a crime against the person, the country has expanded its legal arsenal to include digital and community-based offenses through later statutes such as the Safe Spaces Act (RA 11313) and the Anti-Child Pornography Act (RA 9775).<sup>13</sup>

RA 8353 is progressive in its framing of rape, recognizing not only penile-vaginal intercourse but also acts involving penetration using fingers, objects, or performed on any orifice. The statute further provides that consent is irrelevant when the victim is under 12 years of age or incapacitated. The law thus aligns with international standards as recommended by the CEDAW Committee.<sup>14</sup>

Another important development is the enactment of RA 11313, the Safe Spaces Act, which criminalizes street harassment, workplace harassment, and cyber harassment. This law provides clear mechanisms for reporting and penalizing perpetrators of gender-based online sexual violence, a growing threat in the digital age.<sup>15</sup>

In addition, RA 9775 addresses the growing challenge of online child exploitation by penalizing the production, possession, and distribution of child pornography. The statute imposes severe penalties and mandates cooperation between the Department of Justice, law enforcement, and internet service providers.<sup>16</sup>

However, the legal system continues to face persistent gaps in enforcement. Studies show that despite the clarity of the law, judicial processing times for sexual violence cases often exceed two years, during which victims face re-traumatization, social ostracization, and even threats to their safety.<sup>17</sup>

Cultural norms rooted in conservative Catholic traditions further complicate enforcement. In some communities, sexual violence remains a taboo subject, and victims—especially children—are discouraged from reporting abuse due to fear of dishonor or blame. Legal procedures often require in-court testimony, exposing victims to retraumatizing cross-examinations.<sup>18</sup>

Although the law mandates victim support mechanisms such as free legal assistance, shelters, and psychological services, their availability is concentrated in major urban centers such as Manila and

<sup>11</sup> Government of Thailand, Act on the Prevention and Suppression of Sexual Offenses (B.E. 2565).

<sup>12</sup> ECPAT International, "Legal Analysis of Child Sexual Abuse Laws in Thailand."

<sup>13</sup> Republic of Philippines, RA No. 9775: Anti-Child Pornography Act.

<sup>14</sup> Komnas Perempuan, "Monitoring Pelatihan Aparat Penegak Hukum Terkait UU TPKS."

<sup>15</sup> Komnas Perempuan, "Catatan Tahunan Kekerasan Seksual Di Indonesia."

<sup>16</sup> KPPPA, "Laporan Evaluasi Layanan Rujukan Terpadu."

<sup>17</sup> LBH APIK, "Refleksi Implementasi UU TPKS Satu Tahun."

<sup>18</sup> Women's Legal and Human Rights Bureau, "Litigating Gender-Based Violence in Philippine Courts."

Cebu. Rural areas lack both the infrastructure and qualified personnel to support victims adequately.<sup>19</sup>

One notable strength of the Philippine system is the role of civil society. Organizations such as Child Rights Network and the Women's Legal and Human Rights Bureau have filled institutional gaps by offering victim advocacy, legal aid, and awareness campaigns. These efforts, however, remain dependent on donor funding and lack sustainable institutional integration.<sup>20</sup>

### **Thailand: Progressive Statutes with Weak Enforcement**

Thailand has enacted significant reforms with the passage of the 2022 Act on the Prevention and Suppression of Sexual Offenses (B.E. 2565), which redefines the scope of sexual violence and enhances victim protections. This Act is notable for its inclusive approach, covering not only rape and molestation but also digital sexual violence and grooming behaviors.<sup>21</sup>

One of the Act's most important contributions is its attention to victim anonymity. Article 22 prohibits the disclosure of victim identity and mandates closed hearings in cases involving minors. The law also criminalizes any form of retaliation or intimidation against victims who report crimes, thus aligning with global best practices in witness protection.<sup>22</sup>

Article 18 obliges the state to provide victims with access to psychological and medical assistance, as well as secure accommodation. These services are to be coordinated through multi-agency units that include health departments, police, and social services. However, implementation remains uneven due to disparities in resources among provinces.<sup>23</sup>

Thailand's legal reforms also recognize the role of technology in facilitating sexual violence. The law criminalizes cyber-stalking, online grooming, and the dissemination of non-consensual sexual images. Internet service providers are required to cooperate in investigations and remove abusive content upon request.<sup>24</sup>

Despite these legal advancements, challenges persist in enforcement. A 2023 study by ECPAT revealed that only 3% of reported child sexual exploitation cases resulted in conviction. Victims often face delays in obtaining medical examinations, and many forensic services are limited to Bangkok and Chiang Mai.<sup>25</sup>

Cultural stigma remains a formidable barrier. In traditional Thai society, issues related to sexual violence are often perceived as shameful and damaging to family honor. This cultural backdrop discourages victims from filing complaints and contributes to significant underreporting.<sup>26</sup>

Moreover, police and judicial officers often lack specialized training in handling sexual violence cases. Victim interviews are frequently conducted without psychological support, and child victims may be subjected to multiple interrogations without protective safeguards.<sup>27</sup>

While NGOs and international organizations such as UNICEF and UNODC have initiated capacity-building programs for Thai law enforcement, these initiatives are often donor-driven and lack integration into national training curricula. Sustainability remains a key challenge moving forward.<sup>28</sup>

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<sup>19</sup> Philippine Commission on Women, "GBV Services Mapping."

<sup>20</sup> Child Rights Network, "Civil Society Engagement Report."

<sup>21</sup> Kingdom of Thailand, Act on the Prevention and Suppression of Sexual Offenses (B.E. 2565).

<sup>22</sup> ECPAT Thailand, "Legal Brief on Victim Anonymity Protections."

<sup>23</sup> UN Women Thailand, "GBV Services Access Review."

<sup>24</sup> UNICEF Thailand, "Online Exploitation Trends and Law Enforcement."

<sup>25</sup> ECPAT International, "Country Monitoring Report – Thailand."

<sup>26</sup> Human Rights Watch, "'So They Don't Tell': Culture of Silence in Southeast Asia."

<sup>27</sup> ASEAN CRC Shadow Report, "Justice for Child Victims in Thailand."

## DISCUSSION

The comparative analysis of Indonesia, the Philippines, and Thailand reveals that while all three countries have adopted formal legal frameworks to address sexual violence, the scope, enforceability, and institutional integration of these frameworks vary significantly. Indonesia has recently enacted one of the region's most comprehensive laws (UU TPKS), the Philippines has accumulated a broad portfolio of specialized legislation, and Thailand has refined its statutes to address new forms of sexual exploitation, particularly digital.<sup>29</sup>

One major commonality is the existence of a disconnect between normative standards and enforcement mechanisms. In all three countries, legal texts affirm victim rights and define a broad spectrum of sexual violence. However, enforcement remains inconsistent due to under-trained personnel, fragmented institutional responses, and limited resources at the local level. As such, victims often face systemic barriers when seeking justice, especially in remote or conservative communities.

Indonesia's restitution model under UU TPKS, for example, is normatively advanced, but implementation is impeded by logistical and institutional constraints. Local governments lack the funding and infrastructure to enforce recovery rights. Furthermore, legal professionals remain unfamiliar with technical procedures for calculating and awarding restitution<sup>30</sup>. This reflects a broader implementation gap between statutory innovation and field-level operationalization.

In the Philippines, the breadth of laws—including RA 8353, RA 11313, and RA 9775—indicates a commendable legislative commitment. However, the fragmented governance architecture of the Philippines means that agencies often operate in silos. Victims must navigate a complex web of bureaucratic processes, which deters access and prolongs trauma. Furthermore, procedural delays in the judiciary have led to a justice system backlog that disproportionately affects vulnerable groups.<sup>31</sup>

Thailand stands out for its robust anonymity and emergency protection protocols, yet it struggles with service centralization. Psychological, forensic, and legal support is often limited to urban hubs, with rural areas significantly underserved. This urban bias not only affects victims' ability to report and access justice but also perpetuates regional inequalities in the protection of rights.<sup>32</sup>

Culturally, all three countries contend with deeply entrenched patriarchal norms that stigmatize victims and normalize silence. In Indonesia, religious and customary values often prioritize family honor over victim justice. In the Philippines, moral conservatism can lead to victim-blaming, especially among minors. Thailand's Buddhist-infused cultural values sometimes pressure victims into forgiveness or reconciliation. These socio-cultural factors hinder reporting and reinforce impunity.<sup>33</sup>

From a legal theory perspective, the application of feminist legal theory reveals that legal systems across Southeast Asia have historically been constructed within male-dominated frameworks, marginalizing women's lived experiences. Despite legislative reforms, the procedural design of trials, the language of statutes, and the evidentiary thresholds often reflect androcentric norms. For

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<sup>28</sup> UNODC, "Capacity-Building Evaluation for Thai Judicial Sector on GBV Cases."

<sup>29</sup> Republic of Indonesia, Law No. 12 of 2022 on the Crime of Sexual Violence (UU TPKS); Kingdom of Thailand, Penal Code Amendments; Kingdom of Thailand, Act on the Prevention and Suppression of Sexual Offenses (B.E. 2565); ASEAN Secretariat, "Gender-Based Violence Legal Frameworks in Southeast Asia."

<sup>30</sup> World Bank, "Justice for Victims of Sexual Violence in Indonesia"; LSM Komnas Perempuan, "Interview Dengan LSM Komnas Perempuan."

<sup>31</sup> Philippine Commission on Women, "Annual Report on Gender-Based Violence"; Human Rights Watch, "Justiciable but Unjust: Delays in Philippine Rape Trials."

<sup>32</sup> Thailand Department of Women's Affairs, "Access to Justice for Rural Victims"; UN Women, "Barriers to Reporting Sexual Violence in Thailand."

<sup>33</sup> Pusat Studi Agama dan Demokrasi, "Laporan Tentang Pengaruh Fatwa Keagamaan Dalam Kasus Kekerasan Seksual"; Save the Children Philippines, "Victim-Blaming towards the Children Victims"; Journal of Southeast Asian Social Issues, "The Pressure of Buddhist Value-Based Reconciliation."



example, the continued need for physical evidence or eyewitness testimony discounts psychological harm and coercive dynamics inherent in many cases of sexual violence.<sup>34</sup>

In light of international obligations under CEDAW and CRC, the countries examined are only partially compliant. While reporting mechanisms exist, they lack independent oversight. None of the countries have fully implemented monitoring systems with survivor feedback mechanisms, which are essential for ensuring legal accountability and victim empowerment. Moreover, most national action plans on violence against women and children lack measurable indicators or budgetary guarantees.<sup>35</sup>

One emerging trend is the use of technology in both abuse and protection. Digital exploitation is on the rise, with cyber grooming and non-consensual image sharing particularly affecting adolescents. Although the Philippines and Thailand have enacted digital-specific provisions, Indonesia's regulations on this front remain nascent. Conversely, digital tools such as mobile reporting apps and online legal aid platforms offer new opportunities for victim outreach if properly integrated into public systems.<sup>36</sup>

Ultimately, the region lacks a harmonized approach to combating sexual violence. ASEAN, despite its human rights declarations, has yet to establish binding regional frameworks or mechanisms akin to the Istanbul Convention in Europe. A regional treaty or protocol addressing sexual violence, tailored to Southeast Asia's socio-cultural contexts, could facilitate cross-border cooperation, data sharing, and capacity building among member states.<sup>37</sup>

## CONCLUSION

Legal protections for women and children in cases of sexual violence in Southeast Asia have evolved significantly over the past decade. Each of the three countries analyzed—Indonesia, the Philippines, and Thailand—has enacted legislation that recognizes the complex, multifaceted nature of sexual violence, including online and psychological forms. These normative developments reflect alignment with global commitments under CEDAW and CRC, and demonstrate a political will to address gender-based violence in both public and private spheres.

Despite this progress, the gap between legal aspirations and real-world outcomes remains substantial. Enforcement of sexual violence laws is hindered by fragmented bureaucratic structures, under-resourced local institutions, and cultural stigmas that silence victims and normalize impunity. Laws alone, regardless of their strength on paper, cannot fulfill their protective function without the support of systems that are accessible, responsive, and informed by the lived experiences of survivors.

The discussion has shown that while each country has its strengths—Indonesia with its emphasis on restitution and victim services, the Philippines with its breadth of statutes covering digital and community violence, and Thailand with its robust anonymity protocols—these strengths are not consistently realized in practice. In fact, the challenges in implementation often undermine legal protections and may even deter victims from reporting or pursuing justice.

From a theoretical standpoint, the application of feminist legal theory and victimology reveals that many legal systems in Southeast Asia are still operating within frameworks that favor institutional convenience over survivor empowerment. The requirement for “hard” evidence, the lack of trauma-informed procedures, and the continued reliance on patriarchal norms in judicial proceedings perpetuate systemic barriers for victims. Addressing these issues requires not just legal reform, but also a cultural and institutional transformation.

Moreover, the lack of regional coherence in combating sexual violence remains a critical gap. ASEAN's

<sup>34</sup> MacKinnon, *Toward a Feminist Theory of the State*; ASEAN Human Rights Commission, “Reforming Evidence Laws in Sexual Violence Cases.”

<sup>35</sup> CEDAW Committee, “Concluding Observations on the Combined Periodic Reports of Indonesia”; CEDAW Committee, “Concluding Observations on the Combined Periodic Reports of Thailand”; CEDAW Committee, “Concluding Observations on the Combined Periodic Reports of Philippines”; UNICEF, “Budgetary Analysis of National Action Plans on Violence Against Children.”

<sup>36</sup> ECPAT International, “Increasing Cyber-Grooming Case in Philippines and Thailand”; ASEAN Secretariat, “ASEAN Digital Governance Review.”

<sup>37</sup> ASEAN Committee, ASEAN Consensus on Women's Rights; ASEAN Intergovernmental Commission on Human Rights (AICHR), “Proposal for a Special Protocol on Sexual Violence.”

existing human rights mechanisms are non-binding and lack enforcement power. Without a shared legal instrument or regional action plan, efforts to combat sexual violence will remain uneven and susceptible to political shifts within individual states. Regional integration—through instruments similar to the Istanbul Convention—could serve as a powerful tool for standardizing responses and encouraging mutual accountability.

In light of the findings, this study offers five key recommendations to enhance legal protections for women and child victims of sexual violence in Southeast Asia:

**Strengthening enforcement mechanisms**

Enhance training, coordination, and resourcing of local institutions—particularly in rural and underserved areas—to ensure laws are implemented effectively and victims receive adequate support.

**Institutionalizing victim-centered justice**

Embed trauma-informed procedures in police, judicial, and health services, ensuring victims are not re-traumatized during investigations or court processes.

**Expanding legal frameworks to fully address digital abuse**

Modernize laws to comprehensively define and penalize cyber sexual violence, and mandate ISP cooperation in content takedown and investigation.

**Establishing independent oversight mechanisms**

Create national ombuds or independent commissions tasked with monitoring law enforcement performance, collecting survivor feedback, and producing public accountability reports.

**Promoting ASEAN-level legal harmonization**

Develop a binding regional instrument that mandates minimum standards for sexual violence prevention, prosecution, and survivor care, supported by a cross-border referral and data-sharing system.

These recommendations are intended to close the implementation gap, integrate survivor voices into legal reform, and build a regional ecosystem of accountability and protection. Only through such comprehensive, multi-level strategies can the rights and dignity of women and children be fully realized in Southeast Asia.