

Access to Justice for Persons with Mental Disabilities as Victims of Sexual Violence: A Case Study of Palangka Raya

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Abstract

Sexual violence against persons with mental disorders (ODGJ) raises serious legal issues related to the fulfillment of victims' rights and access to justice, particularly due to the victims' limited capacity to provide testimony and defend themselves in criminal proceedings. This study aims to analyze the forms of legal protection and the effectiveness of regulatory implementation in handling ODGJ as victims of sexual violence in Palangka Raya City. This research employs an empirical legal research method through field data collection and analysis of relevant legal frameworks. The findings indicate that although Law No. 12 of 2022 concerning Sexual Violence Crimes and Law No. 17 of 2023 concerning Health provide a normative basis for victim protection, their implementation remains limited in practice. In Palangka Raya, several specific obstacles were identified, including the absence of specialized psychological assessment mechanisms to support victim testimony, limited availability of mental health experts during the investigation process, and the lack of standardized procedures for adapting examination techniques to victims with mental disabilities. In addition, the absence of integrated service facilities and limited training for law enforcement officers regarding disability-sensitive approaches further complicate the handling of such cases. This study emphasizes that legal protection for ODGJ victims of sexual violence requires a more comprehensive approach through capacity building for law enforcement officials, adaptive evidentiary mechanisms, and

stronger institutional coordination to ensure the effective fulfillment of victims' rights.

Keywords: legal protection; persons with mental disorders; sexual violence; access to justice

INTRODUCTION

Sexual violence is a serious violation of human dignity and human rights that has multidimensional impacts, physically, psychologically, and socially, especially when experienced by vulnerable groups who face structural barriers in accessing justice. Among these groups, *persons with mental disorders* (PMD) are particularly vulnerable in the criminal justice system. This vulnerability stems not only from mental conditions that affect cognitive capacity and communication skills, but also from the weak legal recognition of their position as full subjects of law in the law enforcement process. In the context of sexual violence, these limitations often result in difficulties in proving the case, the low weight given to the victim's testimony before law enforcement officials, and the lack of guarantees of continuous protection from the reporting stage to the victim's recovery. (Rofiah, 2017)

The criminal justice system tends to be oriented towards standards of proof that are not sensitive to mental disabilities, thereby ignoring the special needs of PMDs as victims. The inability of victims to provide consistent statements or meet procedural expectations is often misinterpreted as testimony unfit for court, which ultimately weakens the legal position of victims. This situation has led to many cases of sexual violence against PMDs going unreported, not being followed up seriously, or being dropped at the investigation stage without legal clarity. As a result, perpetrators often escape criminal responsibility, while victims are left to bear the ongoing impact of violence without adequate protection and recovery. This situation demonstrates a structural failure in the legal system to provide effective and equitable protection for PMDs as victims of sexual violence. (Huring & Prasetyo, 2025)

The enactment of Law No. 12 of 2022 on Criminal Acts of Sexual Violence (TPKS Law) represents a significant normative advancement in Indonesian criminal law by adopting a victim-oriented approach and explicitly regulating the protection, recovery, and restitution of victims. This law expands the definition of sexual violence and introduces procedural guarantees aimed at ensuring victims' rights. However, empirical studies show that the existence of progressive laws does not automatically guarantee effective legal protection, especially for victims from marginalized or vulnerable groups. Previous research on sexual violence in Indonesia has largely focused on women and children as victims, highlighting issues such as victim blaming, the burden of proof, and institutional weaknesses in law

enforcement.(Ariyani et al., 2025) While these studies provide valuable insights, they rarely address the specific legal vulnerabilities faced by people with mental disorders as victims of sexual violence.

Existing studies on sexual violence in Indonesia have primarily focused on legal protection mechanisms for women and children as victims, emphasizing normative frameworks and institutional roles in victim protection. One such study conducted by Sarumaha, (Sarumaha et al., 2021) examines legal protection for child victims of sexual violence under Law Number 35 of 2014 on Child Protection. Their research highlights that the legal framework provides specific guarantees for victims, including rehabilitation, social reintegration, and legal assistance, and underscores the role of government institutions in coordinating victim protection with law enforcement agencies. The study concludes that statutory provisions have strengthened victim-oriented approaches in handling sexual violence cases, particularly involving children.

Despite acknowledging the importance of victim protection, Sarumaha et al. mainly concentrate on children as a legally defined vulnerable group and do not address the distinct legal challenges faced by persons with mental disorders. Their analysis remains largely normative and institutional, without examining how evidentiary standards, victim testimony, and procedural safeguards operate when victims possess limited cognitive or communicative capacities. This limitation becomes particularly significant after the enactment of Law No. 12 of 2022 on Sexual Violence Crimes (TPKS Law), which formally expands the framework of victim protection and recognizes the need for special treatment for vulnerable victims, including persons with disabilities.

A significant legal and implementation gap persists between the normative guarantees provided by the TPKS Law and their practical application at the local level. In regions such as Palangka Raya and other areas of Central Kalimantan, the handling of sexual violence cases involving persons with mental disorders often encounters substantial obstacles. Preliminary reports from local institutions indicate that cases involving victims with mental disabilities frequently face evidentiary challenges, limited access to mental health experts during investigations, and the absence of standardized procedures for accommodating victims with impaired communication abilities. As a result, although the legal framework formally recognizes the rights of vulnerable victims, the criminal justice process often struggles to effectively translate these protections into practice, leaving persons with mental disorders in a particularly vulnerable position within the justice system.

Other Indonesian legal studies similarly emphasize the implementation of sexual violence regulations and the role of law enforcement institutions in protecting victims. These studies commonly identify obstacles such as weak law enforcement, limited public awareness, and inadequate inter-agency coordination. Nevertheless,

the majority of this literature treats victims as legally competent subjects and does not sufficiently consider disability-sensitive perspectives, particularly in relation to mental disorders. Research on disability within criminal law, on the other hand, tends to focus on persons with mental disorders as perpetrators or defendants, especially concerning criminal responsibility and mental capacity, rather than as victims entitled to legal protection and access to justice.

This body of literature reveals a significant research gap. First, there is a lack of empirical legal research examining the implementation of sexual violence legislation when victims are persons with mental disorders. Second, existing studies have not adequately analyzed how evidentiary procedures, victim participation, and institutional responses adapt, or fail to adapt to the specific needs of victims with mental disabilities. Third, there is limited discussion on how sectoral regulations, particularly Law Number 12 of 2022 on Criminal Acts of Sexual Violence and Law Number 17 of 2023 on Health, interact in practice to ensure comprehensive protection for persons with mental disorders. Accordingly, this study addresses these gaps by empirically analyzing the effectiveness of legal protection for persons with mental disorders as victims of sexual violence in Palangka Raya City. By focusing on the practical implementation of relevant legal frameworks and institutional coordination, this research contributes to the development of a disability-sensitive approach to victim protection and expands the discourse on access to justice for marginalized groups within the Indonesian criminal justice system.

Law No. 17 of 2023 on Health explicitly recognizes the right of persons with mental disorders to receive non-discriminatory, safe, and quality health services, and prohibits violence, neglect, and actions that violate their human rights. Despite this normative recognition, coordination between health institutions, social services, and law enforcement agencies remains fragmented. This fragmentation often results in unclear institutional responsibilities, delayed interventions, and inadequate victim support, further hindering access to justice for PMDs who experience sexual violence.

Empirical conditions in Palangka Raya City illustrate these structural challenges. Several reported incidents involving PMDs who became pregnant as a result of sexual violence demonstrate persistent difficulties in identifying perpetrators, gathering admissible evidence, and ensuring comprehensive victim protection. The absence of witnesses, victims' limited ability to provide coherent testimony, and public indifference towards PMDs significantly hamper the legal process. These cases highlight the gap between normative legal protection and its implementation in practice, demonstrating the vulnerability of PMDs in the criminal justice system.

Based on these considerations, this study aims to analyze the effectiveness of legal protection for persons with mental disorders who are victims of sexual violence

in Palangka Raya City. Specifically, this study aims to examine the implementation of the TPKS Law and related health regulations, identify institutional and procedural barriers, and assess the extent to which victims' rights are fulfilled in practice. By adopting an empirical legal approach, this study contributes to the development of a disability-sensitive legal protection model and provides relevant insights for policies to strengthen access to justice for one of the most marginalized groups of victims in cases of sexual violence.

METHODS

This study employs an empirical legal research method, which examines law as it operates in society by analyzing the implementation of legal norms in real social contexts. (Rijadi, 2022) Empirical legal research is particularly appropriate for assessing the effectiveness of legal protection mechanisms and identifying gaps between normative regulations and their practical enforcement. This method is used to examine the legal protection afforded to persons with mental disorders as victims of sexual violence. The research was conducted in Palangka Raya City, Central Kalimantan, selected due to the occurrence of reported cases involving persons with mental disorders who became victims of sexual violence and the involvement of local institutions in handling such cases. The study focuses on the roles of the Social Service Office and the Palangka Raya City Police as key institutions responsible for victim protection and law enforcement.

Data collection was carried out through in-depth interviews and direct observation. In-depth interviews were conducted with relevant stakeholders, including officials from the Social Service Office and law enforcement officers, to obtain detailed information regarding legal procedures, institutional responses, and challenges in handling cases involving persons with mental disorders as victims. Direct observation was employed to understand institutional practices and the actual conditions of victim handling and protection mechanisms. The data obtained were analyzed using a qualitative descriptive analysis. (Adiyanta, 2019)

Primary data from interviews and observations were systematically organized, categorized, and interpreted to identify patterns, obstacles, and institutional practices related to legal protection. The analysis focused on comparing empirical findings with existing legal frameworks, particularly Law Number 12 of 2022 on Criminal Acts of Sexual Violence and Law Number 17 of 2023 on Health. The conclusions of this study were drawn by synthesizing empirical findings with applicable legal norms to assess the effectiveness of legal protection mechanisms and to formulate recommendations for strengthening disability-sensitive legal protection for persons with mental disorders who are victims of sexual violence.

DISCUSSION AND RESULT

Legal Protection for Persons with Mental Disorders as Victims of Sexual Violence in Palangka Raya City

Legal protection for persons with mental disorders (Orang Dengan Gangguan Jiwa/ODGJ) who become victims of sexual violence constitutes a crucial component of the state's obligation to uphold justice, human rights, and equality before the law. This obligation is explicitly affirmed in Law Number 12 of 2022 concerning Sexual Violence Crimes (Undang-Undang Tindak Pidana Kekerasan Seksual/UU TPKS), which establishes a victim-centred legal framework grounded in the principles of respect for human dignity, non-discrimination, and the best interests of victims, as stipulated in Articles 2 and 3. These principles impose a clear mandate on law enforcement institutions and local governments to ensure that all victims, including those with mental disabilities, receive equal legal recognition and protection without prejudice. (Cook et al., 2005)

ODGJ are legally categorised as persons with mental disabilities, whose rights must be protected on an equal basis with others. Article 8 of Law Number 12 of 2022 explicitly prohibits discriminatory treatment against victims based on disability status, reinforcing the state's commitment to inclusive justice. Empirical findings derived from interviews with officials of the Palangka Raya City Police, particularly with Mr. Rio Widipradityo, S.H., M.H., Assistant Investigator at the Women and Children Protection Unit (PPA), indicate that, in principle, ODGJ victims are recognised as having the same legal rights as victims in general. (Khalifeh et al., 2015) This recognition includes the right to report crimes, to receive protection during legal proceedings, and to access recovery and rehabilitation services. Nevertheless, a significant gap remains between normative guarantees and practical implementation. In the context of Palangka Raya City, law enforcement officials encounter substantial challenges in investigating cases of sexual violence involving ODGJ victims. One of the most critical obstacles identified is the difficulty of effective communication between investigators and victims with mental disorders. Limitations in cognitive capacity, memory, emotional stability, and verbal expression often result in inconsistent or incomplete victim statements, thereby complicating the process of evidence collection and case reconstruction. As noted by Mr. Rio Widipradityo, these communication barriers frequently hinder investigators' ability to meet formal evidentiary requirements under criminal procedural law, ultimately weakening the prosecutorial position.

This empirical reality has serious legal implications. Article 15 paragraph (1) letter (h) of Law Number 12 of 2022 provides for an aggravation of

punishment up to an additional one-third when sexual violence is committed against persons with disabilities. However, the application of this provision is highly dependent on the successful establishment of the material elements of the offence through lawful evidence. In cases involving ODGJ victims, the inability to obtain coherent testimony often results in investigations being discontinued at the preliminary stage, preventing cases from advancing to prosecution and adjudication. Consequently, the enhanced penal protection envisioned by the legislature remains largely symbolic rather than effective.

Beyond the criminal justice dimension, the UU TPKS also recognises victims' rights to restitution, rehabilitation, and recovery, as regulated in Articles 16 and 17. These provisions reflect a restorative justice approach that emphasises not only punishment of perpetrators but also the holistic recovery of victims. However, field data from Palangka Raya reveal that social and psychological rehabilitation services for ODGJ victims of sexual violence remain severely limited. The lack of trained professionals such as clinical psychologists, psychiatrists, sign-language or cognitive communication specialists, and victim advocates significantly undermines efforts to facilitate both legal processes and psychological recovery. (Alsabilah & Hery Firmansyah, 2024) Moreover, although Law Number 17 of 2023 concerning Health mandates the government to provide comprehensive mental health services, including rehabilitation for persons with mental disorders, institutional coordination in Palangka Raya remains fragmented. Coordination between the Social Service Office, Kalawa Atei Mental Hospital, and the Palangka Raya City Police has not yet been fully integrated into a coherent victim support system. This institutional disconnect results in delayed interventions, overlapping responsibilities, and gaps in service delivery, ultimately disadvantaging ODGJ victims who are already in a vulnerable position.

In light of these findings, legal protection for ODGJ victims of sexual violence in Palangka Raya City cannot be assessed solely on the existence of progressive legal norms. Instead, it must be evaluated based on the state's capacity to translate these norms into accessible, inclusive, and effective practices. Strengthening inter-agency coordination, enhancing the capacity of law enforcement officers through specialised training on disability-sensitive investigations, and providing professional assistance during all stages of the criminal justice process are essential steps toward ensuring substantive justice for ODGJ victims. Without such structural and procedural reforms, the promise of legal protection enshrined in the UU TPKS risks remaining aspirational rather than transformative.

Institutional Synergy and Structural Barriers in Protecting ODGJ Victims of Sexual Violence in Palangka Raya City

Mr. Rio Widipradityo, S.H., M.H. explained that the Palangka Raya City Police had attempted to overcome investigative barriers by involving experts from the Palangka Raya City Social Services Agency to assist in questioning persons with mental disorders (ODGJ). However, these efforts were unable to produce accurate and reliable information from the victims, primarily due to communication limitations and the victims' unstable psychological conditions. This situation clearly demonstrates a lack of effective institutional synergy in handling cases of sexual violence involving ODGJ victims. Although expert involvement was formally present, the absence of specialised forensic psychological assessment and legally trained communication facilitators significantly weakened the evidentiary process. Normatively, Article 4 paragraph (1) letters (f) and (h) of Law Number 12 of 2022 concerning Sexual Violence Crimes (TPKS Law) categorises sexual exploitation and sexual slavery as serious forms of sexual violence that require integrated, cross-sectoral, and victim-centred handling. This provision reflects the legislator's intent to move beyond fragmented institutional responses toward a comprehensive system involving law enforcement, social services, healthcare institutions, and local governments. However, empirical findings in Palangka Raya reveal a substantial gap between this normative framework and its practical implementation. In a widely discussed case involving a female ODGJ victim at the Palangka Raya market, the response was limited to rehabilitation and the victim's return to her family, without any concrete criminal proceedings against the alleged perpetrators. This outcome illustrates how structural weaknesses and procedural limitations can lead to de facto impunity in cases involving highly vulnerable victims. (Organization, 2003)

Further compounding this problem is the persistence of social prejudice. Mr. Rio Widipradityo also stated that investigators had conducted inquiries at the Central Market on Jalan Pahandut. However, testimonies from market vendors suggested that the victim was perceived as having "sold herself." Such narratives reflect deeply entrenched stigmas against persons with mental disorders, who are often viewed not as victims but as deviant or morally compromised individuals. This form of victim-blaming significantly undermines the legal protection process, as it influences both public perception and institutional attitudes toward the case. When ODGJ victims are socially constructed as "incapable" or "undeserving" of protection, their experiences of sexual violence are trivialised, and the urgency of legal intervention is diminished. This reality directly contradicts Article 18 of the TPKS Law, which mandates the state to ensure the safety and protection of victims under all circumstances, irrespective of social stigma or personal conditions. (Parra-Barrera et al., 2021)

Despite the existence of a robust legal framework under the TPKS Law and Law Number 17 of 2023 concerning Health, the implementation of legal protection for ODGJ victims of sexual violence in Palangka Raya continues to face serious technical and structural challenges. These include limited human resources with expertise in disability-sensitive investigations, inadequate forensic psychological support, and the absence of integrated operational protocols. Therefore, strengthening the capacity of law enforcement officers and social workers is imperative. Equally important is the establishment of multidisciplinary teams at the regional level, particularly involving legal psychologists and psychiatrists, who can bridge communication gaps between investigators and ODGJ victims. Such teams would play a critical role in extracting reliable information, ensuring procedural fairness, and identifying perpetrators who exploit the vulnerability of ODGJ individuals. (Silmi et al., 2024)

The complexity of legal protection for persons with mental disabilities is further illustrated by a case in Palangka Raya City in July 2025. Based on an interview with Ms. Adinda Kharunnisa, S.ST., Senior Social Worker at the Palangka Raya City Social Services Agency, it was revealed that an ODGJ victim had experienced repeated sexual violence resulting in more than five pregnancies caused by different perpetrators. Tragically, during her sixth pregnancy, the fetus died in utero. This case exemplifies a pattern of repeated victimisation facilitated by weak social supervision, inadequate family involvement, insufficient legal oversight, and the absence of an effective early-warning and protection system for ODGJ. Rather than being an isolated incident, this case reflects systemic failures in preventing sexual violence against persons with mental disabilities. In response to this situation, the victim was referred to the Joint Adulam Ministry Mental Rehabilitation Centre (Panti Jam) to receive comprehensive care under the coordination of the Pulang Pisau Regency Social Services Agency and the Palangka Raya City Social Services Agency. This intervention was carried out in accordance with Law Number 8 of 2016 concerning Persons with Disabilities and Regulation of the Minister of Social Affairs Number 12 of 2018 concerning Guidelines for the Prevention and Handling of Restraints (Pasung) for Persons with Mental Disabilities. (Ismayanti et al., 2025) These regulations provide a legal basis for ensuring the fulfilment of fundamental rights of persons with mental disabilities, including protection from violence, access to humane treatment, and the right to dignified mental health services.

Within this framework, the Social Services Agency plays a strategic role in providing assistance, advocacy, and cross-sectoral coordination. Its functions include delivering social services, facilitating psychosocial recovery, and connecting victims with health and legal institutions. However, while social protection mechanisms may function relatively effectively, significant challenges persist in the realm of criminal law enforcement. Under the principle of criminal responsibility, punishment can only be imposed if the perpetrator is proven to be at fault and capable of bearing

responsibility for their actions. In cases involving ODGJ victims, perpetrators frequently evade accountability due to evidentiary difficulties and the victims' inability to provide consistent testimony.

The situation becomes even more complex when the alleged perpetrator also suffers from a mental disorder. Article 44 of the Indonesian Criminal Code (KUHP) allows for exemption from criminal liability if the perpetrator is deemed incapable of understanding or controlling their actions due to mental incapacity. While this provision reflects the principle that criminal punishment requires the existence of culpability, its application in cases of sexual violence involving ODGJ victims often creates a legal dilemma. When the perpetrator is declared legally incapable, criminal proceedings may end without punishment, potentially leaving victims without a sense of justice or legal closure. (Meyersfeld & De Gregorio, 2023) In such circumstances, the criminal justice system risks failing to fulfil its protective and preventive functions.

This dilemma highlights the need for alternative legal approaches that still uphold victims' rights to justice. One possible approach is the application of restorative justice principles, which emphasize the restoration of victims' rights, acknowledgement of harm, and the involvement of families, social institutions, and community mechanisms in addressing the consequences of the crime. In addition, Law No. 17 of 2023 concerning Health provides a legal basis for mandatory treatment and rehabilitation for persons with mental disorders who pose risks to themselves or others. Within this framework, individuals with mental disorders who commit harmful acts may be subject to medical rehabilitation and supervision as a form of legal and social accountability, even when criminal punishment cannot be imposed. In practice, coordination between the Palangka Raya City Social Services Agency, Kalawa Atei Mental Hospital, and the Palangka Raya City Police is generally perceived as functioning adequately in terms of referral processes, mental health assessments, and social assistance. However, substantial obstacles remain, particularly in relation to communication barriers, forensic limitations, and difficulties in establishing the perpetrator's criminal responsibility beyond a reasonable doubt. Therefore, institutional collaboration should not only focus on victim rehabilitation but also incorporate mechanisms that ensure accountability through medical supervision, restorative justice processes, and stronger protection of victims' rights within the criminal justice system.

Reflecting on the July 2025 case, it becomes evident that the effective implementation of the TPKS Law requires more than normative compliance. The law explicitly emphasises preventive measures and the active involvement of local governments, communities, and families in protecting persons with mental disabilities from sexual violence. (Andrews & Veronen, 2013) This includes ensuring

integrated access to health, social, and legal services, as well as sustained monitoring and support mechanisms. Without a coordinated and victim-centred approach, cases of sexual violence against ODGJ are likely to continue recurring. Therefore, legal protection for ODGJ victims of sexual violence should not be confined to the existence of statutory regulations. It must be realised through integrated service delivery, continuous multidisciplinary assistance, and firm yet fair law enforcement that prioritises the dignity and rights of persons with mental disabilities. Only through such an approach can the state fulfil its constitutional and human rights obligations to protect one of the most vulnerable groups in society.

Efforts by the Social Services Agency and the Police in Handling ODGJ Victims of Sexual Violence in Palangka Raya City

Efforts to address cases involving persons with mental disorders (Orang Dengan Gangguan Jiwa/ODGJ) who are victims of sexual violence in Palangka Raya City are primarily carried out by two key institutions: the Palangka Raya City Social Services Agency (Dinas Sosial/Dinsos) and the Palangka Raya City Police (Polresta Palangka Raya). These institutions perform distinct yet complementary roles. Dinsos is responsible for social protection, rehabilitation, and psychological recovery of victims, while the police focus on legal processes, investigation, and law enforcement against perpetrators. (Suparti, 2019) Normatively, this institutional synergy is mandated under Articles 67 to 71 of Law Number 12 of 2022 concerning Sexual Violence Crimes (TPKS Law), which emphasises integrated victim handling through cooperation among health, social, and legal sectors. In addition, Article 76 paragraph (3) of Law Number 17 of 2023 concerning Health explicitly prohibits all forms of violence, neglect, and discrimination against persons with mental disorders and obliges local governments to ensure access to safe, humane, and dignified mental health services.

Empirical findings from interviews indicate that, at least at the policy level, ODGJ victims of sexual violence are formally treated the same as other victims in terms of their right to protection and access to services. This reflects an official commitment to the principle of equality before the law and non-discrimination. However, despite this formal recognition, significant practical challenges persist. The Social Services Agency routinely coordinates with medical institutions and the Kalawa Atei Mental Hospital to assess victims' mental conditions and determine appropriate interventions. (Siregar, 2023) Yet, difficulties arise when victims are unable to communicate coherently or provide information relevant to criminal proceedings. This limitation has resulted in many cases of sexual violence against ODGJ not progressing through the criminal justice system due to insufficient evidence, particularly the absence of reliable victim testimony. Under Article 184 of the Criminal Procedure Code (KUHP), victim testimony constitutes a key form of

evidence. When such testimony cannot be effectively obtained, investigators often terminate investigations, not because there is no indication of a crime, but due to the inability to meet formal evidentiary standards.

Law enforcement officials also acknowledge limitations in preventive efforts. Mr. Rio Widipradityo, S.H., M.H. stated that the Palangka Raya City Police have not conducted targeted outreach or educational programmes for mental health institutions or communities working directly with ODGJ. Preventive activities have largely been confined to general public outreach, such as programmes conducted in junior and senior high schools. This indicates that police-led prevention strategies have yet to adequately address vulnerable populations, including persons with mental disorders who face a significantly higher risk of sexual violence. Moreover, socialisation regarding sexual violence, victims' rights, and reporting mechanisms has not been specifically tailored to institutions or communities that engage with ODGJ. From a repressive or law enforcement perspective, the police generally rely on existing criminal law frameworks. When victims with mental disorders are minors, the Child Protection Law is applied; when victims are adults, general provisions of the Criminal Code and the Criminal Procedure Code are used. This age-based differentiation, while legally consistent, does not fully accommodate the specific vulnerabilities of adult ODGJ victims. (Kharomah, 2022)

The legal complexity increases further when the perpetrator is also a person with mental disorders. Article 44 of the Indonesian Criminal Code provides that individuals who commit criminal acts while suffering from severe mental disorders may be exempt from criminal liability due to the absence of culpability. In practice, this provision often creates a legal dilemma in cases where both the victim and the perpetrator are persons with mental disorders. Law enforcement authorities frequently prioritize social and medical rehabilitation rather than criminal prosecution, referring perpetrators to mental health institutions instead of imposing criminal sanctions. (Fratidhina et al., 2025) While this approach reflects humanitarian considerations and the principle that criminal punishment requires the presence of moral blameworthiness, it simultaneously raises concerns regarding the lack of accountability and the failure to ensure justice for victims.

From a criminal law perspective, the principle of criminal responsibility does not necessarily imply that individuals who lack mental capacity should be entirely removed from the legal accountability framework. Modern criminal law recognizes the possibility of alternative forms of legal responsibility, such as the imposition of medical or rehabilitative measures (treatment orders) in place of conventional punishment. In this context, individuals who are deemed incapable of criminal responsibility may still be subject to compulsory medical treatment, psychiatric supervision, or institutional rehabilitation as forms of legal measures designed to

protect society and prevent future harm. Such an approach allows the legal system to respect the human rights of perpetrators with disabilities while simultaneously addressing the victim's right to justice and protection.

Recognizing these challenges, both the Social Services Agency and the police in Palangka Raya acknowledge the urgent need to involve legal psychology and forensic psychiatry experts in handling cases involving ODGJ victims. These professionals play a crucial role in bridging communication barriers between victims and investigators and in assessing the victim's capacity to provide testimony. This need aligns with Article 18 of the Law on Sexual Violence Crimes (TPKS Law), which obliges the state to ensure victims' safety and access to appropriate assistance throughout the legal process. Without the involvement of specialized professionals, legal proceedings risk becoming merely procedural and administrative, failing to produce substantive justice. (Mayora & Wusqo, 2023) In practice, however, social rehabilitation remains the dominant response. The Social Services Agency often returns ODGJ victims to their families after medical examinations and observation at psychiatric hospitals. This family-based recovery model is consistent with Article 69 of the TPKS Law, which emphasizes the importance of social support and rehabilitation in the victim recovery process. Nevertheless, this approach has not always been accompanied by clear mechanisms of legal accountability for perpetrators with mental disorders. As a result, the preventive and deterrent functions of criminal law risk being weakened, highlighting the need for a more balanced approach that integrates victim protection, medical intervention for perpetrators, and structured legal oversight to ensure that justice is meaningfully realized for vulnerable victims.

Handling cases involving ODGJ victims of sexual violence in Palangka Raya City is thus a multi-sectoral responsibility, involving the Social Services Agency, the police, health institutions, and local governments. These efforts operate within the legal framework of the TPKS Law, Law Number 8 of 2016 concerning Persons with Disabilities, and Minister of Social Affairs Regulation Number 12 of 2018 concerning the Prevention and Handling of Restraints for Persons with Mental Disabilities. Interviews with Adinda Kharunnisa, S.ST., a First Expert Social Worker at the Palangka Raya City Social Services Agency, indicate that coordination among Dinsos, the Pulang Pisau Regency Social Services Agency, and the Kalawa Atei Mental Hospital has generally functioned well, guided by clear technical regulations and institutional mandates. Within this coordination framework, the police conduct initial identification and ensure victims' safety, while Dinsos undertakes social assessments, provides shelter if families are unable or unwilling to care for victims, and monitors psychological recovery. Through the Social Welfare Service Centre (PPKS), Dinsos delivers assistance, advocacy, and psychosocial rehabilitation, involving social workers, psychologists, and medical personnel. These actions are grounded in Articles

97 and 98 of Law Number 8 of 2016, which mandate government protection for persons with disabilities from violence, exploitation, and sexual abuse, as well as in Permensos No. 12 of 2018, which provides technical guidance for responsive and preventive social services.

Despite these institutional efforts, criminal investigations remain challenging due to communication barriers, lack of witnesses, and evidentiary constraints. When cases cannot proceed due to insufficient evidence, the police typically prioritise coordination with Dinsos for medical and social rehabilitation. Preventive functions are carried out through general public education, although there is a pressing need to expand outreach to families, social institutions, and communities directly connected to ODGJ. (Nauri & Sudarmawan, 2022) Repressive functions are pursued only when sufficient evidence exists, yet legal exemptions under Article 44 of the Criminal Code frequently limit prosecutorial outcomes. Reflecting on these conditions, the role of the Social Services Agency becomes central not only in victim rehabilitation but also in ensuring humane treatment for perpetrators with mental disorders. Together with the Kalawa Atei Mental Hospital, Dinsos places ODGJ involved in criminal cases either as victims or perpetrators into structured social and medical recovery programmes. This rehabilitative approach aligns with human rights and dignity-based principles, aiming to restore individuals without disregarding justice. Ultimately, the handling of sexual violence cases involving ODGJ in Palangka Raya City demonstrates that while formal legal frameworks and coordination mechanisms exist, their effectiveness depends on substantive implementation, specialised expertise, and sustained inter-agency cooperation. Legal protection for ODGJ victims should therefore not be limited to statutory compliance, but must be realised through integrated services, empathetic approaches, and fair yet firm law enforcement. Only through such comprehensive measures can ODGJ victims obtain justice, protection, and recovery consistent with their inherent dignity and equal status before the law.

CONCLUSION

This study shows that legal protection for persons with mental disorders (ODGJ) who become victims of sexual violence in Palangka Raya City has been normatively guaranteed through several Indonesian legal instruments, including Law No. 12 of 2022 on Sexual Violence Crimes, Law No. 8 of 2016 on Persons with Disabilities, and Law No. 17 of 2023 on Health. These regulations recognize ODGJ as rights-bearing subjects entitled to equal protection before the law and emphasize victim-centered justice. However, the findings reveal a significant gap between the normative framework and its practical implementation. In practice, the handling of sexual violence cases involving ODGJ victims tends to prioritize social rehabilitation rather than legal accountability, largely due to structural barriers such as

communication limitations, the absence of psychiatric interpreters, limited forensic evidence, and the reliance on victim testimony within criminal procedures.

Although coordination between the Social Services Agency, the Palangka Raya City Police, and mental health institutions such as Kalawa Atei Mental Hospital has functioned procedurally, it has not yet produced an integrated system capable of supporting effective investigation and prosecution. This situation is further complicated when perpetrators are also persons with mental disorders, as the application of Article 44 of the Criminal Code often shifts the response toward rehabilitation without sufficiently addressing the victim's right to justice.

To address these challenges, this study recommends several practical policy measures at the local level. First, the Palangka Raya City Government and local law enforcement agencies should establish a formal cross-sectoral cooperation mechanism, such as a memorandum of understanding (MoU), between the police, social services, mental health institutions, and professional associations of psychologists and psychiatrists. Such cooperation should ensure mandatory psychological assistance for ODGJ victims from the earliest stage of reporting and investigation. Second, specialized procedural guidelines should be developed for handling sexual violence cases involving victims with mental disabilities, including the use of adaptive communication methods and expert testimony. Third, strengthening institutional capacity through training for law enforcement officials on disability-sensitive investigation techniques is necessary to ensure that ODGJ victims receive both rehabilitation and meaningful access to justice. Through these measures, legal protection for vulnerable victims can move beyond symbolic recognition toward a more effective and inclusive justice system.

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