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CRIMINAL LIABILITY OF PERPETRATORS OF SEXUAL VIOLENCE AGAINST CHILDREN (COMPARATIVE STUDY IN INDONESIA AND MALAYSIA)

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Abstract

Scientific Sexual violence is defined as a serious violation that attacks the honor, dignity, and physical and mental integrity of a minor. This crime against humanity manifests itself through the exploitation of a child's physical and psychological vulnerabilities to satisfy sexual desires or gain certain benefits resulting from power imbalances. The prevalence of such cases in society is fueled by a lack of legal compliance, environmental influences, and the inherent vulnerability of children, which leaves them powerless to protect their own safety. This destructive phenomenon continues to show high incidence rates in both Indonesia and Malaysia, even though such acts have been classified as serious criminal offenses under the positive law of each country. The patterns of law enforcement in addressing this issue reveal two significantly different characteristics of criminal policy through a comparative study across jurisdictions. Indonesia's criminal justice system leans toward an approach that prioritizes victim restoration by imposing sanctions such as imprisonment, chemical castration, and the imposition of material restitution. The Malaysian legal system maintains an aggressive penal character through the mandatory imposition of civil flogging (whipping) with a rattan cane in addition to the primary custodial sentence. All forms of these crimes ultimately have a massive destructive impact on children's futures, ranging from developmental disorders to deep, long-term psychological trauma.

Keywords: *criminal offenses, sexual violence, comparative studies.*

A. Introduction

Violence The high rate of sexual violence against children in Indonesia has a serious impact on the quality of life and growth and development of victims. Referring to data from the Online Information System for the Protection of Women and Children (SIMFONI PPA), there will be 5,902 cases of child violence in 2025

with the dominance of sexual crimes.[1] The issue of legal protection for child victims of sexual violence is often hampered by sociological constraints and the lack of case reporting rates.[2] Progressively strengthening institutional capacity is an absolute prerequisite in handling child sexual abuse cases at the local level to ensure legal certainty for victims.[3]

Similar conditions also occur in Malaysia, based on statistical data from the Department of Statistics Malaysia (DOSM) showing a significant increase in *cases of sexual offences against children*, from 1,239 cases in 2022 to 9,624 cases in 2025, or a jump of 26.5%.[4] Procedural regulations for law enforcement in children's cases in Malaysia still face challenges at the pre-trial stage. Comprehensive guidelines are needed to regulate law enforcement authority to ensure the procedural rights of victims in a fair manner.[5] The gap between the theoretical framework for child protection and the practice of the justice system is a real challenge for Indonesia and Malaysia in mitigating the risk of exploitation.[6]

Criminal liability for perpetrators of sexual violence against children in Indonesia is regulated in Article 76D and Article 81 of Law Number 35 of 2014 concerning Child Protection, and strengthened by Law Number 12 of 2022 concerning the Crime of Sexual

[1] "Summary of Data on Violence against Women and Children", https://kekerasan.kemenpppa.go.id/ringkasan, accessed on 29 June 2026.

[2] Ahmad Jamaludin, "Legal Protection of Children Victims of Sexual Violence", *JCIC: Journal of CIC Institute for Research and Social* Consultants, Vol. 3, No. 2, November, 2021, p. 9.

[3] Arianto, A., M. Mustamam, and M. Marlina, "Legal Protection for Children Victims of Sexual Abuse (Study at the Subulussalam Resort Police)", *Legal Meta Journal*, Vol. 2, No. 3, November, 2023, p. 32.

[4] "[2025] Current Population Estimates", https://open.dosm.gov.my/publications/population_2025, accessed June 29, 2026.

[5] Shukri Shahizam, "Whither Non-Justiciability? An Argument for Judicial Review of Prosecutorial Discretion in Light of the Basic Structure", *Malayan Law Journal*, Vol. 2, 2020, p. 141.

[6] A. A. A. Latief, R. M. Saleh, and Z. Abrar, "Child Protection Systems in Indonesia and Malaysia: Between Theories and Practices", *Journal of Creativity Student*, Vol. 7, No. 1, June, 2022, p.95

Violence.[7] The formulation of criminal sanctions in national regulations must be placed within the framework of human rights protection in order to ensure the safety of children.[8] Theoretically, the application of the principle of guilt (geen straf zonder schuld) is an absolute instrument for law enforcement to measure the crime rate of perpetrators.[9]

The criminal responsibility of perpetrators of child sexual violence shows the policy divergence between Indonesia and Malaysia. In Indonesia, the orientation of punishment is combinative through imprisonment, fines, restitution, and chemical castration for adult perpetrators in accordance with the Child Protection Law and the TPKS Law. Instead, Malaysia has implemented a tougher retributive approach through the Sexual Offences Against Children Act 2017 (Act 792) and the Penal Code (Act 574), which focus on corporal punishment as well as expansive prison sentences of between 10 and 30 years.[10]

The fundamental difference lies in the application of physical sanctions in the form of whipping for adult male perpetrators in Malaysia. The obligation of sanctions is regulated cumulatively with imprisonment as affirmed in the Penal Code (Act 574) and the Child Act 2001 (Act 611).[11] The divergence in the structure of sanctions reflects the

[7] Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, Statute Book of the Republic of Indonesia No. 297 of 2014; and Law Number 12 of 2022 concerning the Crime of Sexual Violence, Statute Book of the Republic of Indonesia Number 120 of 2022.

[8] R. S. Acintya, D. A. Atmaja, Z. Salsabillah, and A. Suherman, "Criminal Accountability of Perpetrators of Sexual Violence Against Children in the Framework of Law and Human Rights in Indonesia", *Journal of Legal and Public Policy Studies*, Vol. 3, No. 1, July-December, 2025, pp. 120-129.

[9] Edward Omar Sharif Hiariej, *Principles of Criminal Law*, Cahaya Atma Pustaka, Yogyakarta, 2016.

[10] *Sexual Offences Against Children Act 2017* (Act 792), Federal Government Gazette 2017; and *Penal Code* (Act 574) Federal Government Gazette 1936.

[11] *Penal Code* (Act 574), Federal Government Gazette 1936; and *Child Act 2001* (Act 611), Federal Government Gazette 2001.

philosophical gap in the child protection model in the two countries. The impact of these crimes goes beyond the individual aspect, including psychosocial distress as well as stigmatization for families and communities. In-depth comparative analysis is needed to harmonize crime prevention policies at the regional level.[12]

The main differentiator in Malaysia's sanctions system is the application of whipping for adult male offenders, which is mandatory cumulatively along with imprisonment.[13] This contrasting sanction structure reflects the philosophical gaps in the criminal accountability system and child protection models in both countries.[14] Criminal liability for perpetrators of child sexual violence in Malaysia is regulated through the Sexual Offences Against Children Act 2017 (Act 792), which criminalizes various forms of sexual crimes with the threat of strict sanctions. This legal framework is strengthened by the Penal Code (Act 574) and the Child Act 2001 (Act 611) as child protection instruments in Malaysia's national legal system.[15] The normative commitment of the two countries in providing legal protection for children still leaves a gap in the effectiveness of enforcement in the field. The impact of sexual violence also goes beyond the individual realm, spreading to psychosocial pressure and stigmatization that burdens the victim's family and community.[16]

[12] S. Rosedila and R. Susanti, "The Crime of Sexual Violence Against Children (A Comparative Study of Indonesia and Malaysia)", *Journal of Legalita*, Vol. 6, No. 2, 2024, pp. 93-96.

[13] Latief, A. A. A., Saleh, R. M., & Abrar, Z. (2022). *Child Protection Systems in* Indonesia *and* Malaysia: *Between Theories and Practices. Journal of Student Creativity*, *7*(1), 87-112, p. 89.

[14] *Ibid.*, p. 93.

[15] *Sexual Offences Against Children Act* 2017 (*Act* 792).

[16] F. R. Siregar, "Criminal Accountability for Perpetrators of Sexual Violence Against Children," *Scenario (Seminar of Social Sciences Engineering and Humanities),* 2023, p. 241.

Indonesia and Malaysia have normatively adopted progressive legal instruments in regulating child protection and criminal liability for sexual violence.[17] The divergence in criminal policies between the two countries is evident in law enforcement today, Indonesia has adopted a paradigm of restorative justice and integrative victim recovery through Law Number 12 of 2022 concerning the Crime of Sexual Violence, which combines penal sanctions, chemical castration, and restitution obligations for perpetrators.[18] Malaysia through the Sexual Offences Against Children Act 2017 (Act 792) maintains an aggressive retributive approach, mandating whipping and long-term post-arrest police supervision.[19] The gap between the financial-medical-based recovery model in Indonesia and the physical-preventive approach in Malaysia is urgent to be studied to assess the effectiveness of child protection in both jurisdictions.[20] Child protection policy reform is now a form of state sovereignty in guaranteeing the constitutional rights of vulnerable citizens. The success of handling sexual crimes also depends heavily on the synchronization of strict legal norms with targeted rehabilitative implementation.[21] Increasing transnational mobility requires harmonization of cross-border child protection legal policies to create integrated regional standards in closing the space for perpetrators.[22] In addition to the main

[17] S. Rosedila and R. Susanti, "The Crime of Sexual Violence Against Children (A Comparative Study of Indonesia and Malaysia)," Journal of Legal Legality, Vol. 6, No. 2, 2024, p. 93.
[18] Republic of Indonesia, Law Number 12 of 2022 concerning the Crime of Sexual Violence, Statute Book of the Republic of Indonesia Number 120 of 2022.
[19] Government of Malaysia, *Sexual Offences Against Children Act 2017 (Act 792).*
[20] *Ibid.*, p. 95.
[21] Andi Tenri Padang, Sofyan, and Muhammad Safaat Gunawan, "Children's Rights in the Constitution in Indonesia," Al Tasyri'iyyah Journal, Vol. 3, No. 1, 2023, p. 27.
[22] Firly Ajurni and Novilia Wulan Sari, "Comparison of the Indonesian and Malaysian State Legal

perpetrators, the urgency of criminal accountability must also be extended to third parties such as educational institutions and the environment in order to create a more comprehensive ecosystem for the prevention of sexual violence against children.[23]

B. Problem Formulation

The problem formulation of this study is:

1. What is the arrangement of child protection in Indonesia and Malaysia?
2. What is the criminal accountability of perpetrators of sexual violence in Indonesia and Malaysia?

C. Research Objectives

1. To know and analyze the differences in the regulation of perpetrators of child sexual violence in Indonesian and Malaysian criminal laws.
2. To know and analyze the criminal liability of perpetrators of sexual violence in Indonesia and Malaysia.

D. Research Methods

This normative research method uses a legislative, conceptual, and comparative approach to dissect child protection laws in Indonesia (Law 35/2014 & Law 12/2022) and Malaysia (Child Act 2001 & Sexual Offences Against Children Act 2017). This analysis compares the Civil Law and Common Law systems to formulate a progressive criminal policy reconstruction for the protection of victims' substantive rights. In line with these methods, this study highlights the shift in criminal liability from physical retribution to comprehensive obligations, such as restitution and rehabilitation. The main challenge in

Systems on Child Protection," Innovative Law: Journal of Social Law and Humanities, Vol. 1, No. 3, 2024, pp. 347–359.

[23] R. Alpian, "Criminal Law Protection against Sexual Violence in Higher Education Institutions", Lex Renaissance, Vol. 7, No. 1, 2022, p. 69..

Indonesia's *Civil Law* system and *Malaysia's Common Law* system now lies in the optimization of punishment as an effective means of preventing recidivism without neglecting humanitarian principles.[24]

E. Research and Discussion Results

1. Child protection arrangements in Indonesia and Malaysia.

Indonesia and Malaysia are based on different legal traditions, but both still adopt the Convention on the Rights of the Child (CRC) as a global standard for child protection.[25] The functional analysis reveals that the divergence between Indonesia's codifying Civil Law system and Malaysia's precedent-centric Common Law is a reflection of the two countries' philosophical priorities in defining child protection responsibilities.[26] The characteristics of different legal systems fundamentally shape the pattern of norm formulation and criminal accountability models that are distinctive in each jurisdiction.[27] Child protection policy reform is a manifestation of state sovereignty in guaranteeing the constitutional rights of vulnerable citizens, where the success of its handling depends on the synchronization of strict legal norms with targeted rehabilitative implementation.[28]

Indonesia has adopted a layered and integrative criminal policy through a combination of Law Number 35 of 2014

[24] Yichen Pan, "Comparative Analysis on the Improvement of Aggravate Punishment for Recidivism in Malaysia," Western Science Law and Human Rights, Vol. 1, No. 4, 2023, p. 247.

[25] S. Rosedila and R. Susanti, "The Crime of Sexual Violence Against Children (A Comparative Study of Indonesia and Malaysia)," Journal of Legal Legality, Vol. 6, No. 2, 2024, p. 93.

[26] F. Ajurni & N. W. Sari, "Comparison of the Indonesian and Malaysian State Legal Systems on Child Protection," *Innovative Law*, Vol. 1, No. 3, 2024, p. 348.

[27] Y. A. Touré, M. H. A. Wafa, A. Munandar, N. Muhammad, & M. A. Munjid, "Recognition of the Constitution, Laws and Regulations, Customary Law, and Islamic Law in the Indonesian and Malaysian Legal Systems", Amorti: Journal of Interdisciplinary Islamic Studies, Vol. 1, No. 1, 2025, p. 151.

[28] Nurul Ilaina, et al., "Political Synchronization of Child Protection Law in the Juvenile Criminal Justice System in Indonesia," Journal of Equalities Law 1, no. 2 (2025): 102-117.

concerning Child Protection and Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law).[29] Conceptually, the TPKS Law shifts the paradigm from a purely punitive approach to a remedial model that focuses on restoring victims' rights through restitution and medical rehabilitation.[30] This approach reflects the state's commitment to ensuring legal certainty oriented towards the welfare of children as vulnerable legal subjects.[31]

Malaysia formulated a protection framework through the Child Act 2001 (Act 611) which was strengthened by the Sexual Offences Against Children Act 2017 (Act 792) as a lex specialis instrument.[32] This regulation applies an aggressive approach in criminalizing various crimes, including grooming and sexual exploitation, and expressly rejects the age of consent for all forms of sexual penetration.[33] In practice, Malaysia consistently rejects the defense of error of age, so the perpetrator cannot use the excuse of ignorance of the victim's age to mitigate the sentence. This technical approach reflects the characteristics of the Common Law system that prioritizes the deterrent effect as a mechanism for protecting children from modern crime.[34]

[29] R. S. Acintya, D. A. Atmaja, Z. Salsabillah, and A. Suherman, "Criminal Accountability of Perpetrators of Sexual Violence Against Children in the Framework of Law and Human Rights in Indonesia," Journal of Legal and Public Policy Studies, Vol. 3, No. 1, 2025, p. 120.

[30] D. C. Endyka, et al., "The Effectiveness of the TPKS Law in Guaranteeing the Restitution Rights of Victims of Sexual Violence: A Juridical Review", *ULIL ALBAB: Multidisciplinary Scientific Journal*, Vol. 5, No. 6, 2026, p. 1270.

[31] Maidin Gultom, *Legal Protection of Children in the Juvenile Criminal Justice System in Indonesia (Revised Edition),* Bandung: PT Refika Aditama, 2018, p. 4.

[32] M. Abdul Jumaat, "SWOT Analysis on Child Sexual Abuse Framework in Malaysia," *INSAF: The Journal of the Malaysian Bar*, Vol. 40, No. 1, 2024, pp. 12-16.

[33] Izmi Izdiharuddin Che Jamaludin Mahmud, Suria Fadhillah Md Pauzi, Nadzriah Ahmad, and Rafizah Abu Hassan, "The Analysis of Child Sexual Grooming Offences in Malaysia," *CRELDA Journal*, Vol. 7, 2023, pp. 91–93.

[34] Mohamad Aliyyuddin Mohd Nazir, Ahmad Ikmal Hishammudin, Muhammad Danish Idraak Muhamad Syazwan, Ahmad Amjad Ahmad Shafrin,

At the institutional level, the implementation of child protection in Indonesia is coordinated by the Ministry of Women's Empowerment and Child Protection (KemenPPPA) and the Indonesian Child Protection Commission (KPAI) with a focus on monitoring and handling victims at the regional level.[35] Meanwhile, Malaysia through the Ministry of Women, Family and Community Development (KPWKM) and the Department of Social Welfare (JKM) integrates social rehabilitation with law enforcement.[36] This institutional collaboration affirms the principle of the best interests of the child as a conceptual foundation, where the state plays the role of guardian for children who have been traumatized by sexual crimes.[37]

This comparative analysis concludes that differences in sanctions philosophies, such as the use of chemical castration in Indonesia and caning punishment in Malaysia, indicate a divergence in strategies in eliminating sexual crimes.[38] Indonesia emphasizes medical rehabilitation, while Malaysia prioritizes an aggressive punitive-physical approach.[39] These two models, although methodologically different, both seek to mitigate risks for the next generation through the harmonization of penal instruments and the protection of victims' rights.[40]

& Mohd Harifadilah Rosidi, "Statutory Rape and Juvenile Male Offenders: A Maqasid al-Shariah Analysis of Rights and Legal Status in the Malaysian Legal System," *International Journal of Research and Innovation in Social Science* 9, no. 7 (2025): 2735–2744, esp. 2739–2741.

[35] A. A. A. Latief, R. M. Saleh, and Z. Abrar, "Child Protection Systems in Indonesia and Malaysia: Between Theories and Practices," *Journal of Creativity Student*, Vol. 7, No. 1, 2022, p. 95.

[36] *Ibid.*, p. 97.

[37] Ahmad Jamaludin, "Legal Protection of Children Victims of Sexual Violence," *JCIC: Journal of CIC Institute for Research and Social Consultancy*, Vol. 3, No. 2, 2021, p. 12.

[38] S. Rosedila and R. Susanti, *Op.Cit.*, p. 96.

[39] F. Ajurni & N. W. Sari, *Op.Cit.*, p. 358.

[40] Marsela Gusnefa, et al., "Comparison of Legal Protection on the Rights of Child Victims of Sexual Violence between Indonesia and Malaysia," *Journal of Legal Innovation* 6, no. 2 (2025): 166-167.

2. Criminal liability of perpetrators of sexual violence in Indonesia and Malaysia.

Criminal liability for perpetrators of sexual violence in Indonesia is based on the principle of guilt (geen straf zonder schuld), which requires the existence of an element of intentionality as an absolute condition for punishment.[41] Based on the theory of criminal liability, the Indonesian legal system applies an integrative approach that combines severe sanctions with medical measures, such as chemical castration for recidivists.[42] This strategy reflects efforts to eliminate potential medical hazards for perpetrators to ensure the future safety of victims.[43] The responsibility of perpetrators in Indonesia combines proportional sanctions (retribution) with behavior improvement (correction) through a restorative justice approach.[44] Criminal liability needs to be extended to third parties: mandatory reporting is absolute, and neglect of child sexual violence is a denial of collective responsibility that must be responded to by law.[45] Criminal liability needs to be extended to third parties. The obligation to report (mandatory reporting) is absolute, as affirmed in the obligation of medical personnel, families, and the community to participate in preventing and

[41] Barda Nawawi Arief, *Kapita Selekta Criminal Law: Criminal Law Policy*, Jakarta: Rajawali Press, 2024, p. 55.
[42] R. S. Acintya, et al., "Criminal Accountability of Perpetrators of Sexual Violence Against Children in the Framework of Law and Human Rights in Indonesia," *Journal of Legal and Public Policy Studies*, Vol. 3, No. 1, 2025, p. 125.
[43] *Ibid.*, p. 127.
[44] Novi Enjelina Putri, Annisa Firdhausy, & Wahyu Fahmi Rizaldy, "A Critical Review of the Implementation of Restorative Justice in the Criminal Justice System for Child Rape Cases in Indonesia," *Journal of Law and Administrative Science* 3, no. 1 (2025): 82-99.
[45] U. B. Jaman & A. Zulfikri, "Community Participation in the Prevention of Sexual Violence is Linked to Law No. 12 of 2022 concerning the Crime of Sexual Violence", Journal of Law and Human Rights West Science, Vol. 1, No. 1, 2022, pp. 1-7.

reporting suspected criminal acts of sexual violence in accordance with the TPKS Law; Neglect of child sexual violence is a form of denial of collective responsibility that must be responded to by law.[46]

Malaysian law emphasizes the deterrence effect through the Penal Code (Act 574) and the Sexual Offences Against Children Act 2017 (Act 792).[47] Criminal liability in Malaysia explicitly stipulates physical sanctions, such as expansive imprisonment and whipping for adult men.[48] Based on the theory of criminal responsibility, Malaysia views the perpetrator as a subject that must be controlled through harsh physical intervention.[49] This approach is a manifestation of the function of criminal law in protecting society from child predators, where the accountability of the perpetrator is positioned as a 'physical retribution' for serious violations of children's rights.[50] The effectiveness of aggressive sanctions always clashes with a dilemma between the need for a deterrent effect and the protection of human dignity. Therefore, Indonesia and Malaysia must ensure that any sanctions, both medical and physical, remain in line with international human rights principles.[51]

This difference in accountability systems reflects the divergence of the criminal policies of the two countries.

[46] Mahmud Abdul Jumaat, "SWOT Analysis on Child Sexual Abuse Framework in Malaysia," INSAF: The Journal of the Malaysian Bar 40, no. 1 (2023): 11-27.
[47] *Ibid.*, pp. 15-16.
[48] Penal Code (Act 574) and Child Act 2001 (Act 611), Malaysia.
[49] S. Rosedila and R. Susanti, "The Crime of Sexual Violence Against Children (A Comparative Study of Indonesia and Malaysia)," *Journal of Legal Legality*, Vol. 6, No. 2, 2024, p. 94.
[50] Manique Cooray, Siti Zaharah Jamaluddin, & Zulazhar Tahir, "Violence and Sexual Offences Against Children in Malaysia: Searching for the Right Approach," International Journal of Business and Society 21, no. S1 (2020): 160-161
[51] Marsela Gusnefa, et al., "Comparison of Legal Protection on the Rights of Child Victims of Sexual Violence between Indonesia and Malaysia," Journal of Legal Innovation 6, no. 2 (2025): 166-167

Indonesia, rooted in the Civil Law tradition, balances the punishment of perpetrators and the rights of victims through restorative justice mechanisms in contemporary criminal policy.[52] Malaysia, in the Anglo Saxon/Common Law tradition, has prioritized more specific and detailed rule determinations, with the Sexual Offences Against Children Act 2017 (Act 792) strengthening the scope and formulation of child sexual exploitation offences.[53] This difference confirms that criminal accountability in Malaysia focuses on an aggressive punitive dimension, while in Indonesia it leads more towards a multisectoral corrective and rehabilitative dimension.[54] This philosophical divergence is accentuated by different patterns of law-making: Indonesia tends to be accommodating to social developments, while Malaysia focuses more on rigid doctrinal stability.[55]

From the perspective of criminal liability theory, chemical castration in Indonesia is a form of biological-medical responsibility to suppress the sexual drive of the perpetrator, which conceptually expands the responsibility of the individual.[56] Malaysia, without such a medical mechanism, applies caning as a punitive act that is traumatic for the perpetrator.[57] Philosophically, the implementation of

[52] Jouna Mailentin Sinaga, "Violence Against Children: A Comparison of Indonesian Criminal Law and Malaysian Criminal Law" (Publication Manuscript, University of Muhammadiyah Surakarta, 2018), p. 3;
[53] *Ibid.*, pp. 8-9.
[54] A. A. A. Latief, R. M. Saleh, and Z. Abrar, "Child Protection Systems in Indonesia and Malaysia: Between Theories and Practices," *Journal of Creativity Student*, Vol. 7, No. 1, 2022, p. 101.
[55] Sitio, A. E. S., & Bakhtiar, H. S. (2025). *A Comparative Study of the Indonesian and Malaysian Judicial Systems in Law Enforcement.* Democracy: Journal of Legal, Social and Political Science, Vol. 2, No 3, pp. 50-58.
[56] A. A. A. Latief, R. M. Saleh, and Z. Abrar, "Child Protection Systems in Indonesia and Malaysia: Between Theories and Practices," Journal of Creativity Student, Vol. 7, No. 1, 2022, p. 101.
[57] Ahmad Jamaludin, "Legal Protection of Children Victims of Sexual Violence," *JCIC,* Vol. 3, No. 2, 2021, p. 47.

chemical castration sanctions in Indonesia places *the best interests of the child* as a conceptual basis for the state to intervene in the body of the perpetrator to mitigate the risk of recidivism, while Malaysia has not adopted a similar policy and still relies on heavy prison sentences and whipping as *its main* deterrence instruments.[58]

The two countries' approaches to child sexual violence reflect differences in law enforcement. Malaysia implements a more specific and strict legal framework through the Sexual Offences Against Children Act 2017 with a zero-tolerance policy, while Indonesia still integrates child protection into general criminal law so that its enforcement is less than optimal.[59] This analysis confirms that although accountability mechanisms differ, child protection remains a key narrative in the two countries' national criminal justice systems.[60]

The implementation of chemical castration measures in Indonesia is now strengthened through stricter post-sentencing supervision mechanisms, including the option of installing electronic detection devices or *chips* for child sexual violence perpetrators. This step is a form of *proactive-monitoring* that aims to ensure the existence and activities of the perpetrator after the sentence ends, so that the potential for recidivism can be reduced to a minimum through digitally integrated supervision. The use of this technology is a crucial instrument that emphasizes the state's responsibility in providing a sustainable sense of security for

[58] Iip Saripudin, Chepi Ali Firman Zakaria, & Emaliawati, "Chemical Castal Sanctions in Sexual Violence Against Children: Human Rights Protection and Controversy," *Journal Justiciabelen (JJ)* 4, no. 1 (2024): 20, 24.

[59] Marsela Gusnefa, et al., "Comparison of Legal Protection on the Rights of Child Victims of Sexual Violence between Indonesia and Malaysia," Journal of Legal Innovation 6, no. 2 (2025): 166-167.

[60] Maidin Gultom, *Legal Protection of Children in the Juvenile Criminal Justice System*, Bandung: Refika Aditama, 2018, p. 18.

victims and the wider community through early detection of potential repeat of criminal acts.[61]

The criminal justice system in Indonesia has currently prioritized the right to restitution as a form of perpetrators' civil responsibility that is imperative to the victim. Restitution is not just financial compensation, but a form of substantive recovery for material losses and psychological suffering experienced by children due to sexual crimes. The judge's firmness in imposing a restitution verdict—which is accompanied by the threat of a subsidiary criminal penalty if it is not paid—shows a shift in the focus of national criminal law which is no longer only oriented towards criminalizing perpetrators, but prioritizing the restoration of the victim's condition as the core of justice.[62]

This comprehensive accountability scheme puts Indonesia in a unique position when compared to the purely retributive approach in Malaysia. Although Malaysia has a strict enforcement system with corporal punishment, Indonesia's model that combines biological sanctions (castration), technological surveillance (chips), and economic recovery (restitution) offers a more multisectoral protection package. The harmonization between punitive sanctions and victim-oriented recovery mechanisms is a key variable in determining the effectiveness of child protection in both jurisdictions.[63]

F. Conclusion/Conclusion

[61] Law Number 17 of 2016 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law.

[62] D. C. Endyka, W. Hermanto, T. M. Seto, R. S. Luhukay, & S. A. Kadir, "The Effectiveness of the TPKS Law in Guaranteeing the Restitution Rights of Victims of Sexual Violence: A Juridical Review," *ULIL ALBAB: Multidisciplinary Scientific Journal*, Vol. 5, No. 6, 2026, p. 1272.

[63] I. Saripudin, C. A. F. Zakaria, & Emaliawati, "Chemical Castal Sanctions in Sexual Violence Against Children: Protection and Controversy of

1. Conclusion

The criminal liability arrangements in Indonesia and Malaysia show the convergence of child protection visions through different legal approaches. Indonesia has undergone progressive codification (Law 35/2014 and Law 12/2022) with corrective dimensions through medical and rehabilitative sanctions. In contrast, Malaysia implements aggressive lex specialis regulations (Child Act 2001 and Sexual Offences Against Children Act 2017) with an emphasis on physical retribution and an absolute rejection of the defense of errors of age as a deterrent effect. Although different, the principle of the best interests of the child remains the main compass of the two jurisdictions.

2. Suggestions

Strengthening the criminal accountability system in both countries requires complementary steps that extend accountability not only to the main perpetrators, but also to third parties and related institutions. Indonesia needs to strengthen legal accountability through the criminalization *of failure to report* and the absolute rejection of the defense of error of age in order to close the gap for negligent legal subjects in supervision. Malaysia is advised to integrate a comprehensive restitution system and victim recovery protocol based on the model of Law Number 12 of 2022 in order to shift the orientation of criminal liability from mere physical levy to integrative substantive rights recovery. The alignment of the doctrine of criminal responsibility through cross-border cooperation between child protection

Human Rights," *Journal Justiciabelen (JJ),* Vol. 4, No. 1, 2024, p. 23.

institutions must be prioritized in mitigating crimes in the digital space, so that the legal ecosystem is able to impose responsibility fairly on every element involved in the chain of protection and child exploitation.

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