

Marital rape as a hidden crime: a victimological analysis of victim-centered justice in Indonesia

Yosep Copertino Apaut*, Redentor G. A. Obe

Sekolah Tinggi Ilmu Hukum Cendana Wangi, Nusa Tenggara Timur, Indonesia

*Correspondence author: yosepcopertinoapaut@gmail.com

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ABSTRACT

Purpose: to analyze the legal protection of marital rape victims in Indonesia from a victimological perspective, focusing on its status as a hidden crime, the factors contributing to secondary victimization, and the effectiveness of the existing criminal law framework in providing victim-centered protection, recovery, and justice.

Method: this study employs normative legal research using statutory, conceptual, case, comparative, and human rights approaches. Legal materials consist of primary, secondary, and tertiary sources collected through library research and analyzed qualitatively using legal interpretation, conceptual analysis, and prescriptive analysis.

Findings: marital rape in Indonesia remains a hidden crime influenced by patriarchal norms, economic dependency, unequal power relations, social stigma, and limited access to victim protection services. Although Law No. 23 of 2004 and Law No. 12 of 2022 provide an important legal basis for protecting victims, their implementation remains constrained by institutional and cultural barriers. The study further finds that a victim-centered, trauma-informed approach is essential to prevent secondary victimization and ensure victims' safety, recovery, restitution, and empowerment.

Implications: Indonesian criminal justice policy should strengthen victim-centered and trauma-informed approaches through improved law-enforcement capacity, integrated victim protection services, institutional coordination, and mechanisms for restitution and recovery.

Originality: lies in integrating classical and contemporary victimological perspectives with Indonesian criminal law to develop a victim-centered framework for addressing marital rape as a hidden crime.



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Introduction

Sexual violence is a serious violation of human rights that affects victims' physical and psychological well-being, dignity, social relationships, economic security, and bodily

autonomy (Yuliartini et al., 2025). One of its most difficult manifestations is marital rape, namely sexual intercourse or sexual acts imposed by one spouse on the other without free and voluntary consent (Singh, 2022). Marriage should not be understood as an automatic transfer of sexual consent or as an unlimited entitlement to a spouse's body (Kadyan & Unnithan, 2025). Nevertheless, in societies where marriage is strongly influenced by patriarchal norms, sexual relations within marriage are often perceived as a marital obligation rather than an activity requiring mutual consent (Taha & Shousha, 2026). In Indonesia, this construction creates significant challenges for recognizing marital rape as a form of sexual violence and for ensuring effective protection of its victims (Masduki et al., 2025; Siburian, 2020; Syaifuddin, 2018).

Marital rape is particularly problematic because it frequently operates as a hidden crime (Banerjee & Rao, 2022). Unlike many forms of sexual violence occurring in public spaces, marital rape takes place within a private and intimate relationship in which the victim and perpetrator may continue to live together and remain economically, socially, and emotionally connected (Lilley et al., 2023). Patriarchal culture, economic dependency, concern for children, fear of retaliation, social stigma, and pressure to preserve family unity may discourage victims from reporting the violence (Childress et al., 2024). Consequently, the number of officially reported cases may not reflect the actual prevalence of marital rape, creating a substantial dark figure of crime (Wheeler & Piquero, 2025). Recent studies indicate that limited legal awareness, social perceptions of marital sexual obligations, and structural barriers continue to influence the recognition and disclosure of marital rape in Indonesia (Hope et al., 2023; Normala et al., 2026; Puspita & Umami, 2024).

The hidden character of marital rape demonstrates that the problem cannot be examined solely from the perspective of criminalization (Mukhtar & Mukhtar, 2022). It must also be understood through the conditions that make victims vulnerable and prevent them from accessing justice (Charman & Williams, 2022). From a victimological perspective, classical victimology developed by Mendelsohn (1963) and Hentig (1940) provides an important foundation for understanding victim-offender relationships and patterns of victimization. However, the application of classical victimology to sexual violence has been criticized where it risks shifting attention toward the characteristics or behavior of victims and consequently reinforcing victim blaming. Wulandari & Krisnani (2021) demonstrate that victim blaming may arise from erroneous attribution processes that place responsibility on victims rather than perpetrators. Therefore, modern victimology provides a more appropriate framework by positioning victims as rights-bearing subjects entitled to protection, dignity, participation, recovery, and access to justice.

The victimological perspective is particularly relevant because victims of marital rape may experience not only primary victimization, resulting from the sexual violence itself, but also secondary victimization or revictimization during their efforts to seek help and justice. Victims may encounter disbelief, victim-blaming questions, pressure from family members to reconcile, inadequate assistance, or insensitive treatment by law enforcement and other institutions (Agrawal, 2025). Such experiences may discourage reporting and deepen the psychological and social consequences of the original violence. In this context, victimogenic factors such as patriarchal culture, unequal power relations, economic dependency, and social stigma are important for explaining both the occurrence of marital rape and the barriers faced by victims in accessing justice (Kurniasari, 2022; Ritonga & Siregar, 2026). The problem therefore

extends beyond the relationship between offender and victim to include the institutional and social environments in which victimization is experienced and addressed.

Indonesia has progressively developed its legal framework for protecting victims of domestic and sexual violence. Law No. 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT) provides a legal basis for addressing violence within household relationships, while Law No. 12 of 2022 concerning Sexual Violence Crimes (UU TPKS) represents a significant development by recognizing victims' rights to handling, protection, assistance, restitution, and recovery. The enactment of Law No. 1 of 2023 concerning the Criminal Code, which entered into force in 2026, further demonstrates the continuing transformation of Indonesia's criminal law framework. Nevertheless, the existence of progressive legal provisions does not necessarily guarantee effective protection in practice. Differences in institutional capacity, access to victim services, law enforcement perspectives, interinstitutional coordination, and persistent perceptions of sexual violence as a private family matter may create a gap between law in books and law in action.

Existing studies have made important contributions to the understanding of marital rape in Indonesia. Siburian (2020) examined the criminalization of marital rape in the context of the Sexual Violence Elimination Bill, while Isima (2021) analyzed marital rape from the perspective of criminal law policy and legal reform. Masduki et al. (2025) focused on legal reform and the criminalization of marital rape, and Kurniasari (2022) examined legal protection for victims through a specific court decision. Riyadi (2022) addressed the protection of children as victims of marital rape, while Susantin & Fadli (2023) analyzed policy advocacy concerning forced sexual relations between spouses. Puspita & Umami (2024) explored the impacts of domestic violence and marital rape, while more recent studies have examined legal awareness, the post-new Criminal Code framework, and victimological protection (Andriani et al., 2026; Hope et al., 2023; Normala et al., 2026). These studies demonstrate increasing scholarly attention to criminalization, legal protection, legal awareness, and victimology.

However, the literature still reveals a significant research gap. Most previous studies examine marital rape primarily through criminalization, statutory reform, legal protection, comparative perspectives, or general victimological analysis. Limited research has systematically integrated the concepts of hidden crime, victimogenic factors, secondary victimization, and victim-centered justice into a single analytical framework. In particular, insufficient attention has been given to how patriarchal norms, unequal marital power, economic dependency, and institutional responses interact to produce underreporting and revictimization. Moreover, although the UU TPKS has strengthened the normative recognition of victims' rights, its effectiveness in protecting victims of marital rape has not been sufficiently evaluated from the perspective of whether the criminal justice process actually prevents secondary victimization and facilitates meaningful recovery. This gap becomes increasingly important within Indonesia's evolving criminal law framework following the implementation of the new Criminal Code in 2026.

Based on this gap, the novelty of this research lies in developing an integrated victimological analysis of marital rape as a hidden crime by connecting four dimensions: the hidden nature of marital rape and the dark figure of crime; classical and modern victimology; victimogenic factors and secondary victimization; and victim-centered justice in the implementation of Indonesia's sexual violence legal framework. The study uses classical victimology as a critical foundation while placing modern victimology at the center of analysis. It further employs the principles of victim-centered justice,

trauma-informed justice, and victim empowerment to evaluate whether the existing criminal justice system adequately respects victims' autonomy, dignity, safety, participation, and recovery. Thus, the research moves beyond the question of whether marital rape has been criminalized toward the broader question of whether the Indonesian criminal justice system is capable of delivering substantive justice to victims.

Accordingly, this research aims to (1) analyze marital rape as a hidden crime from a victimological perspective and identify the victimogenic factors contributing to the underreporting and concealment of cases in Indonesia; (2) examine the forms of secondary victimization experienced by marital rape victims and evaluate the implementation of Law No. 12 of 2022 concerning Sexual Violence Crimes in protecting victims' rights; and (3) formulate directions for criminal law policy that can strengthen a genuinely victim-centered criminal justice system in dealing with marital rape. The significance of this research lies in its effort to connect legal reform with the lived experiences and rights of victims. Theoretically, it is expected to contribute to the development of victimological scholarship on marital rape; normatively, to strengthen the evaluation of Indonesia's victim-protection framework; and practically, to provide recommendations for law enforcement agencies, policymakers, and victim-service institutions concerning reporting mechanisms, victim-sensitive procedures, protection from revictimization, restitution, assistance, and recovery. Ultimately, this research seeks to reposition marital rape from a private and hidden form of domestic violence into a matter of public justice in which the protection, recovery, dignity, and empowerment of victims constitute central objectives of the Indonesian criminal justice system.

Method

This study employs normative legal research to examine the legal protection of victims of marital rape within the Indonesian criminal justice system from a victimological perspective. Normative legal research is appropriate because the study focuses on legal norms, principles, doctrines, legislation, judicial decisions, and scholarly developments rather than on empirical data collected from victims or law enforcement institutions. The research seeks to assess the coherence and adequacy of the existing legal framework in protecting victims of marital rape and to examine its compatibility with the principles of modern victimology, human rights, and victim-centered criminal justice. The analysis is directed not only at identifying the applicable legal rules but also at evaluating whether those rules provide an adequate normative basis for preventing secondary victimization and ensuring victim protection, recovery, and empowerment.

The research applies five complementary approaches: statutory, conceptual, case, comparative, and human rights. The statutory approach is used to examine relevant legal provisions governing marital rape and victim protection, including the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 2023 concerning the Criminal Code, Law No. 12 of 2022 concerning Sexual Violence Crimes (UU TPKS), Law No. 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT), the applicable criminal procedural framework, and relevant implementing regulations concerning the handling, protection, assistance, restitution, and recovery of victims. This approach is intended to identify the normative position of marital rape and determine the extent to which Indonesian legislation provides a coherent framework for victim-centered protection.

The conceptual approach is employed to construct the theoretical framework of the study by examining the concepts of marital rape, hidden crime, dark figure of crime,

victimization, secondary victimization, victimogenic factors, victim-centered justice, trauma-informed justice, and victim empowerment. Classical victimological theories associated with Mendelsohn (1963) and Hentig (1940) are examined critically as part of the historical development of victimology. In contrast, modern victimology is used as the principal framework for positioning victims as rights-bearing subjects. This approach enables the study to analyze how patriarchal culture, unequal power relations, economic dependency, social stigma, and institutional responses contribute to victim vulnerability, underreporting, and revictimization.

The case approach is used to analyze relevant judicial decisions concerning sexual violence within domestic relationships and cases involving the protection of victims' rights. Judicial decisions are examined to identify how judges interpret and apply relevant legal provisions, how evidence and victim testimony are assessed, and whether considerations concerning victim protection, dignity, safety, and recovery are reflected in judicial reasoning. Where relevant, the study also considers international jurisprudence concerning the recognition of marital rape and the elimination of the marital rape exemption as a comparative source of legal development. The case approach is therefore used to examine the relationship between legal norms and their interpretation in judicial practice. The comparative approach is employed to examine the regulation and protection mechanisms concerning marital rape in jurisdictions. The comparison focuses on three principal dimensions: the legal recognition of sexual consent within marriage, mechanisms for protecting victims during criminal proceedings, and mechanisms for victim recovery and support. The purpose of the comparative analysis is not to transplant foreign legal provisions directly into the Indonesian system, but to identify relevant legal principles and institutional practices that may serve as references for strengthening victim-centered criminal justice policy in Indonesia.

The human rights approach complements the preceding approaches by positioning the protection of marital rape victims within the state's obligations to respect, protect, and fulfill human rights. This approach refers to relevant international human rights instruments, particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), and relevant international recommendations concerning gender-based violence and victims' rights. Through this approach, victim protection is assessed not merely as a matter of criminal procedure but as an integral component of the protection of bodily autonomy, dignity, equality, security, and access to justice.

The legal materials consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution, Indonesian legislation, implementing regulations, relevant judicial decisions, and applicable international legal instruments. Secondary legal materials comprise peer-reviewed journal articles, books, legal scholarship, research reports, and expert opinions concerning criminal law, victimology, sexual violence, human rights, and victim-centered justice. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other reference materials used to clarify legal terminology and concepts. The selection of legal materials prioritizes authoritative and academically relevant sources, particularly publications from 2020 to 2026, while seminal works in victimology and human rights are retained where they provide essential theoretical foundations.

Legal materials are collected through library research and systematic literature review. Relevant legislation and judicial decisions are identified through official legal

databases and institutional repositories. At the same time, academic literature is searched through recognized scholarly databases. The literature selection is based on relevance to the research questions, academic credibility, substantive contribution to the study, and publication recency. Particular attention is given to literature addressing marital rape, hidden crime, victimology, secondary victimization, victim-centered justice, sexual violence, and victim protection. The use of recent literature is complemented by foundational theoretical works where necessary to maintain conceptual continuity and theoretical validity.

The analysis is conducted qualitatively and prescriptively through legal interpretation, conceptual analysis, comparative analysis, and systematic synthesis of the identified legal materials. First, the relevant legal provisions are interpreted to determine the existing normative framework governing marital rape and victims' rights. Second, the provisions are examined through victimological concepts to identify potential gaps between formal legal protection and victims' needs. Third, judicial decisions and comparative legal materials are analyzed to identify patterns of interpretation and potentially relevant practices. Finally, the findings are synthesized to assess whether the existing framework is consistent with the principles of victim-centered and trauma-informed justice. The analysis ultimately adopts a prescriptive approach to formulate recommendations for criminal law and criminal justice policy that strengthen victim protection, prevent secondary victimization, and promote the recovery, dignity, autonomy, and empowerment of marital rape victims in Indonesia.

Results and discussion

Marital rape as a hidden crime

Marital rape refers to sexual intercourse or other sexual acts imposed by one spouse on the other without free, conscious, and voluntary consent (Mukhtar & Mukhtar, 2022). The central issue is therefore not the marital status of the parties, but the existence of consent and respect for bodily integrity and sexual autonomy. Marriage cannot logically be interpreted as a permanent and irrevocable consent to sexual activity. From a human rights perspective, every individual retains the right to determine what happens to his or her body, including within marriage (Vatter & Leeuw, 2023). This understanding reflects the broader development of international human rights law, which has progressively rejected the traditional marital rape exemption and recognized sexual violence within marriage as a violation of dignity, equality, bodily integrity, and freedom from violence.

The development of Indonesian law demonstrates a gradual shift from treating sexual violence within the family as a private matter toward recognizing it as a matter of public law and human rights. Law No. 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT) was an important turning point because it expressly recognized sexual violence within the household. This development was subsequently strengthened by Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS), which adopts a broader victim-protection framework by recognizing victims' rights to handling, protection, recovery, restitution, and assistance. Previous research by Sari and Sularto emphasized that the Indonesian Criminal Code historically did not explicitly regulate marital rape and argued for a gender-justice-based formulation of criminal policy. Their findings are significant because they demonstrate that the problem is not merely the absence of criminalization, but also the need to reform the underlying legal paradigm concerning gender relations and sexual autonomy.

More recent research similarly identifies the PKDRT Law and the TPKS Law as important instruments in the development of Indonesian legal policy concerning the criminalization of marital rape (Fitriyah et al., 2023; Wahdah & Harefa, 2025). Nevertheless, the existence of legal norms does not automatically eliminate the hidden character of marital rape. The crime frequently occurs within the private sphere, where there are few witnesses and where the perpetrator and victim maintain an intimate and legally recognized relationship. This creates significant difficulties in reporting, investigation, evidence collection, and prosecution. More importantly, the victim often has to make the decision to report while remaining economically, emotionally, and socially connected to the perpetrator. Consequently, the dark figure of marital rape cannot be explained solely by weaknesses in criminal procedure. It is also produced by the social environment in which the victim lives.

Previous research on marital rape in Indonesia has consistently highlighted patriarchal culture as an important factor underlying the normalization of sexual coercion within marriage (Masduki et al., 2025). The assumption that a wife has an unconditional obligation to satisfy her husband's sexual needs may cause victims to interpret coercive sexual acts as part of their marital duties rather than as criminal conduct. This situation creates what may be described as a legal and cultural invisibility of marital rape: the law may provide a basis for protection, but victims may not recognize themselves as rights holders entitled to invoke that protection (Banerjee & Rao, 2022). Therefore, marital rape becomes a hidden crime not because it is inherently impossible to identify, but because the social, economic, and institutional environment suppresses reporting and recognition.

Economic dependency further strengthens this hidden character. A victim who depends on the husband for income, housing, healthcare, or children's education may perceive criminal reporting as a threat to family survival. The decision to remain silent may therefore represent a rational survival strategy rather than acceptance of the violence. This finding is consistent with victimological perspectives emphasizing that victimization is shaped by structural vulnerability (Chopin et al., 2024). The significance of this perspective is that the failure to report cannot automatically be interpreted as evidence that the violence was insignificant or did not occur. Instead, non-reporting should be understood within the broader context of power imbalance, dependency, fear, and social pressure. Accordingly, marital rape should be understood as a hidden crime produced by the interaction between legal, social, economic, and institutional factors. The existence of criminal provisions is necessary but insufficient. Effective protection requires the simultaneous transformation of legal norms, law-enforcement practices, public attitudes, victim-support mechanisms, and the social structures that make victims vulnerable to continued violence.

A victimological analysis of marital rape

The findings demonstrate that marital rape cannot be adequately analyzed through an offender-centered criminal justice perspective alone. Victimology provides a broader analytical framework because it examines not only the relationship between victim and offender but also the social conditions that create vulnerability, the consequences of victimization, and the institutional response to victims (Sharma & Verma, 2025). This approach is particularly relevant to marital rape because the victim and offender are connected by an intimate relationship characterized by emotional attachment, economic dependency, family responsibilities, and unequal power.

Classical victimological theories developed by Mendelsohn (1963) and Hentig (1940) contributed significantly to the emergence of victimology by shifting scholarly attention toward the position and characteristics of victims. Mendelsohn's classification of victims and Hentig's analysis of victim vulnerability provide historical foundations for understanding why certain individuals may face a higher risk of victimization. However, their application to marital rape must be critically reconsidered. If these theories are interpreted literally, attention may shift from the perpetrator's responsibility toward the victim's characteristics and behavior. Such an approach risks reinforcing victim blaming, particularly when victims are questioned about why they remained in the marriage, why they did not immediately report the violence, or why they continued to live with the perpetrator.

For marital rape, vulnerability should therefore not be interpreted as victim contribution to the crime. Rather, it should be understood as a consequence of structural inequality. Economic dependence, patriarchal family structures, unequal decision-making power, psychological intimidation, social stigma, and limited access to legal assistance may increase vulnerability without reducing the perpetrator's responsibility. In this respect, classical victimology remains useful as a historical foundation, but it requires reinterpretation through a contemporary human rights and gender-sensitive framework.

Stephen Schafer's contribution is particularly relevant to this transition because his victimological perspective provides more space to consider social responsibility and the role of the state in preventing victimization. The implication for marital rape is that victim protection cannot be reduced to individual coping mechanisms. The state has an obligation to establish mechanisms that reduce vulnerability, facilitate reporting, protect victims from further violence, and provide effective recovery (Kamalludin, 2024; Yuliartini et al., 2025). Thus, the development from classical to modern victimology reflects a fundamental transformation: the question is no longer whether the victim contributed to the crime, but whether the social and legal system has adequately protected the victim.

This finding is consistent with the broader development of victim-centered justice. Modern victimology places the victim as a rights holder rather than merely a source of evidence in criminal proceedings (Holder & Dearing, 2024). In the context of marital rape, victim-centered justice requires protection throughout the entire legal process, including reporting, investigation, prosecution, trial, and post-trial recovery. The victim must be able to participate in proceedings without being subjected to intimidation, humiliation, discrimination, or unnecessary repetition of traumatic experiences. The importance of this approach is reinforced by previous research concerning sexual violence in Indonesia. Yunara & Kemas (2024) and Pemberton & Mulder (2025) found that victims may experience more severe and prolonged trauma when interacting with the criminal justice system, particularly when law-enforcement officials lack a victim-oriented perspective. Their study also identified patriarchal attitudes as an important factor contributing to secondary victimization.

These findings support the argument that the effectiveness of victim protection should not be measured exclusively by the number of cases prosecuted or perpetrators convicted (Carroll, 2023; McPhee et al., 2022). It should also be assessed through the extent to which the justice system protects victims from additional harm. The present study therefore extends previous victimological research by placing marital rape within a combined framework of victim-centered justice, trauma-informed justice, and victim empowerment. Victim-centered justice emphasizes the rights and participation of

victims; trauma-informed justice recognizes the psychological consequences of sexual violence; and victim empowerment seeks to restore the victim's autonomy, dignity, and capacity to make independent decisions. The integration of these three concepts provides a more comprehensive framework for analyzing marital rape than classical victimological theories alone.

Secondary victimization in the criminal justice process

The findings further demonstrate that victimization does not necessarily end when the sexual violence ends. Victims may experience additional suffering as a result of the responses of family members, communities, service providers, police officers, prosecutors, judges, or other institutions. This phenomenon is commonly described as secondary victimization. In the context of marital rape, secondary victimization is particularly serious because victims may already experience psychological trauma, economic dependency, social stigma, and continuing exposure to the perpetrator. Secondary victimization may begin at the reporting stage. Victims may be questioned about their marital relationship, their obligations as wives, or the reasons they refused sexual intercourse. When officials or family members frame the incident as a domestic dispute rather than sexual violence, the victim may feel that the legal system does not recognize the violation of her autonomy. Such responses can discourage further reporting and reinforce the hidden character of marital rape.

Secondary victimization may also occur during investigation. Repeated questioning, insensitive communication, doubts concerning the victim's credibility, and excessive emphasis on physical evidence may create additional psychological pressure. Sexual violence within marriage does not necessarily produce visible physical injuries, particularly when coercion is exercised through threats, intimidation, psychological pressure, or economic control (Shousha & Taha, 2025). Consequently, a narrow understanding of violence based solely on physical injury may fail to capture the realities of marital rape. During prosecution and trial, secondary victimization may occur through confrontational questioning, public exposure, unnecessary repetition of traumatic narratives, or statements that implicitly blame the victim. The problem is not merely procedural but institutional. A criminal justice system that treats victims primarily as evidentiary instruments may inadvertently reproduce the power imbalance that characterized the original victimization (Pangaribuan, 2026).

These findings are strongly supported by previous Indonesian research. Syahbur et al. (2024) found that sexual-violence victims may experience secondary victimization during court proceedings because some law-enforcement officials still lack sufficient victim-oriented perspectives and understanding of victims' post-traumatic conditions. Their study recommends mechanisms to prevent humiliating, intimidating, or victim-blaming treatment during judicial examination. Ali & Yulia (2023) similarly concluded that interactions between victims and law-enforcement personnel may produce additional and prolonged trauma, demonstrating that the criminal justice process itself can become a source of victimization.

These previous studies strengthen the present research's argument that secondary victimization should not be treated as a peripheral issue. It should become one of the central indicators for evaluating the effectiveness of the criminal justice system. A legal system may successfully prosecute an offender but still fail to provide justice if the victim is subjected to humiliation, intimidation, disbelief, or repeated trauma during the process (Maier, 2025; Slovinsky, 2023). Accordingly, trauma-informed justice is necessary in the handling of marital rape. Law-enforcement officers,

prosecutors, judges, medical personnel, psychologists, and victim advocates need to understand that trauma may influence memory, emotional expression, communication, and the victim's ability to provide a linear narrative. Inconsistency in testimony should therefore not automatically be interpreted as evidence of dishonesty. A trauma-informed approach requires sensitive interviewing, minimization of unnecessary repetition, confidentiality, appropriate support persons, and procedures designed to preserve the victim's dignity.

Victimogenic factors

The analysis identifies four interconnected victimogenic factors that contribute to the occurrence and persistence of marital rape: patriarchal culture, economic dependency, unequal power relations, and victim-blaming attitudes. These factors should not be interpreted as characteristics that make victims responsible for their victimization. Instead, they represent structural conditions that increase vulnerability and reduce victims' ability to seek protection. Patriarchal culture is the first major factor. The assumption that husbands possess greater authority within the household may create a perception that wives have a permanent sexual obligation (Aissa & Mkinsi, 2024). Such a perception undermines the principle of consent and transforms sexual relations from an expression of mutual autonomy into an instrument of domination. Previous Indonesian research on marital rape has similarly identified patriarchal culture and gender inequality as significant problems underlying the formulation and implementation of criminal law (Al Ma'shumiyyah, 2023; Masduki et al., 2025; Nurnaningsih, 2023).

Economic dependency constitutes the second factor. Victims who depend on perpetrators for financial resources may face significant barriers to reporting because legal action may threaten their housing, income, and children's welfare (Shah et al., 2023). Therefore, victim protection must include economic empowerment rather than focusing exclusively on criminal prosecution. Without economic support, victims may be forced to return to abusive relationships even after receiving legal protection. The third factor is unequal power within marriage. Power imbalance may be expressed through physical violence (Khan & Akram, 2025). However, it can also take the form of threats, emotional manipulation, financial control, restrictions on social interaction, or threats concerning divorce and child custody. Such conditions demonstrate why consent must be assessed in terms of freedom and voluntariness rather than merely the absence of physical resistance.

The fourth factor is victim blaming. When communities interpret marital rape as a consequence of a wife's failure to perform marital duties, responsibility is shifted from the perpetrator to the victim (Shousha & Taha, 2025). This not only discourages reporting but also legitimizes the social conditions that allow violence to continue. Therefore, combating victim blaming is an essential component of legal reform. The interaction among these factors explains why marital rape remains difficult to detect and prosecute. Patriarchal culture legitimizes unequal power; economic dependency restricts the victim's ability to leave; power imbalance facilitates coercion; and victim blaming discourages reporting. These factors form a reinforcing cycle that transforms marital rape into a hidden and persistent form of victimization.

Implementation of the sexual violence crimes law

Law No. 12 of 2022 represents an important development in Indonesian criminal policy because it strengthens the legal recognition of victims' rights and shifts the focus

of sexual violence law beyond punishment toward protection and recovery. The law provides a stronger normative foundation for handling sexual violence and recognizes the importance of protection, assistance, restitution, and recovery. In relation to marital rape, this development is significant because it strengthens the understanding that the existence of a marital relationship cannot automatically eliminate the victim's right to protection from sexual violence. However, the findings indicate a gap between normative protection and practical implementation. The first challenge is the uneven understanding of victim-centered approaches among law-enforcement officers. Where marital rape continues to be perceived as a private family conflict, victims may be encouraged to reconcile rather than receive appropriate legal protection. Such practices can undermine the objectives of the TPKS Law.

The second challenge concerns unequal access to victim services. Protection requires more than legal provisions; victims need access to psychological services, medical treatment, legal assistance, temporary protection, safe accommodation, and economic support. Where these services are concentrated in urban areas, victims in remote or underserved regions may experience significantly weaker protection. This creates a practical inequality despite formal equality before the law (Sudaypan et al., 2025). The third challenge is institutional coordination. Marital rape cases may involve police, prosecutors, courts, LPSK, UPTD PPA, healthcare professionals, psychologists, social workers, and legal-aid organizations. Without effective coordination, victims may be required to repeat their experiences to multiple institutions, increasing the risk of secondary victimization. This concern corresponds with previous research emphasizing the need for institutional mechanisms that prevent repeated and insensitive treatment of sexual-violence victims (Davies et al., 2025; Utari et al., 2026).

The fourth challenge is legal culture. Legislative reform cannot immediately eliminate deeply rooted social perceptions concerning gender and marital obligations (Setiyawan et al., 2024). Therefore, the effectiveness of the TPKS Law depends on changes in institutional culture and public understanding. The law must be accompanied by education concerning sexual consent, gender equality, bodily autonomy, and victims' rights. The present study therefore argues that the implementation of the TPKS Law should be evaluated through a broader victim-protection framework. The relevant indicators include not only prosecution and conviction rates but also reporting accessibility, victim safety, prevention of secondary victimization, availability of recovery services, restitution, psychological rehabilitation, and victim empowerment. This approach provides a more meaningful assessment of whether the law has achieved substantive justice.

Reforming criminal policy for victim protection

The findings indicate that future Indonesian criminal policy should move toward an integrated victim-oriented criminal justice system. Criminalization remains important, but it cannot constitute the sole strategy for addressing marital rape. Institutional reform, cultural transformation, victim-support mechanisms, and preventive policies must accompany legal reform (Utari et al., 2026). First, Indonesia needs to strengthen trauma-informed procedures throughout the criminal justice process. Police officers, prosecutors, judges, and other relevant professionals should receive specialized training concerning sexual violence, trauma, gender equality, and victim communication. Such training should be incorporated into institutional standards rather than treated as an optional form of professional development.

Second, victim services should be integrated. Legal assistance, psychological support, healthcare, temporary protection, social assistance, and economic empowerment should be accessible through a coordinated mechanism (Ahmedova et al., 2025). An integrated system would reduce the administrative burden placed on victims and minimize repeated interviews and unnecessary institutional transfers. Third, restitution and recovery should become central components of criminal justice policy. Punishing perpetrators does not automatically restore the victim's dignity, economic security, or psychological well-being (Setiawan et al., 2026). Recovery should therefore include psychological rehabilitation, medical services, economic assistance, legal support, and long-term social reintegration.

Fourth, public education must address the cultural foundations of marital rape. Educational programs should emphasize that marriage does not eliminate sexual autonomy and that consent remains relevant within marital relationships (Firdaus et al., 2024). Such programs should involve communities, educational institutions, religious and community leaders, and civil society organizations. Fifth, Indonesia should strengthen evidence-based and victim-centered cooperation among law-enforcement institutions, victim-protection agencies, healthcare providers, academics, and civil society organizations. Previous research on secondary victimization demonstrates that institutional attitudes and practices remain important determinants of victims' experiences within the justice system. Consequently, legal reform must be accompanied by continuous evaluation of institutional practices.

Overall, the results demonstrate that marital rape in Indonesia should be understood not simply as a problem of criminalization but as a broader problem of victim protection, structural inequality, and access to justice. The development of the PKDRT Law and the TPKS Law represents substantial normative progress, consistent with earlier studies that advocated stronger criminal-law recognition of marital rape. However, the present analysis advances the discussion by showing that legal recognition alone does not resolve the hidden nature of marital rape. Its persistence is sustained by patriarchal culture, economic dependency, unequal marital power, victim blaming, limited institutional capacity, and the risk of secondary victimization.

Therefore, the central objective of criminal-law reform should be to transform the justice system from an offender-centered model into a genuinely victim-oriented system. Such a system must ensure accountability for perpetrators, prevent secondary victimization, provide trauma-informed procedures, guarantee access to integrated services, and restore victims' autonomy, dignity, security, and social and economic capacity. In this framework, the success of criminal policy should ultimately be measured not only by whether perpetrators are punished, but also by whether victims are protected, heard, empowered, and able to recover from the consequences of marital rape.

Conclusions

This study concludes that marital rape in Indonesia should be understood as a form of sexual violence and a hidden crime that is sustained not only by gaps in legal implementation but also by patriarchal norms, economic dependency, unequal power relations, social stigma, and limited access to victim protection services. Although the enactment of Law No. 23 of 2004 on the Elimination of Domestic Violence and Law No. 12 of 2022 on Sexual Violence Crimes demonstrates significant normative progress, the protection of marital rape victims remains constrained by the gap between legal norms and their implementation. From a victimological perspective, classical theories

developed by Mendelsohn (1963) and Hentig (1940) remain historically relevant but require critical reinterpretation because their emphasis on victim characteristics may create risks of victim blaming. Contemporary victimology, particularly the principles of victim-centered justice, trauma-informed justice, victim empowerment, and prevention of secondary victimization, provides a more appropriate framework for understanding and protecting marital rape victims.

The main contribution of this study lies in integrating victimological analysis with Indonesian criminal law policy to develop a victim-oriented framework for addressing marital rape. The findings demonstrate that the effectiveness of legal protection cannot be measured solely by the criminalization of perpetrators or the number of cases processed by law enforcement agencies, but must also be assessed through the state's ability to prevent secondary victimization, guarantee victims' safety and dignity, provide access to legal, medical, psychological, and social services, and facilitate restitution and long-term recovery. Accordingly, the reform of Indonesian criminal justice policy should strengthen trauma-informed procedures, integrated victim services, institutional coordination, law-enforcement capacity, public education concerning sexual consent within marriage, and economic empowerment for victims. Nevertheless, this study is limited by its normative legal research design, which primarily relies on legislation, legal literature, judicial decisions, and previous scholarly studies and therefore does not empirically capture the experiences of victims, law-enforcement officers, or service providers in different regions of Indonesia. Future research should address this limitation through empirical and interdisciplinary studies involving victims and relevant institutions, including law enforcement agencies, courts, health professionals, psychologists, victim protection institutions, and civil society organizations.

Future research should further examine the implementation of Law No. 12 of 2022 through regional-level empirical studies to identify differences in access to protection, reporting mechanisms, investigation procedures, prosecution, judicial treatment, restitution, and victim recovery. Comparative research involving jurisdictions that have developed comprehensive legal and institutional mechanisms for addressing marital rape would also be valuable in identifying best practices that can be adapted to the Indonesian legal system. In addition, longitudinal research is needed to assess the long-term effectiveness of victim-centered and trauma-informed approaches, particularly in preventing repeated victimization and supporting victims' social and economic recovery. Such research would strengthen the empirical foundation for developing a more integrated criminal justice policy that not only recognizes marital rape as a punishable form of sexual violence but also ensures that victims receive meaningful protection, justice, recovery, and empowerment.

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