



Reconceptualizing Victim Status on Victim Impact Statement in Indonesia

Rekonseptualisasi Status Korban pada Pernyataan Dampak Korban di Indonesia

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Abstract

The Indonesian criminal justice system remains predominantly offender-centric, systematically marginalizing victims by reducing them to mere witnesses and neglecting their profound physical, emotional, and social harm. This structural imbalance contradicts constitutional guarantees of fair legal certainty and perpetuates secondary victimization. Grounded in normative legal research employing conceptual and statutory approaches, this study analyzes the 1945 Constitution, the Criminal Procedure Code (KUHP), and recent reforms like Law No. 12 of 2022 on Sexual Violence. It synthesizes victimological theory and comparative jurisprudence to argue for the adoption of the Victim Impact Statement (VIS) as a transformative mechanism. The findings reveal that VIS can bridge the gap between victims' subjective experiences and legal recognition, functioning as both a therapeutic tool for victim healing and an informational aid for proportionate sentencing within a restorative justice framework. However, successful implementation requires navigating challenges of judicial bias, equitable access, and defendant rights protection. The study concludes that reconceptualizing victim status from passive object to active participant is imperative. It recommends formal integration of VIS into the KUHP, supported by comprehensive judicial guidelines, institutional capacity building for the Witness and Victim Protection Agency (LPSK), and public awareness campaigns to foster a victim-centered paradigm that aligns with restorative justice principles and enhances systemic legitimacy.

Kata Kunci:

Peradilan
Pidana;
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Keadilan
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Abstrak

Sistem peradilan pidana Indonesia masih didominasi oleh pelaku, secara sistematis meminggirkan korban dengan mereduksi mereka menjadi sekadar saksi dan mengabaikan kerugian fisik, emosional, dan sosial yang mendalam yang mereka alami. Ketidakseimbangan struktural ini bertentangan dengan jaminan konstitusional akan kepastian hukum yang adil dan melanggengkan viktimalisasi sekunder. Berdasarkan penelitian hukum normatif yang menggunakan pendekatan konseptual dan hukum, studi ini menganalisis Konstitusi 1945, Kitab Undang-Undang Hukum Acara Pidana (KUHP), dan reformasi terkini seperti Undang-Undang No. 12 Tahun 2022 tentang Kekerasan Seksual. Studi ini mensintesis teori viktimalogi dan yurisprudensi komparatif untuk memperjuangkan adopsi Pernyataan Dampak Korban (VIS) sebagai mekanisme transformatif. Temuan

menunjukkan bahwa VIS dapat menjembatani kesenjangan antara pengalaman subyektif korban dan pengakuan hukum, berfungsi sebagai alat terapeutik untuk penyembuhan korban dan bantuan informasi untuk penjatuhan hukuman yang proporsional dalam kerangka keadilan restoratif. Namun, implementasi yang sukses membutuhkan upaya untuk mengatasi tantangan bias peradilan, akses yang adil, dan perlindungan hak terdakwa. Studi ini menyimpulkan bahwa merekonseptualisasi status korban dari objek pasif menjadi partisipan aktif adalah suatu keharusan. Rekomendasi ini menyarankan integrasi formal VIS ke dalam KUHP, yang didukung oleh pedoman peradilan yang komprehensif, peningkatan kapasitas kelembagaan untuk Badan Perlindungan Saksi dan Korban (LPSK), dan kampanye kesadaran publik untuk menumbuhkan paradigma yang berpusat pada korban yang selaras dengan prinsip-prinsip keadilan restoratif dan meningkatkan legitimasi sistemik.

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INTRODUCTION

Background

The right to a fair trial constitutes an inseparable part of human rights and the principle of the rule of law. Following the independence of the Republic of Indonesia, the principle of due process was explicitly recognized in Articles 24 and 28 of the 1945 Constitution. Article 28D paragraph (1) of the 1945 Constitution stipulates that "Every person shall have the right to recognition, guarantees, protection, and fair legal certainty, and to equal treatment before the law." Furthermore, Article 24 paragraph (1) of the 1945 Constitution declares that "Judicial power shall be independent and shall possess the authority to administer justice in order to uphold law and justice." These constitutional provisions establish the foundational commitment of the Indonesian state to ensure that all individuals, whether accused or harmed, receive fair treatment within the legal system. The constitutional framework reflects a dual commitment to protecting both the rights of the accused and the interests of justice, yet the implementation of these principles has historically favored the protection of defendants' procedural rights at the expense of victim recognition.

Every individual accused of committing a crime is entitled to a legal process that is fair, impartial, and in accordance with due process of law (SBMI, 2025). Nevertheless, various institutions within the criminal justice system—such as the police, prosecution, courts, and correctional facilities—have largely failed to provide space for victims to participate meaningfully in judicial proceedings (Dufour, et al., 2023). This tendency underscores the fact that the criminal justice system remains predominantly offender-oriented rather than victim-centered (Wijayanto & Wulandari, 2024). Consequently, the objective of criminal justice to achieve substantive justice is often undermined, as the dimension of victims' suffering tends to be neglected. The marginalization of victims in the criminal process reflects a broader structural imbalance in how the law conceptualizes and addresses the harm caused by criminal conduct. This imbalance is particularly acute in cases involving vulnerable victims, such as children, women, and persons with disabilities, whose experiences of victimization may be further complicated by social stigma and institutional indifference.

Awareness of this imbalance has led to efforts toward criminal law reform that place greater emphasis on victims' rights and participation. One prominent concept emerging from such reform initiatives is the Victim Impact Statement (VIS) (Ali & Nurhidayat, 2023). VIS is a mechanism that allows victims to express, in their own words, how the crime has affected their lives physically, emotionally, socially, and economically (Erez & Roeger, 1995). The VIS concept gained widespread recognition following the landmark decision of *Payne v. Tennessee* by the United States Supreme Court (1991), which held that the families of victims are entitled to present statements regarding the impact of the crime during the sentencing phase. In this decision, the Court overturned its earlier precedent in *Booth v. Maryland* and permitted the presentation of Victim Impact Statements in sentencing, including in serious criminal cases (Boudreax, 1989). The Court reasoned that VIS provides relevant information about the harm suffered by victims and the broader social consequences of crime, without violating the Eighth Amendment.

This decision marked a pivotal moment in U.S. criminal law history, legitimizing the use of Victim Impact Statements in court proceedings and signifying a paradigm shift toward a more victim-sensitive model of criminal justice. Since then, VIS has been adopted in various jurisdictions such as Canada, the United Kingdom, Australia, and New Zealand (Roberts & Manikis, 2013). Through VIS, the previously marginalized voice of victims has gained both legal and moral legitimacy to influence the justice process. Accordingly, the implementation of VIS should not be seen merely as a procedural addition to the legal system, but as a step toward the reconceptualization of victims' status in law (Bandes, 2016). VIS also facilitates victims' active participation in judicial processes, thereby restoring the human dimension to a legal system that has long been dominated by retributive logic (Dufour, et al., 2023). The integration of victim voices into sentencing proceedings represents a fundamental shift in how the law understands the purpose and scope of criminal justice.

Bandes (2016), however, cautions that the introduction of VIS raises important questions concerning objectivity, consistency, and the appropriate limits of emotion in the pursuit of justice. Building upon Bandes's reflections, this paper seeks to reconstruct the conceptual understanding of "who" and "what" constitutes a "victim," and to explore the potential application of the Victim Impact Statement within the Indonesian legal system. This article will first delve into the theoretical underpinnings of victimhood and the social construction of victim status. It will then analyze the gap between the subjective experience of victims and the external interpretations of legal institutions. Subsequently, the paper will examine the VIS as a mechanism for victim recognition and its potential implementation in the Indonesian context, particularly in light of recent legal reforms such as Law No. 12 of 2022 on Sexual Violence and the Supreme Court Regulation (*Peraturan Mahkamah Agung* or PERMA) No. 1 of 2022 concerning Procedures for the Settlement of Applications and Provision of Restitution and Compensation to Victims of Criminal Acts.. The article will also explore comparative experiences from other jurisdictions and the practical challenges of implementing VIS. Finally, the article will explore the role of restorative justice in the victim's healing process and conclude with comprehensive recommendations for integrating VIS into the Indonesian criminal justice system.

The philosophical bedrock of any modern democratic state is its unwavering commitment to the rule of law, wherein the principles of justice, fairness, and equality are not merely aspirational ideals but are institutionally guaranteed for all citizens. The Republic of Indonesia enshrines this commitment within its highest legal instrument, the 1945 Constitution. Specifically, Article 28D paragraph (1) provides a robust guarantee for the right to recognition, protection, and fair legal certainty, while Article 24 paragraph (1) establishes the judiciary's independence as the lynchpin for upholding

law and justice. These constitutional mandates create a normative expectation that the criminal justice system will operate as a balanced scale, meticulously weighing the rights of the accused against the need to redress the harm suffered by victims. However, the historical trajectory and operational reality of the Indonesian criminal justice system reveal a significant disjuncture between this constitutional ideal and its practical implementation. For decades, the system has been characterized by a deeply entrenched offender-centric paradigm, a legacy of a retributive justice model that prioritizes the state's interest in punishing the perpetrator over the victim's need for restoration and recognition (Wijayanto & Wulandari, 2024). Within this framework, the victim is often relegated to the periphery, their role instrumentalized to that of a mere witness whose testimony serves the singular purpose of securing a conviction. This structural marginalization effectively silences the victim's voice, rendering their profound physical, emotional, and financial suffering invisible to the formal legal process and perpetuating a form of secondary victimization.

Problem Identification

The predominant focus on the offender within the Indonesian criminal justice system, as codified in the Criminal Procedure Code (KUHP), has engendered several critical problems that undermine the pursuit of substantive justice.

1. There is a systemic lack of meaningful victim participation, which denies victims a formal platform to articulate the multifaceted impact of the crime on their lives. This exclusion fosters a profound sense of alienation and powerlessness, as victims are treated as passive objects of the legal process rather than active stakeholders in its outcome.
2. The absence of a victim-centered perspective leads to a failure to adequately assess and address the full scope of harm caused by criminal acts. The legal process, in its quest for objective fact-finding, often overlooks the intangible yet devastating consequences of crime, such as long-term psychological trauma, social stigma, and relational damage.
3. This institutional neglect creates a significant gap between procedural and restorative justice. While the system may succeed in determining guilt and imposing punishment, it often fails to facilitate the victim's healing and recovery, thereby leaving the harm caused by the crime fundamentally unrepaired. Consequently, the legitimacy of the justice system is diminished in the eyes of those it is meant to protect, and the broader societal goal of restoring social harmony remains unattained. The recent legal reforms, while commendable, have yet to be fully integrated into a cohesive framework that fundamentally reconceptualizes the victim's role from a peripheral witness to a central participant in the justice process.

Problem Formulation

Based on the identified problems, this research seeks to address the critical need for a paradigm shift in the Indonesian criminal justice system. The central inquiry revolves around how the status of the victim can be reconceptualized to ensure their experiences are central to, rather than peripheral to, the pursuit of justice. To guide this inquiry, the following core research questions are formulated:

1. How does the social and legal construction of victimhood in the current Indonesian criminal justice system contribute to the marginalization of victims and create a gap between their subjective experience of harm and its formal legal interpretation?

2. In what ways can the Victim Impact Statement (VIS) serve as a legal and therapeutic mechanism to bridge this gap, empower victims, and facilitate a more victim-centered approach to sentencing and justice?
3. What are the specific legal, institutional, and cultural challenges to implementing the Victim Impact Statement in Indonesia, and what lessons can be learned from comparative jurisdictions to navigate these challenges effectively and ethically?
4. How can the integration of the Victim Impact Statement within a broader framework of restorative justice contribute not only to individual victim healing but also to the restoration of social harmony and the overall legitimacy of the Indonesian legal system?

Research Objectives and Benefit

Objectives

In response to the formulated research questions, this article aims to achieve the following specific objectives:

1. To critically analyze the theoretical underpinnings and the prevailing social and legal construction of victim status in Indonesia, identifying the systemic factors that lead to the marginalization of victims.
2. To conduct an in-depth examination of the Victim Impact Statement as a legal concept, evaluating its potential to provide a formal voice for victims, inform judicial decision-making, and serve as a tool for therapeutic jurisprudence.
3. To assess the normative readiness of the Indonesian legal framework for the adoption of VIS, analyzing recent legislative developments and identifying the necessary amendments and institutional preparations for its successful implementation.
4. To propose a comprehensive and culturally sensitive model for the integration of VIS into the Indonesian criminal justice system, grounded in the principles of restorative justice and informed by international best practices, with the ultimate goal of fostering a more just, responsive, and compassionate legal paradigm.

Benefits

This research is expected to yield significant theoretical and practical benefits. Theoretically, it will contribute to the academic discourse on victimology, criminal justice reform, and restorative justice in Indonesia by providing a nuanced, high-level analysis of the Victim Impact Statement and its potential to reconceptualize victimhood. It will enrich the existing literature by synthesizing legal doctrine, social theory, and comparative legal analysis to build a robust argument for a victim-centered paradigm shift. Practically, this article aims to provide concrete, actionable recommendations for Indonesian policymakers, legislators, and judicial authorities. The proposed model for VIS implementation can serve as a blueprint for amending the KUHP and developing judicial guidelines. Furthermore, by highlighting the therapeutic and restorative potential of VIS, this research can inform the work of victim support organizations, legal aid providers, and the Witness and Victim Protection Agency (LPSK), ultimately contributing to the improved treatment, empowerment, and healing of crime victims throughout Indonesia.

THEORETICAL AND CONCEPTUAL FRAMEWORK

Theories on Victims and the Social Construction of Victim Status

In various legal systems, an individual is recognized as a “victim” only when they suffer harm or injury as a result of a criminal act. However, as Sandra Walklate (2024) points out, becoming a victim is not as straightforward as it may seem, since not all individuals who experience suffering receive social recognition as legitimate victims. Such recognition is often shaped by public perception, cultural norms, and institutional interests that underpin the legal process. Robert Elias (1986) emphasizes that the state tends to recognize someone as a victim only when their suffering does not challenge the status quo. Elias highlights that modern legal systems often acknowledge victims only insofar as their victimhood does not threaten existing power structures, rendering criminal policy more oriented toward social control than toward victim restoration. Consequently, victims of state violence, war, patriarchy, colonialism, or systemic poverty frequently fail to obtain formal recognition. This perspective suggests that the definition of “victim” is often narrow and political in nature, serving to preserve the legitimacy of state institutions and legal authorities by preventing them from being perceived as sources of harm.

Furthermore, Eamonn Carrabine (2013) introduces the notion of a hierarchy of victimization, proposing that society tends to extend varying degrees of sympathy to victims depending on their social background. Public empathy toward victims is not based solely on the objective degree of suffering but is influenced by social constructions, moral judgments, and media representations that shape perceptions of who qualifies as a “real victim.” Groups considered “undeserving,” such as the poor, drug users, or sex workers, are often placed at the bottom of this hierarchy. Conversely, victims deemed “innocent” and aligned with dominant social norms are more readily granted public empathy and the status of the “ideal victim,” a term introduced by Nils Christie (1986) to describe those perceived as morally and socially worthy of sympathy and protection—individuals who are uninvolved in criminal behavior and conform to prevailing moral expectations. This hierarchy reflects deeper societal prejudices and power dynamics that influence how the legal system responds to different categories of victims. The concept of the ideal victim is particularly relevant in the Indonesian context, where cultural norms and religious values may influence perceptions of victim worthiness.

Feminist Perspectives on Victim Status

The feminist approach offers a significant contribution to understanding the social construction of victimhood. Walklate (2024) explains that the status of a “victim” is not natural, but rather socially, culturally, and politically constructed—shaped by forces that determine who is deemed worthy of public sympathy. In many cases, women are portrayed as passive and weak victims, a stereotype that reinforces existing structural inequalities. Feminist scholars have sought to replace the term victim with survivor to emphasize women’s agency and resilience in the face of violence (Lamb, 1999; Williams & Kelly, 1990). However, as Martha Minow (1998) notes, the term survivor has not entirely eliminated stigma, since within social and legal systems, the label “victim” remains central in shaping how institutions perceive and treat those who have been harmed. Moreover, Karen Busby (1999) points out that an individual is considered a legitimate victim only after the perpetrator has been legally convicted. In other words, within the conventional legal paradigm, there can be no “victim” without a “proven offender.” This approach creates a profound paradox: on the one hand, it upholds the principle of the presumption of innocence; on the other hand, it neglects the lived reality of victims’ suffering prior to the conclusion of legal proceedings. Consequently, the law

tends to recognize victims retrospectively rather than preventively, creating a temporal gap between the actual experience of harm and its formal legal acknowledgment.

The feminist critique also highlights how the criminal justice system's focus on the perpetrator's rights can effectively silence victims, particularly in cases of intimate partner violence, sexual assault, and other crimes disproportionately affecting women. The requirement that a conviction be obtained before a person can be formally recognized as a victim means that many women who have experienced harm must endure the additional trauma of a trial process without the institutional recognition of their victim status. This creates a situation where the legal system's commitment to fair trial rights for the accused can paradoxically undermine the recognition and protection of victims' rights. The integration of VIS into the Indonesian legal system could help address this imbalance by providing a formal mechanism for victims to articulate their experiences and needs, regardless of the ultimate outcome of the criminal proceeding.

The Gap Between Subjective Experience and Social Interpretation

The understanding of victim status also involves a significant gap between the subjective experience of victims and the external judgments of society or legal institutions. Rainer Strobl (Strobl, 2004) argues that victim status emerges through a process of social communication, in which an individual's suffering is only recognized once it is accepted and interpreted by others. Within this framework, victimization is not merely the result of a perpetrator's actions, but also a product of how society perceives and responds to such experiences. This social dimension of victimhood means that the experience of being harmed is not automatically translated into the social status of being a victim; rather, that status must be conferred through processes of recognition and validation. The legal system's role in this process is crucial, as it possesses the institutional authority to formally recognize or deny victim status.

This view is reinforced by the phenomenological insights of Alfred Schutz (1967), who explains that human understanding of another's experience is always partial and contextual. He distinguishes between planned action, the process of action, and post-action reflection, emphasizing that the meaning of victims' suffering can only be approached through introspection and reciprocal communication. In other words, victims' suffering can never be fully comprehended by external parties—including legal institutions—which operate through formal and objective categories. The legal system, with its rigid procedures and evidentiary rules, often filters out the nuanced, emotional, and deeply personal aspects of a victim's trauma, reducing their experience to a set of legally relevant facts. This reduction necessarily diminishes the fullness of the victim's experience, creating a fundamental epistemological gap between what the victim has experienced and what the law recognizes. The VIS serves as a potential bridge across this gap by allowing victims to articulate the full dimensions of their suffering in their own words.

Niklas Luhmann (1995) introduces a systemic dimension to this analysis through his social systems theory. Luhmann argues that recognition of an individual's status—including that of a victim—is not determined solely by personal experience, but by the expectations and codes operating within the relevant social and institutional systems. According to him, recognition of victim status is deeply dependent on social context and institutional expectations. In modern society, judicial systems and law enforcement agencies possess their own mechanisms for assessing and categorizing suffering (Dufour, et al., 2023). Hence, to be a victim in the social sense means to be recognized by the system, not merely to have suffered harm. This underscores that victim status is a social construct contingent upon institutional legitimacy, where the legal system's binary code

of legal/illegal dictates whether an experience of harm is formally acknowledged. This systemic filtering often leads to a profound sense of alienation for victims, whose personal truths may not align with the procedural requirements of the law, resulting in a secondary victimization through the denial or minimization of their experience.

The implications of Luhmann's analysis for the implementation of VIS are significant. By creating a formal mechanism for victims to present their experiences within the legal system, VIS effectively expands the system's capacity to recognize and validate victim status. Rather than limiting victim recognition to the binary outcome of guilt or innocence, VIS allows the system to acknowledge the harm suffered by victims as a distinct and important dimension of the criminal proceeding. This expansion of the system's recognition capacity can help reduce the gap between subjective victim experience and institutional interpretation, thereby enhancing the legitimacy of the legal process in the eyes of victims and the broader community.

RESEARCH METHOD

This article employs qualitative method with a normative legal research approach (Yuswanti & Santiago, 2024), which is centered on the analysis of legal norms and principles. The research is utilizing a conceptual and statutory approach to examine the reconceptualization of victim status through the implementation of Victim Impact Statements (VIS) in Indonesia. The primary legal materials used in this study include the 1945 Constitution of the Republic of Indonesia, the Indonesian Criminal Procedure Code (hereafter KUHP), Law No. 31 of 2014 on Witness and Victim Protection, Law No. 12 of 2022 concerning the Crime of Sexual Violence, and Supreme Court Regulation (*Peraturan Mahkamah Agung* or PERMA) No. 1 of 2022 concerning Procedures for the Settlement of Applications and Provision of Restitution and Compensation to Victims of Criminal Acts. Secondary legal materials consist of academic literature from Scopus and Web of Science (WoS) indexed journals, books, and other scholarly publications related to victimology, criminal justice, restorative justice, and the social construction of victimhood. The data were analyzed qualitatively to synthesize legal norms, theoretical concepts, and empirical findings from various jurisdictions to build a comprehensive argument for the adoption and integration of VIS within the Indonesian criminal justice system.

The research methodology employed in this article is grounded in the tradition of doctrinal legal research, which emphasizes the systematic analysis of legal texts, principles, and doctrines (Chiang & Santiago, 2025). This approach is particularly suitable for examining the normative foundations of victim status and the legal mechanisms through which VIS can be integrated into the Indonesian legal system. The article draws on comparative legal analysis, examining how VIS has been implemented in other jurisdictions and what lessons can be drawn from those experiences for the Indonesian context. Additionally, the article incorporates insights from victimology, criminology, and social theory to provide a comprehensive understanding of the social and psychological dimensions of victimhood and victim participation in the criminal justice process.

RESULTS AND DISCUSSION

Results

The Normative Landscape of Victim Status in Indonesian Law

The formal legal framework of Indonesia, while constitutionally committed to the principles of fair trial and legal certainty, presents a fragmented and often contradictory landscape regarding the status and rights of victims. The foundational commitment is articulated in the 1945 Constitution, particularly in Article 28D paragraph (1), which guarantees every person the right to recognition, protection, and fair legal certainty. This constitutional provision, in theory, extends to all parties in a legal proceeding, including victims of crime. However, the primary instrument governing criminal procedure, the Law No. 8 of 1981 concerning the Code of Criminal Procedure (KUHP), reflects a predominantly offender-centric paradigm (Fernando & Kusumah, 2025). An analysis of the KUHP reveals that the victim's role is narrowly circumscribed, primarily confined to that of a witness for the prosecution. The KUHP provides limited avenues for victims to actively participate in the proceedings, express their suffering, or influence the outcome beyond providing testimony. This systemic marginalization is a direct consequence of the retributive justice model that underpins the KUHP, which conceives of crime as an offense against the state rather than a violation against an individual. As a result, the state assumes the primary role of prosecutor, and the victim is relegated to a secondary, often passive, role.

However, the normative landscape has not remained static. In recent years, a series of legislative and judicial reforms have signaled a progressive, albeit incomplete, shift towards greater recognition of victims' rights. A key development in this regard is the enactment of Law No. 31 of 2014 concerning Witness and Victim Protection, which established the Witness and Victim Protection Agency (LPSK) and provided a legal basis for various forms of victim support, including physical protection, medical assistance, and psychological rehabilitation (Gaol & Rahaditya, 2024). While this law represents a significant step forward, its focus remains primarily on the protection of victims as witnesses rather than on their broader participation in the justice process.

More significantly, the enactment of Law No. 12 of 2022 concerning the Crime of Sexual Violence marks a watershed moment in the evolution of victims' rights in Indonesia. This law not only introduces a more comprehensive definition of sexual violence but also mandates the provision of restitution for victims. The restitution mechanism, as detailed in the law, requires an assessment of the physical, psychological, and economic harm suffered by the victim, thereby implicitly creating a need for a formal process through which victims can articulate the impact of the crime. This need is further reinforced by the Supreme Court Regulation (*Peraturan Mahkamah Agung* or PERMA) No. 1 of 2022 concerning Procedures for the Settlement of Applications and Provision of Restitution and Compensation to Victims of Criminal Acts. This regulation provides a detailed procedural framework for the application and granting of restitution, effectively creating a quasi-VIS mechanism within the existing legal structure. These recent legal instruments, when read together, indicate a clear normative trajectory towards a more victim-centered approach (Shimoyachi, 2024), laying a fertile ground for the formal adoption of a comprehensive Victim Impact Statement.

The Social Construction of Victimhood and the Experience of Marginalization

The formal legal framework, however, does not operate in a vacuum. The lived experience of victims in Indonesia is profoundly shaped by a complex interplay of social norms, cultural values, and institutional practices that often result in a social

construction of victimhood that is both exclusionary and hierarchical. Drawing on the theoretical insights of Christie (1986) and Carrabine (2013), our analysis of the Indonesian context reveals a pervasive “hierarchy of victimization,” wherein public sympathy and institutional support are disproportionately extended to those who conform to the archetype of the “ideal victim.” Victims who are perceived as “innocent,” “blameless,” and morally upright are more likely to receive social validation and legal protection. Conversely, victims who deviate from this ideal—such as sex workers, drug users, or individuals from marginalized communities—are often met with suspicion, blame, and institutional indifference. This social construction of victimhood is particularly pronounced in cases of sexual violence, where victims are often subjected to intense scrutiny regarding their character, behavior, and past sexual history. The phenomenon of “victim-blaming” remains deeply entrenched in Indonesian society, creating a significant barrier for victims seeking justice and support.

This social construction of victimhood is further reinforced by institutional practices within the criminal justice system. Law enforcement officials, prosecutors, and even judges may be influenced by prevailing social biases, leading to a differential treatment of victims based on their perceived worthiness. The lack of a formal mechanism for victims to articulate their experiences in their own words exacerbates this problem, as it allows institutional actors to impose their own interpretations and judgments on the victim’s suffering. The result is a profound sense of alienation and secondary victimization, as victims are forced to navigate a legal system that not only fails to recognize their harm but also actively questions their credibility and moral character. The absence of a VIS mechanism thus perpetuates a cycle of silence and marginalization, leaving many victims without a voice and without a path to justice.

The Potential of VIS as a Bridge Between Subjective Experience and Legal Recognition

The Victim Impact Statement, as a legal and therapeutic mechanism, holds significant potential to bridge the gap between the victim’s subjective experience of harm and the formal, often impersonal, processes of the Indonesian criminal justice system. The core function of a VIS is to provide a structured and legitimized platform for victims to articulate the multifaceted impact of the crime on their lives—physically, emotionally, financially, and socially. By allowing victims to narrate their experiences in their own words, the VIS can humanize the victim beyond their role as a mere witness, providing the court with a more holistic understanding of the crime’s consequences. This information can, in turn, inform a more proportionate and just sentence, one that reflects not only the defendant’s culpability but also the profound harm suffered by the victim.

From a therapeutic jurisprudence perspective, the VIS can also serve as a powerful tool for victim healing and recovery. The act of narrating one’s trauma in a formal setting can be a profoundly empowering experience, helping victims to process their emotions, regain a sense of agency, and feel a sense of validation and participation in the justice process. Research from other jurisdictions has consistently shown that participation in restorative justice practices, including the submission of VIS, can have a significant positive psychological impact on victims, reducing symptoms of trauma and increasing their sense of justice and closure (Nascimento, et al., 2022). In the Indonesian context, where community and social relationships are highly valued, a restorative approach that incorporates VIS could be particularly effective. It would not only provide individual victims with a path to recovery but also contribute to the broader goal of social repair, reinforcing the legal system’s commitment to achieving not just procedural justice, but substantive and compassionate justice for all parties affected by crime.

The recent legal reforms in Indonesia, particularly Law No. 12 of 2022 and PERMA No. 1 of 2022, have already laid the groundwork for the integration of VIS. The restitution mechanism established by these laws necessitates an assessment of victim impact, which could be formalized and expanded into a comprehensive VIS process. The impending full implementation of the new Criminal Code (Law No. 1 of 2023) and the ongoing revisions to the KUHP present a critical opportunity to institutionalize VIS, thereby solidifying the move from a retributive to a more restorative and victim-centered justice paradigm in Indonesia. The formal adoption of VIS would represent a significant step towards reconceptualizing the status of the victim, transforming them from a passive object of the legal process into an active and empowered participant.

Discussion

Reconceptualizing Victim Status: From Passive Object to Active Participant

The findings of this research compel a fundamental reconceptualization of victim status within the Indonesian legal and social landscape. The traditional, offender-centric paradigm, which reduces the victim to a mere evidentiary tool, is not only inconsistent with the constitutional guarantee of fair legal certainty but also perpetuates a cycle of secondary victimization and institutional neglect. The integration of the Victim Impact Statement (VIS) into the Indonesian criminal justice system offers a transformative pathway towards a more victim-centered model, one that recognizes the victim as an active participant with a legitimate voice and a right to be heard. This reconceptualization requires a paradigm shift at multiple levels: legal, institutional, and cultural.

At the legal level, the adoption of VIS necessitates a move beyond the narrow, retributive logic of the KUHP towards a more restorative and therapeutic jurisprudence. This shift is not merely a matter of procedural tinkering; it requires a fundamental reorientation of the goals of the criminal justice system. As argued by proponents of restorative justice, crime is not just an offense against the state but a violation of relationships and a source of profound harm to individuals and communities (2015). The VIS, by providing a platform for victims to articulate this harm, can help rebalance the scales of justice, ensuring that the sentencing process takes into account not only the defendant's culpability but also the victim's suffering and need for restoration. This does not mean that the rights of the defendant should be compromised; rather, it means that the rights and needs of the victim should be given equal consideration. The challenge for Indonesian lawmakers is to craft a legislative framework for VIS that strikes a careful balance between these competing interests, ensuring that the VIS serves as a tool for information and therapeutic justice, not for vengeance or undue prejudice.

At the institutional level, the reconceptualization of victim status requires a significant investment in training and capacity-building for all actors within the criminal justice system. Police officers, prosecutors, judges, and victim support personnel must be educated on the principles of victim-centered justice, the dynamics of trauma, and the proper use of VIS. This training should aim to dismantle the entrenched social biases and stereotypes that often lead to the differential treatment of victims. The LPSK, as the primary agency responsible for victim protection, must be empowered and resourced to play a central role in this process, providing victims with the necessary support to prepare and present their statements. This includes not only legal assistance but also psychological counseling and practical guidance. The goal should be to create an institutional culture that is not only responsive to the needs of victims but also actively committed to their empowerment and healing.

At the cultural level, the reconceptualization of victim status requires a broader societal shift in how we understand and respond to victimization. The pervasive culture of victim-

blaming, particularly in cases of sexual violence, must be challenged and dismantled through public education and awareness campaigns. The media has a crucial role to play in this regard, by promoting more nuanced and compassionate representations of victims and by avoiding the sensationalism and stereotyping that often characterize the reporting of crime. The integration of VIS into the legal system can itself contribute to this cultural shift, by providing a powerful platform for victims to share their stories and challenge the prevailing narratives of blame and shame. By giving voice to the voiceless, the VIS can help foster a more empathetic and supportive society, one that recognizes the inherent dignity and worth of every individual who has been harmed by crime.

Navigating the Challenges of Implementation

The implementation of VIS in Indonesia will undoubtedly face a number of challenges, but the experiences of other jurisdictions offer valuable lessons on how to navigate these challenges effectively. One of the primary concerns raised by critics of VIS is its potential to introduce emotional bias and sentencing disparities (Bandes, 2016). The experience of countries like Canada and the United Kingdom suggests that this risk can be mitigated through the development of clear guidelines for judges on how to weigh victim impact statements in their sentencing decisions. These guidelines should emphasize that the VIS is just one factor among many to be considered, and that the ultimate sentence must be proportionate to the gravity of the offense and the culpability of the offender. The goal is not to allow victim emotions to dictate the sentence, but to ensure that the court has a full and complete picture of the harm caused by the crime.

Another challenge is ensuring equal access to VIS for all victims, regardless of their social or economic background. The experience of Australia and New Zealand highlights the importance of providing comprehensive victim support services, including legal aid, counseling, and interpretation services, to help victims prepare and present their statements. In the Indonesian context, this would require a significant expansion of the LPSK's mandate and resources, as well as closer collaboration between the LPSK and civil society organizations that provide victim support services. The goal should be to create a system that is accessible and responsive to the needs of all victims, particularly those from marginalized and vulnerable communities.

Finally, there is the challenge of protecting the rights of the defendant while allowing for victim participation. The experience of the United States, where the use of VIS has been the subject of extensive constitutional litigation, underscores the importance of ensuring that the defendant has the right to respond to victim statements and to challenge any factual inaccuracies. The court must also be vigilant in ensuring that the defendant's right to a fair trial is not compromised by the introduction of inflammatory or prejudicial victim impact evidence. The key is to strike a balance between the victim's right to be heard and the defendant's right to a fair and impartial trial. This requires a careful and nuanced approach, one that recognizes the legitimate interests of all parties in the criminal justice process.

The Promise of Restorative Justice: A Path Towards Healing and Reconciliation

The integration of VIS into the Indonesian criminal justice system should not be seen as an end in itself, but as a crucial step towards a more restorative and transformative model of justice. Restorative justice, with its emphasis on repairing harm, involving all stakeholders, and promoting healing and reconciliation, offers a powerful alternative to the purely punitive logic of the traditional retributive model. The VIS, by providing a platform for victims to express their needs and for offenders to understand the full

impact of their actions, can serve as a catalyst for restorative processes such as victim-offender mediation and family group conferencing.

In the Indonesian context, where the values of community, consensus, and social harmony are deeply ingrained, a restorative approach to justice could be particularly effective. The traditional mechanisms of *musyawarah* (deliberation) and *mufakat* (consensus) could be adapted and integrated into the formal legal system, providing a culturally appropriate framework for resolving conflicts and repairing harm. The VIS could serve as the entry point for these restorative processes, allowing victims to initiate a dialogue with the offender and the community in a safe and structured environment. This would not only provide victims with a greater sense of agency and control over the justice process but also create an opportunity for offenders to take responsibility for their actions and make amends for the harm they have caused.

The ultimate promise of a restorative approach to justice is not just the healing of individual victims and offenders, but the restoration of the social fabric that has been torn apart by crime. By bringing together all those who have been affected by a crime—victims, offenders, families, and community members—restorative justice seeks to create a shared understanding of the harm that has been done and a collective commitment to making things right. This process can be profoundly transformative, not only for the individuals involved but for the community as a whole. It can help to rebuild trust, restore relationships, and create a more just and peaceful society. The integration of VIS into the Indonesian criminal justice system, within a broader framework of restorative justice, would represent a significant step towards realizing this promise. It would signal a fundamental shift in how we understand and respond to crime, moving away from a paradigm of punishment and retribution towards one of healing, reconciliation, and transformation.

Challenges and Considerations for Implementation

The implementation of Victim Impact Statements (VIS) in Indonesia faces complex challenges that require navigating between competing principles of justice. A close examination of Supreme Court jurisprudence and scholarly literature reveals both the potential dangers of its absence and the difficult path toward its ethical integration into a system historically focused on offenders.

The following analysis examines two pivotal situations that illustrate the practical and theoretical challenges for VIS implementation in Indonesia.

Table 1. Key Cases and Their Implications for VIS

Case/Aspect	Legal & Theoretical Basis	Implications for VIS Implementation
Supreme Court Ruling on Nuri Maknun (Case No. 300 K/Pid.Sus/2019) (Selby, 2019)	Criminal conviction for distributing "indecent materials" (recordings of her harasser), prioritizing procedural law (anti-pornography statute) over the substantive harm of sexual harassment.	Serves as a cautionary case study for the dangers of a non-VIS system, highlighting the risk of secondary victimization by the courts and the urgent need for a legal mechanism to formally hear and acknowledge a victim's account of harm.
Theoretical Basis in the 2023 Criminal Code (Riyadi, 2024)	Codification of Restorative Justice principles (e.g., Articles 51, 52, 132) emphasizing the purpose of punishment as rehabilitation and the dignity of	Provides the normative foundation and legal imperative for VIS. It frames VIS not as a retributive tool but as a therapeutic

	all parties, shifting focus from state offense to individual/community harm.	instrument aligned with restorative goals, helping to repair harm by formally integrating the victim's voice.
Key Implementation Tension	Balancing the defendant's right to a fair trial (presumption of innocence, right to respond) with the victim's right to participation and procedural justice.	Necessitates clear judicial guidelines to ensure VIS is used as one factor among many in sentencing, preventing undue emotional bias while upholding the defendant's right to challenge factual inaccuracies.

Source: (Selby, 2019; Riyadi, 2024)

The case of Nuril Maknun is a stark example of what can occur in the absence of a structured victim participation mechanism (Selby, 2019). Her attempt to seek justice resulted in her own prosecution, demonstrating how the current system can silence victims and fail to acknowledge their narrative of harm. Integrating a formal VIS process could help prevent such outcomes by providing a legitimate, court-sanctioned channel for victims to present their experiences, forcing the judicial process to engage directly with the impact of the crime rather than allowing it to be sidelined or redefined.

Supporting this legal analysis, academic literature strengthens the argument for VIS while outlining the scope of required reforms. The 2023 Indonesian Criminal Code provides a crucial normative shift, embedding restorative justice principles that inherently require hearing from the victim to understand the full scope of harm that needs repair (Riyadi, 2024). Furthermore, legal scholars point to significant institutional weaknesses that VIS implementation must address. Research indicates that a major barrier to victim rights, such as restitution, is the lack of legal knowledge among both the community and law enforcement officers, coupled with the absence of strong legal instruments for victims to claim their rights (Kusyandi, 2024). This highlights that a VIS framework must be part of a broader ecosystem of victim support, including mandatory training for judges, prosecutors, and police on trauma-informed practices and the purpose of VIS, as well as robust legal aid services to ensure equal access for victims regardless of socioeconomic status.

Research Limitations

This research, while comprehensive in its theoretical and normative analysis, operates within several important limitations that merit acknowledgment. First, the study is primarily doctrinal and normative in nature, relying on legal texts, theoretical frameworks, and comparative analysis rather than empirical data from victims or judicial practitioners in Indonesia. Consequently, the findings do not capture the lived experiences of Indonesian victims or provide quantitative evidence regarding the potential impact of VIS implementation on sentencing outcomes or victim satisfaction. Second, the research is constrained by the temporal scope of available legal instruments and scholarly literature, particularly regarding recent developments in Indonesian criminal law reform and the nascent implementation of victim-centered mechanisms. Third, while the article draws on international comparative experiences from jurisdictions such as the United States, Canada, and the United Kingdom, the direct transferability of these models to the Indonesian context is limited by significant differences in legal systems, institutional capacities, cultural values, and socioeconomic conditions. Fourth, the analysis does not extensively address the practical resource constraints and institutional barriers that may impede the implementation of VIS in Indonesia, particularly in rural areas and regions with limited access to victim support

services. These limitations suggest that future research should incorporate empirical studies involving interviews with victims, judges, prosecutors, and victim support personnel, as well as pilot programs to test the feasibility and effectiveness of VIS implementation in the Indonesian context.

Novelty and Contribution

This article makes a significant contribution to the academic discourse on victimology, criminal justice reform, and restorative justice in Indonesia by providing a comprehensive, theoretically grounded analysis of the Victim Impact Statement as a mechanism for reconceptualizing victim status. The novelty of this work lies in its systematic synthesis of victimological theory, social constructionist perspectives, phenomenological insights, and systems theory to construct a robust intellectual framework for understanding the marginalization of victims in the Indonesian criminal justice system and the transformative potential of VIS. Unlike previous scholarship that has primarily focused on either the theoretical foundations of victimhood or the procedural mechanics of VIS in other jurisdictions, this article uniquely bridges these domains by contextualizing VIS within the specific legal, social, and cultural landscape of Indonesia. Furthermore, the article advances the discourse by explicitly connecting VIS to the broader framework of restorative justice and therapeutic jurisprudence, demonstrating how the adoption of VIS can serve not merely as a procedural reform but as a catalyst for a fundamental paradigm shift in how the Indonesian legal system understands and responds to crime. The article's contribution extends beyond academia to the practical realm of policy and law reform, offering concrete, actionable recommendations for legislators, judicial authorities, and victim support organizations. By grounding these recommendations in both international best practices and the Indonesian constitutional and legal framework, the article provides a roadmap for the systematic integration of victim-centered justice principles into the Indonesian criminal justice system, thereby contributing to the broader global movement towards more humane, responsive, and just legal systems.

CONCLUSION AND RECOMMENDATION

Conclusion

The reconceptualization of victim status within the Indonesian criminal justice system through the adoption of the Victim Impact Statement represents not merely a procedural innovation but a fundamental commitment to recognizing victims as essential participants in the criminal justice process whose voices, experiences, and needs must be heard, valued, and addressed. This article has demonstrated, through a rigorous analysis of legal norms, theoretical frameworks, and comparative experiences, that the current offender-centric paradigm is both constitutionally inadequate and morally indefensible, perpetuating cycles of secondary victimization and institutional neglect that undermine the pursuit of substantive justice. The recent legislative developments—particularly Law No. 12 of 2022 and PERMA No. 1 of 2022—have created a normative foundation and institutional readiness for the formal adoption of VIS, presenting a critical opportunity for Indonesian lawmakers and judicial authorities to move decisively towards a more victim-centered, restorative, and compassionate model of criminal justice. By implementing the comprehensive recommendations outlined in this article—including amendments to the KUHP, development of judicial guidelines, empowerment of the LPSK, establishment of comprehensive victim support systems, and public awareness campaigns—Indonesia can transform its criminal justice system into one that

not only punishes offenders but also recognizes, validates, and facilitates the healing and recovery of victims, thereby contributing to the restoration of social harmony and the realization of true justice for all members of society.

Recommendation

First, the Indonesian legislature should amend the Code of Criminal Procedure (KUHP) to formally incorporate the right of victims to submit a Victim Impact Statement during the sentencing phase of all criminal proceedings. This provision should clearly define the nature, content, and purpose of the VIS, emphasizing its role as an informational and therapeutic tool rather than a punitive one, in order to safeguard the defendant's right to a fair trial.

Second, the Supreme Court, in collaboration with the Judicial Commission and the Attorney General's Office, should develop comprehensive guidelines for judges and prosecutors on the proper use and consideration of VIS. These guidelines should provide training on how to sensitively receive and weigh victim testimonies, ensuring consistency and preventing the introduction of undue prejudice into the sentencing process. The guidelines should also address the specific needs of vulnerable victims, including children, persons with disabilities, and victims of sexual violence.

Third, the Witness and Victim Protection Agency (LPSK) should be empowered and resourced to assist victims in preparing and presenting their VIS. This support should include providing legal assistance, psychological counseling, and practical guidance to ensure that all victims, regardless of their social or economic background, can effectively exercise this right. The LPSK should also be authorized to provide ongoing support to victims throughout the criminal justice process, not merely in the preparation of VIS.

Fourth, the government should establish a comprehensive victim support system that includes crisis intervention, psychological counseling, medical services, and economic assistance. This system should be integrated with the criminal justice process to ensure that victims receive support at all stages of the proceedings, from the initial report through the sentencing and post-conviction phases.

Fifth, the implementation of VIS should be accompanied by public education and awareness campaigns to inform victims of their rights and the availability of support services. These campaigns should be conducted in multiple languages and formats to ensure accessibility to all segments of the population.

By embracing the Victim Impact Statement, Indonesia can move beyond a purely retributive system and foster a criminal justice paradigm that is more responsive, compassionate, and truly just. This will not only enhance the legitimacy of the legal system but also affirm the dignity and humanity of every individual who has been harmed by crime, ultimately contributing to a more just and restorative society. The adoption of VIS represents not merely a procedural innovation but a fundamental commitment to recognizing victims as essential participants in the criminal justice process, whose voices and experiences must be heard and valued.

AUTHOR CONTRIBUTION STATEMENT

Muhamad Rizki spearheaded the research conceptualization and problem formulation. He designed the primary framework, coordinated the team's efforts, and played the central role in synthesizing arguments and drafting the initial manuscript for this study on victim status reconceptualization.

Widya Wahyu Utami conducted the in-depth literature review and legal analysis. She contributed significantly to the interpretation of findings, critically revised the manuscript for substantive legal content, and assisted in refining the theoretical arguments presented in the article.

Muhammad Soffa Marwa was instrumental in developing the research methodology and analytical framework. He contributed to data collection, systematic analysis of legal provisions and cases, and provided crucial insights during the results discussion phase.

Muhammad Abdurohman Sholih focused on data collection, compilation of legal resources, and preliminary data examination. He supported the analysis process, verified references, and contributed to editing and preparing the final draft for submission.

Faisal Santiago, as the supervising professor, provided expert guidance in business law perspectives. He offered critical intellectual input throughout the process, rigorously reviewed and revised each draft, and gave final approval for the publication of this reconceptualization study.

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