



Reconception of Justice in the Intersection of Legal Protection and Victims' Rights in the Contemporary Criminal Justice System

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Article Process Abstract

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Research on the protection of victims has been widely conducted, but the critical step of reconception of justice in the intersection of legal protection and victims' rights still leaves problems. This paper aims to examine the urgency of reconception of justice in the intersection of legal protection and victims' rights and see how the form of legal protection and victims' rights is viewed from the perspective of the contemporary criminal justice system. This research uses normative legal research, with secondary data consisting of primary and secondary legal materials relating to victims' rights, which are then analyzed using deductive syllogism analysis techniques. The results showed that justice for victims in the criminal justice system in Indonesia requires a reconstruction of the criminal law paradigm that is oriented towards the human rights of victims as protected subjects. This includes providing substantive space for victims to actively participate in the adjudication process, not just as witnesses or complementary evidence, but as the leading actors in restorative justice to achieve proper recovery. This reconception is expected to positively impact the justice system and increase social awareness of protecting victims' rights. The novelty in the 2023 Criminal Code, if integrated with related laws such as the Law on the Elimination of Domestic Violence, Law on Legal Aid, Law on Child Protection, Law on Witness and Victim Protection and Law on Criminal Acts of Sexual Violence, has the potential to shape a more equitable, transparent and responsive criminal justice system. The reconception of victim justice is not merely a change in norms, but a transformation towards social restorative justice that places victim protection at the core of modern criminal justice.

Keywords: Contemporary Criminal Justice System, Legal Protection for Victims, Reconception of Justice.

I. Introduction

Based on material and formal criminal Law, the Indonesian criminal justice system gives authority to the state through its organs to implement *ius puniendi* (the right to punish). Consequently, when a criminal offense occurs, the resolution mechanism is carried out through

a judicial process that leads to the imposition of criminal sanctions.¹ In this context, the interests of victims and society are ex officio represented by the state through the adjudication process and the imposition of sanctions proportional to the defendant's actions. However, in Law in Concreto, law enforcement in Indonesia still shows various legal imbalances contrary to statutory provisions.² The phenomenon that often occurs is the neglect of victims' rights in various aspects, including the construction of disproportionate charges, relatively lenient criminal charges, lack of access to information about the progress of case handling, absence of compensation, and the unrealized of various other victims' rights.³

The regulation of victims' rights under the Criminal Procedure Code (KUHAP) and the Criminal Code (KUHP) is limited to the right to compensation. This is stated in Article 98 paragraph (1) and Article 99 paragraph (3) of the Criminal Procedure Code, which reads:

Article 98 paragraph (1): "If an act which forms the basis of an indictment in an examination of a criminal case by a district court causes damage to another person, the presiding judge may, at the request of that person, decide to join the case for compensation to the criminal case."

Article 99 paragraph (3): "The judgment on compensation shall automatically become final if the criminal judgment also becomes final."

These two articles provide the right for victims of criminal acts to claim compensation for material losses incurred by a criminal offense through a case merger mechanism. However, using this right is facultative and must be based on the Victim's request, which is then strengthened by a judge's decision. Furthermore, the Criminal Code regulates the rights of victims:

Article 14c paragraph (1): "In the order referred to in Article 14a, except in the case of a fine, together with the general condition that the sentenced person will not commit a criminal offense, the judge may impose a special condition that the sentenced person shall, within a certain period shorter than the probation period, compensate all or part of the damage caused by the criminal offense".

The expansion of victims' rights in the Criminal Justice System is only found in Law Number 31/2014, Amendment to Law Number 31/2006 on Witness and Victim Protection. In the Witness and Victim Protection Law, the rights of victims are not only in the form of compensation as stated in the Criminal Code and Criminal Procedure Code; the Witness and Victim Protection Law explicitly emphasizes the procedures for protecting witnesses and victims in terms of the implementation of criminal procedural Law as a process of the criminal justice system. This clearly shows that the Witness and Victim Protection Law is still weak in guaranteeing the rights of victims of crime because it still overrides the rights of victims of the crimes they experience by requiring victims to undergo a series of prosecution processes for these rights.⁴

The main problem lies in the imbalance of legal protection between suspects/defendants and victims. The Criminal Code shows a bias in favor of the suspect/defendant, reflected in the dominant regulation of the rights of the suspect/defendant compared to the rights of the Victim. This paradox is even more apparent considering that victims often experience secondary victimization in the judicial process, manifesting in various forms such as disproportionate charges, inadequate charges, marginalization in the case handling process, lack of compensation, and neglect of other fundamental rights.⁵

Some research shows that there are inequalities in law enforcement for victims, there is research conducted by Kahlon, O. S., & Winterdyk, J, that victim impact statements (VIS) affect court decisions and whether they achieve a balance between the emotional needs of victims and

¹ Herlyanty Bawole, "Perlindungan Hukum Bagi Korban Dalam Sistem Peradilan Pidana," *Lex Et Societas IX*, no. 3 (2021).

² Vivi Ariyanti, "Kebijakan Penegakan Hukum Dalam Sistem Peradilan Pidana Indonesia," *Jurnal Yuridis* 6, no. 2 (2019).

³ Bintara Sura Priambada and Dania Rama Pratiwi, "Victimology Review of the Legal Protection of Victims of the Crime of Human Trafficking," *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 5, no. 2 (2022): 13310-13318, <https://doi.org/10.33258/birci.v5i2.5187.13310>

⁴ Bambang Waluyo, *Viktimologi: Perlindungan Korban Dan Saksi* (Sinar Grafika, 2022).

⁵ *Ibid.*

legal justice, the existence of VIS can provide additional emotional and contextual dimensions that strengthen the position of victims in the justice system.⁶ However, its effectiveness is highly dependent on the applicable legal system and the way it is delivered. On the other hand, research by Supriyanto, A., & Sulaiman, A., emphasized the importance of restorative justice as a more humane and Victim recovery-oriented approach, noting that its practice must be selective and closely monitored to avoid exploiting victims.⁷ Then research conducted by Dianti, G., Galuh, A., & Haris, B. shows that the balance of victims' rights often fails to be realized due to the low understanding of the authorities, the resistance of victims, and weak regulations.⁸

With this, enforcement for victims in the contemporary criminal justice system faces increasingly complex challenges to realize comprehensive justice, especially in the context of legal protection and fulfillment of victims' rights. The classical paradigm that tends to focus on the perpetrators of crime and aspects of punishment has undergone a significant shift along with the development of global awareness of the importance of a victim-centered justice perspective.⁶ The development of thinking about justice in the criminal justice system cannot be separated from the evolution of understanding about the position of victims in the construction of justice itself. Over the years, victims have often only been placed as objects in the criminal justice process, with limited roles as witnesses or sources of information in the disclosure of material truth. This has created a gap between procedural justice achieved through the formal mechanisms of the justice system and substantive justice expected to restore victims' loss and suffering. Thus, victims' rights are often left behind even though formal regulations have recognized victims' participation. Therefore, this research systematically explores the gaps between victims' rights in the applicable legal provisions and the reality of practice (Law in Concreto), by examining the intersectionality of justice and legal protection for victims with the reconception of justice as an instrument of justice that not only punishes the perpetrator but also restores victims procedurally, substantively, and based on the principles of victim justice.

The intersectionality between legal protection and the fulfillment of victims' rights is a crucial issue that requires in-depth reconceptualization. This is especially important given the complexity of the impact of crime, which is not only material but also includes the psychological, social, and existential dimensions of victims. The contemporary criminal justice system must accommodate these multidimensional needs through a more holistic and humanist approach.

II. Research Problems

This article addresses two main research questions. First, what is the urgency of reconception of justice in the intersection of legal protection and victims' rights? Second, what are the forms of legal protection and victims' rights in the contemporary criminal justice system?

III. Research Methods

This paper uses normative legal research. According to Peter Mahmud Marzuki in his book entitled *Legal Research*, all research related to Law (legal research) is always normative, which is identical to library legal research that leads to practical aspects to address a concrete problem through research on legal facts related to legal regulations, and questions to be solved on an existing legal issue.⁹ With a conceptual approach that is the basis for solving the problem of victims' rights and a statutory approach that examines and examines laws and regulations relating to legal protection and victims' rights examined from the Law on the Elimination of Domestic Violence (Law No. 23/2004), Law on Legal Aid (Law No. 16/2011), Law on Child

⁶ Opinder Singh Kahlon, "Effects of Victim Impact Statements on Sentencing Outcomes," 2024.

⁷ Agus Supriyanto and Abdullah Sulaiman, "The Urgency of Restorative Justice Implementation in Addressing Domestic Violence Cases to Realize Justice Oriented towards Victim Recovery," *Jurnal Indonesia Sosial Teknologi* 6, no. 6 (2025): 1276–1286, <https://doi.org/10.59141/jist.v6i6.9072>

⁸ Gita Dianti, Arkadewi Galuh, and Budi Haris, "The Effectiveness of Restorative Justice in Resolving Juvenile Criminal Offenses in Indonesia," *Hakim: Jurnal Ilmu Hukum dan Sosial* 3, no. 1 (2025): 918–936.

⁹ Peter Mahmud Marzuki, *Penelitian Hukum*, Revisi. (Prenada Media, 2017).

Protection (Law No. 35/2014), Law on Witness and Victim Protection (Law No. 31/2014) and Law on Criminal Acts of Sexual Violence (Law No. 12/2022) and the The Criminal Code Act 2023. This research uses primary and secondary legal materials. Primary legal materials are legal materials with an authoritative nature or authority. Primary legal materials can consist of laws and regulations or judicial decisions. Meanwhile, secondary legal materials consist of publications related to legal records, such as journals, books, research, dictionaries, and so on. The technique of collecting legal materials uses literature studies to obtain primary legal materials and secondary legal materials. This literature study was conducted to obtain relevant information related to legal issues, using deductive syllogistic analysis techniques to conclude the problems studied. Conclusions are drawn from two problems: central premises (general) and minor (specific).

IV. Result and Discussion

1. Reconception of Justice in the Intersection of Legal Protection and Victims' Rights

The reconception of justice in the intersection of legal protection and victims' rights is a review of the principles of justice that apply in the criminal justice system, considering the social, economic, and cultural dimensions that affect victims' experiences. Such intersections aim to address legal protection inclusively, considering the diversity of victims' circumstances and identities, to ensure that their rights are effectively and fairly protected in contemporary justice processes. Furthermore, this justice system comprehensively examines, ensuring justice in identifying and addressing inequalities that arise from the interaction between various factors of victim identity, such as gender, race, socio-economic status, or disability. Factually, based on the 2021 report of the National Commission on Violence Against Women (KOMNAS Perempuan), there is discrimination against female victims, where female victims of violence experience obstacles in accessing the criminal justice system because the legal system does not provide guarantees.¹⁰ Similarly, gender equality in terms of men being victims of sexuality also receives discrimination from law enforcement with the alibi of "men as strong beings with masculinity."¹¹ However, race and ethnicity are also still problematic in law enforcement for victims; it cannot be denied that discrimination is often targeted, especially against ethnicities with dark skin.¹² This shows that problems still have not been resolved optimally. Of course, justice for victims becomes a level of reconception in law enforcement and rights for victims. In this context, justice is not only seen as the provision of punishment or formal restoration of rights but also as an effort to reduce structural injustices that often worsen the position of victims in the judicial process.¹³ This reconception of justice, therefore, encourages a justice system that is more sensitive to differences and more responsive to the needs of victims by ensuring that the legal protections that victims receive reflect their specific needs and are not overlooked by biases within legal structures. As such, this reconception of justice focuses on improving legal protections and rights for victims.

Victim justice in the modern criminal justice system is still biased towards the rights of the accused, while the position of the Victim as the owner of rights is often ignored. So that at the regulatory level, the need for reconstruction of the criminal law paradigm to be oriented towards the human rights of victims as protected subjects, then victim participation is still limited to witness status, without providing substantive space for victims to be involved in the adjudication

¹⁰ KOMNAS Perempuan, *Tinjauan Penerapan Peraturan Mahkamah Agung Ri Nomor 3 Tahun 2017 Tentang Pedoman Mengadili Perkara Perempuan Berhadapan Dengan Hukum Di 5 Mitra Wilayah Sistem Peradilan Pidana Terpadu Penanganan Kasus Kekerasan Terhadap Perempuan (Sppt-Pkkt): Kepulauan*, 2021, <https://komnasperempuan.go.id/download-file/719>.

¹¹ Muhammad Rosyid, Riza, Moh Hakim, Taufiqul, Khasanah, Uswatul Ridho, "Diskriminasi Laki-Laki Sebagai Korban Kekerasan Seksual Perspektif Kesetaraan Gender," *ADLIYA: Jurnal Hukum dan Kemanusiaan* 16, no. 1 (2022): 21-42, <https://www.bbc.com/indonesia/indonesia-58505749>.

¹² Ruth Novie Paulinda, "Perlindungan Hukum Bagi Korban Diskriminasi Ras Dan Etnis Ditinjau Dari Undang-Undang," *JUSTITIA : Jurnal Ilmu Hukum dan Humaniora ISSN Cetak* 9, no. 4 (2022).

¹³ Rani Hendriana et al., "Repositioning Legal Protection For Victims of Domestic Neglect In Indonesia: Between Legal Breakthroughs and Reality?," *Kosmik Hukum* 24, no. 2 (2024): 52.

process, of course, there is a need for a reconception for victims who are not just complementary evidence, but active actors in the restorative justice process. Moreover, the regulations that apply to victim protection are only limited to providing retributive, of course the author criticizes that a purely retributive approach still leaves aside the failure to restore the suffering of victims as a whole, and emphasizes the need for a more in-depth social restoration-based justice approach, thus criminal justice is now changing the paradigm from perpetrator-centered to victim-centered justice. However, the Indonesian context still shows a lag in norm construction and criminal law enforcement practices that prioritize restoring victims' rights proportionally, fulfilling social restoration justice.

We can reflect on John Rawls' theory of justice, which has four important points in upholding justice: liberalism (freedom), social contract theory, utilitarianism, and intuitionism.¹⁴ The context of liberalism or freedom in this case is that everyone has the freedom to express opinions, and the context in law enforcement is the freedom to defend themselves with all their abilities. In social contract theory, the aim is to form a welfare state. In the context of a welfare state in the realization of justice, the state is realized in the form of a court; thus, law enforcement becomes crucial in providing legal protection, and law enforcement becomes the leading actor in ensuring justice, especially for victims. The theory of social contract to realize justice positions the same and equal situation between everyone in society, and no party has a higher position than the other, such as position, social status, level of intelligence, ability, strength, and so on. Thus, in the context of victims getting good treatment under applicable laws and regulations. Utilitarianism, according to John Rawls, "maximizes overall happiness while minimizing overall suffering."¹⁵ This means maximizing happiness and minimizing pain. In the context of legal protection and victims' rights, utilitarian theory realizes happiness for victims to get equal treatment and the opportunity to fulfill and restore victims as much as possible. Intuitionism or sense of justice¹⁶ This can be achieved if all three points exist. Thus, when John Rawls' guarantee of justice is achieved, there are two important principles, namely: First, the greatest equal principle that everyone has the same claim to fulfill the same fundamental and political rights and freedoms; Second, the different principle and the principle of fair equality of opportunity. With this, social and economic inequality must be met. John Rawls also underlines that justice can be achieved when there is compliance with the Constitution and the integration of constitutional rights and obligations based on moral values. According to John Rawls, justice embodies a reconception of the guarantee of justice in law enforcement for victims.¹⁷

When the theoretical reconception of justice is fulfilled on a broader spectrum, the practical level also needs reform. This level of reconception of justice requires the active role of judicial institutions in educating law enforcement officials, such as judges, prosecutors, and police, to better understand the complexity of victims' experiences based on the intersection of social factors that affect victims. It is intended that judicial policies and practices are not only based on generic rules but also pay attention to the broader context, from which justice can be served in a more humane and empathetic manner. Applying this principle also leads to the need for reforms in the legal process, such as more victim-friendly court procedures, better access to psychological support services, and maximum protection for victims during and after the judicial process.¹⁸ This reconception is expected to create a fairer criminal justice system, where victims are not only seen as legal objects that need to be protected but also as subjects whose rights are valued and respected in every judicial process. Therefore, this reconception of the understanding of justice plays an important role in shaping a legal system that is more responsive, inclusive, and fair to

¹⁴ John Rawls, *A Theory of Justice* (Harvard University Press, Belknap Press, 1971), <https://www.jstor.org/stable/j.ctvjf9z6v>.

¹⁵ Henry R. West and Brian Duignan, "Utilitarianism," *The Editor of Encyclopedia Britannica*, 2023, <https://www.britannica.com/topic/utilitarianism-philosophy>.

¹⁶ Pan Mohamad Faiz, "Teori Keadilan John Rawls (John Rawls' Theory of Justice)," *SSRN Electronic Journal* (2017).

¹⁷ Damanhuri Fattah, "Teori Keadilan Menurut John Rawl," *Jurnal TAPIS* 9, no. 2 (2015).

¹⁸ Ezra F. Moos et al., "Twice Harmed: A Descriptive Analysis of Illinois Crime Victim Compensation After Sexual Assault and Domestic Violence," *Journal of Surgical Research* 308 (2025): 279-285, <https://doi.org/10.1016/j.jss.2025.02.036>.

all parties involved. In addition, it is important to ensure the active participation of victims at every stage of the judicial process.¹⁹ by providing adequate means that lead to reforms in the judicial structure itself, by introducing mediation mechanisms that involve victims in the resolution of cases, which can be a more supportive alternative to recovery for victims and allow for more direct involvement in the justice process.²⁰ Furthermore, efforts should also be made to empower victims through rights guarantee education so that victims can understand the mechanisms that exist in the criminal justice system and can claim their rights effectively to reduce the information gap that is often an obstacle for victims in undergoing a convoluted and not always impartial legal process that serves to establish a criminal justice system that not only holds perpetrators accountable, but also provides holistic and sustainable justice for victims, in order to ensure recovery, welfare, and appropriate legal and rights protection.

More broadly, a criminal justice system that accommodates the intersection of legal protection and victims' rights must also involve closer cooperation with other institutions outside the judiciary, such as rehabilitation institutions, legal aid agencies, and civil society organizations, to provide holistic support for victims.²¹ This will create an integrated protection network where victims obtain justice from a legal perspective and in psychological, social, and economic aspects.²² This creates an image of a fairer judiciary responsive to victims' diverse experiences and needs. This increases public confidence in the legal system and strengthens human rights by placing victims in a more honorable and protected position in the criminal justice process. Equally important in this realization is an in-depth evaluation of existing policies and practices within the criminal justice system to ensure that victim protection is not only symbolic or procedural but also substantial. This could involve greater scrutiny of the implementation of laws relating to victim protection and the development of more specific regulations to address barriers arising from the intersection of social factors, such as discrimination based on gender, age, or disability.

However, to ensure the sustainability of this reconception of justice, a commitment is needed from all relevant parties, from legislative bodies to law enforcement institutions, to carry out in-depth reforms to existing structures and procedures. One important step is to design policies that ensure equal access for victims, especially victims from vulnerable groups, to obtain equal legal protection and ensure the Law's implementation through its procedures.²³ This creates a more inclusive legal aid system, develops victim service centers that can provide psychological and legal assistance, and strengthens guarantees for victim safety in dealing with perpetrators who may have greater power. Technological advancements have also brought a new color to the justice system, so today's criminal justice system may demand more attention to the important role of technology in accelerating and facilitating victims' access to legal protection. The use of technology for evidence collection, remote communication between victims and law enforcement officials, or even in the form of applications that allow victims to report violence or obtain information related to their rights, can be an effective tool to ensure that victims' rights are protected without obstacles.²⁴ In the long term, these efforts are expected to create a culture of justice that is more sensitive to the diversity of victims' conditions and more responsive to victims' needs. Thus, the criminal justice system in Indonesia can be transformed into a fairer and more transparent system, which can provide a sense of security for the community and proper recovery

¹⁹ Indung Wijayanto and Cahya Wulandari, "Victim Participation in the Criminal Justice Process: A Comparative Study Between Indonesia and Russia," *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 15, no. 1 (2024): 1-15, <https://doi.org/10.22212/jnh.v15i1.4136>.

²⁰ Khosy Zufar Annaafi, "Kasus Perdagangan Manusia Di Indonesia Ditinjau Dari Undang-Undang Nomor 21 Tahun 2007 Tentang Tindak Pidana Perdagangan Orang," *Kosmik Hukum* 19, no. 2 (2020): 118-122.

²¹ Masahiro Suzuki, "Victim Recovery in Restorative Justice: A Theoretical Framework," *Criminal Justice and Behavior* 50, no. 12 (2023): 1893-1908, <https://doi.org/10.1177/00938548231206828>.

²² Varun Chhachhar Muhammad Azil Maskur, Ratih Damayanti, Wildan Azkal Fikri, Ridwan Arifin, "Balancing Double Jeopardy and Fair Trial: Upholding Human Rights in Indonesia's Legal System" 25, no. 2 *Kosmik Hukum* (2025): 351-362.

²³ Liliia Matvieieva et al., "Legal Protection of Vulnerable Groups of Population:," *Revista Gênero e Interdisciplinaridade* 2, no. 01 (2021), <https://doi.org/10.51249/gei.v2i01.128>

²⁴ Antik bintari, "Kekerasan Seksual Elektronik: Permasalahan Dan Respons Terhadap Kasus," *Jurnal Perempuan* 29, no. 1 (2024): 17-29.

for victims. Therefore, this reconception of justice is expected to positively impact the justice system's context and increase social awareness about protecting victims' rights in every aspect of state life. So, in the end, the criminal justice system can function not only to punish the perpetrator but also to rebuild justice that involves recovery for every Victim by taking into account the intersecting factors that shape the Victim's experience in the legal process.

2. Legal Protection and Victims' Rights in the Contemporary Criminal Justice System

The legal protection and rights of victims in Indonesia's contemporary criminal justice system are regulated by various laws and regulations that aim to ensure justice and recovery for victims of criminal acts. In legal concept, the legal arrangements and rights of victims are regulated in several articles, namely:

No	Statutory Provisions	Article
1.	Law Number 39/1999 on Human Rights	<p>Article 5 (1) "Everyone is recognized as a private human being entitled to demand and obtain equal treatment and protection by his human dignity before the law."</p> <hr/> <p>Article 6 (1) "In the context of upholding human rights, the differences and needs of customary law communities must be considered and protected by the law, society, and the Government." (2) "The cultural identity of customary law communities, including customary land rights, is protected, in line with the times."</p> <hr/> <p>Article 9 (1) "Every person has the right to life, survival, and to improve their standard of living."</p>
2.	Law Number 23/2004 on the Elimination of Domestic Violence	<p>Article 10 "Victims are entitled to: a. protection from family, police, prosecutors, courts, advocates, social institutions, or other parties either temporarily or based on the stipulation of a protection order from the court; b. health services by medical needs; c. special handling related to victim confidentiality; d. assistance by social workers and legal aid at every level of the examination process by statutory provisions; and e. spiritual guidance services."</p>
3.	Law Number 16/2011 on Legal Aid	<p>Article 5 (1) "Recipients of Legal Aid as referred to in Article 4 paragraph (1) include every person or group of poor people who cannot fulfill their basic rights properly and independently." (2) "Basic rights as referred to in paragraph (1) include the right to food, clothing, health services, education services, employment and business, and/or housing."</p>
4.		Article 5

Law Number 31/2014 on the Amendment to Law Number 13/2006 on Witness and Victim Protection	(1) "Witnesses and Victims are entitled to: a. obtain protection for their personal safety, family, and property, as well as freedom from threats related to the testimony they will, are, or have given; b. participate in choosing and determining the form of protection and security support; c. provide testimony without pressure; d. receive an interpreter; e. be free from incriminating questions; f. receive information about the case's progress; g. receive information about the court decision; h. receive information if the convicted person is released, i., be kept anonymous; j. receive a new identity; k. receive a temporary residence; l. receive a new residence, be informed of the court decision, h. be informed if the convicted person is released, i. keep his/her identity confidential, and j. obtain a new identity; k. obtain a temporary residence; l. obtain a new place of residence; m. obtain reimbursement of transportation costs based on needs; n. obtain legal advice; o. obtain temporary living expenses until the Protection time limit expires; and/or obtain assistance."
	<hr/> <p>Article 6</p> <p>(1) "Victims of gross human rights violations, Victims of criminal acts of terrorism, Victims of criminal acts of trafficking in persons, Victims of criminal acts of torture, Victims of criminal acts of sexual violence, and Victims of severe maltreatment, in addition to the rights as referred to in Article 5, are also entitled to: a. medical assistance; and b. psychosocial and psychological rehabilitation assistance."</p>
	<hr/> <p>Article 7A</p> <p>(1) "Victims of criminal offenses are entitled to obtain Restitution in the form of: a. compensation for loss of wealth or income; b. compensation for losses incurred due to suffering directly related to the criminal offense; and/or c. reimbursement of medical and/or psychological treatment costs."</p>
	<hr/> <p>Article 8</p> <p>(1) "Protection of Witnesses and/or Victims as referred to in Article 5 shall be provided from the commencement of the investigation stage and shall end by the provisions set out in this Law."</p>
5. Law Number 35/2014 concerning Amendments to Law Number 23/2002 concerning Child Protection	<hr/> <p>Article 59</p> <p>(2) "Special Protection to Children, as referred to in paragraph (1), is given to: a. Children in emergencies; b. Children in conflict with the Law; c. Children from minority and isolated groups; d. Children who are economically and/or sexually exploited; e. Children who are victims of abuse of narcotics, alcohol,</p>

psychotropic substances, and other addictive substances; f. Children who are victims of pornography, g. Children with HIV/AIDS; h. Children who are victims of abduction, sale, and/or trafficking; i. Children who are victims of physical and/or psychological abuse; j. Children who are victims of sexual crimes; k. Children who are victims of sexual abuse. Child victims of terrorism networks; l. Children with disabilities, m. Child victims of mistreatment and neglect; n. Children with deviant social behavior; and o. Children who are victims of stigmatization from labeling related to the condition of their parents".

Article 59A

"Special Protection for Children, as referred to in Article 59 paragraph (1), is carried out through efforts: a. rapid treatment, including physical, psychological, and social treatment and/or rehabilitation, as well as prevention of disease and other health problems; b. psychosocial assistance during treatment until recovery; c. social assistance for children from low-income families; and d. provision of protection and assistance in every judicial process."

6. Law Number 12/2022 on the Crime of Sexual Violence

Article 26

(1) "The victim may be assisted by an advocate at all levels of examination in the judicial process."

Article 28

"Companions are entitled to legal protection while accompanying Victims and Witnesses at every level of examination."

Article 30

(1) "Victims of Sexual Violence are entitled to Restitution and Recovery services."

(2) "Restitution as referred to in paragraph (1) is in the form of: a. compensation for loss of wealth or income; b. compensation for losses incurred due to suffering directly related as a result of the Crime of Sexual Violence; c. reimbursement of medical and/or psychological treatment costs; and/or d. compensation for other losses suffered by the Victim as a result of the Crime of Sexual Violence."

Although various regulations on victims' rights are regulated, their implementation still faces significant challenges. Some of the obstacles that often arise include the lack of understanding and training for law enforcement officials regarding the protection of victims' rights, the lack of adequate facilities for victims, and the low awareness of victims regarding their rights in the judicial process. Therefore, to strengthen legal protection and victims' rights, more comprehensive reforms in the criminal justice system are needed, including increased training for law enforcers, strengthening the role of victim protection institutions, and wider socialization

of victims' rights to the community.²⁵ It is also important to ensure effective coordination between various state institutions, civil society, and the private sector in providing legal protection to victims.

Collaboration between institutions can strengthen support networks that can assist victims, whether in the form of legal, psychological, medical, or social assistance.²⁶ One concrete example is the establishment of an Integrated Service Center for Women and Children (P2TP2A) that aims to provide integrated services to victims of violence, involving various parties such as the police, courts, psychiatrists, and legal aid agencies. At the local level, regional regulations also need to play an important role in adjusting victim protection policies to local conditions, given the diversity of social and cultural contexts in various regions. More specific regional regulations on the protection of victims of violence can help address gaps in access to legal protection for victims, especially in areas that are more remote or less accessible to the national legal system. Furthermore, the National Commission on Violence against Women (Komnas Perempuan) and other oversight institutions play an important role in monitoring and providing recommendations to the government regarding victim protection.

Conceptually, the contemporary criminal justice system in Indonesia must create a safe and fair space for victims by prioritizing victims' rights in every aspect of the legal process. With support from all elements of society and a legal system that is increasingly responsive to the needs of victims, it is hoped that a balance will be created between law enforcement and the protection of victims' rights so that the criminal justice system can fulfill the true principles of justice. Although various existing laws have covered several important aspects in protecting victims' rights, various criticisms have become polemics, so the novelty of legal protection and rights for victims in the Criminal Code Act 2023 has become a new ambition in law enforcement.²⁷ The novelty in the rule of Law stipulated in The Criminal Code Act 2023 is expected to ensure increased protection for victims, both in fulfilling victims' rights and in aspects of physical, psychological, and social recovery of victims. In The Criminal Code Act 2023, there is a more assertive regulation on the rights of victims to obtain more comprehensive protection, which includes:

1. Strengthening Victim Protection in the Legal Process

The Criminal Code Act 2023 provides more explicit provisions for protecting victims at every stage of the criminal justice process, as set out in Articles 294-299. Hopefully, victims will no longer be positioned as marginalized parties but as parties whose rights must be fulfilled. In the Law, there are regulations on the fulfillment of victims' rights to obtain information regarding the progress of the case process, the right to obtain legal assistance, and the right to be given physical and psychological protection so that they do not feel threatened or intimidated during the legal process. This gives hope for a fairer and more transparent judicial process for victims.

2. Protection of Child Victims and Vulnerable Victims

An important part of The Criminal Code Act 2023 is the focus on the protection of victims who are children (Article 25) or other vulnerable groups, including women and persons with disabilities (Article 149). This provision is expected to provide a solution to the many cases of violence against children that often do not receive sufficient

²⁵ Byung So, "A Study on the Necessity of Crime Victim Protection within the Legal Framework," *Korean Association Of Victimology*. (2024): 57-81, <https://doi.org/10.36220/kjv.2024.32.3.57>.

²⁶ Hesti Kamila, Elwi Danil, and Aria Zurnetti, "Implementation of Legal and Social Assistance for Street Children Victims of Sexual Exploitation in Padang City from the Perspective of Legal Sociology," *Jurnal El-Hadhanah: Indonesian Journal Of Family Law And Islamic Law* 5, no. 1 (2025): 65-82, <https://doi.org/Vol.5.No.1.January-June.2025>, Page 65-82 P-ISSN: 2829-1042 <https://doi.org/10.22373/hadhanah.v5i1.7830>.

²⁷ Henny Saida Flora, Mac Thi Hoai Thuong, and Ratna Deliana Erawati, "The Orientation and Implications of New Criminal Code: An Analysis of Lawrence Friedman's Legal System," *Jurnal IUS Kajian Hukum dan Keadilan* 11, no. 1 (2023): 113-125, <https://doi.org/10.29303/ius.v11i1.1169>.

attention in the justice system. With an emphasis on protecting victims who are more sensitive to their social and psychological context, it is hoped that victims can feel safer in undergoing the legal process without fear of giving testimony.

3. Increased Restitution and Compensation for Victims

One of the Criminal Code Act 2023's great hopes is to improve restitution and compensation mechanisms for victims as regulated in Article 94. In this new regulation, it is hoped that there will be a stronger affirmation of the Victim's right to obtain compensation for material and immaterial losses they have suffered due to a criminal offense. This is expected to accelerate the process of victim recovery, both in material and psychological forms, and provide victims with a more tangible sense of justice.

4. Active Role of Victim Protection Institutions

This Law also encourages the active involvement of specialized institutions in victim protection, such as the Witness and Victim Protection Agency of the Republic of Indonesia (LPSK). With the reforms in the The Criminal Code Act 2023 contained in the Second Book Point 4 (four), it is expected that LPSK can be more optimal in carrying out its protection functions, including providing legal assistance, temporary shelter, and rehabilitation services for victims, as well as ensuring the fulfillment of victims' rights during the judicial process.

The 2023 Criminal Code opens an important normative opportunity to reconstruct the position of victims in the contemporary criminal justice system. However, the success of justice reconception depends on the ability to bridge norms to practice through victim-friendly procedures, regulatory harmonization, strengthening supporting institutions, and precise accountability mechanisms. This reconception is not simply a change in the text of the Law, but a transformation of social restorative justice that places the protection of victims by considering the intersection of their identities as the core of modern criminal justice. Of course, legal protection for victims needs to focus on a concrete implementative design so that the normative objectives of the 2023 Criminal Code are truly realized in everyday legal life. In addition to the changes in the Criminal Code 2023, integration between existing laws and regulations is key to realizing a more comprehensive legal protection and securing victims' rights. Various legal regulations must support each other to create a criminal justice system that is more responsive to the needs of victims. Some steps for this integration include:

1. Harmonization between the Victim Protection Law and other laws

The first integration is to ensure that the The Criminal Code Act 2023 coordinates with other existing regulations, such as the Law on the Elimination of Domestic Violence (Law No. 23/2004), Law on Legal Aid (Law No. 16/2011), Law on Child Protection (Law No. 35/2014), Law on Witness and Victim Protection (Law No. 31/2014) and Law on Criminal Acts of Sexual Violence (Law No. 12/2022). This integration is important so that all aspects of victim protection, whether in domestic violence, sexual violence, or other criminal acts, can complement and strengthen each other. With good harmonization between these laws and regulations, victims can get maximum protection without any overlap or weaknesses in their application.

2. Developing Integrative and Victim-Friendly Procedures

In contemporary criminal justice systems, it is important to develop procedures that integrate the various provisions of the justice process in a victim-friendly manner – for example, introducing more accessible procedures, removing procedural barriers that may confuse or burden victims, and ensuring that victims' rights to participate in the legal process actively are respected. Therefore, the Penal Code 2023 and other regulations should ensure that every Victim, regardless of the type of crime experienced, has equal access to protection and justice.

3. Synergy Between Law Enforcement Agencies and Supporting Institutions

In implementing the rule of Law, synergy is needed between law enforcement agencies, such as the police, prosecutors, and courts, as well as supporting institutions, such as the Witness and Victim Protection Agency (LPSK), legal aid agencies, and other social institutions. This close cooperation can ensure that victims' rights are adequately protected and that the legal process is efficient and responsive to victims' needs. Increasing the capacity and understanding of officials on the importance of victim protection is also key to creating a more equitable criminal justice system.

4. Strengthening the Monitoring and Evaluation System

An effective monitoring and evaluation mechanism is needed to implement victim protection and ensure that the various existing regulations work according to their objectives. Existing regulations must be accompanied by strict supervision from competent institutions, such as the National Commission on Violence against Women (Komnas Perempuan) and the National Commission on Violence against Children (Komnas Anak), and active community participation in overseeing the judicial process. Periodic evaluation of the existing system, including involving victims as part of the evaluation, will help determine whether the existing regulations effectively provide the expected protection.

Efforts to harmonize laws and regulations, develop victim-friendly procedures, synergize between institutions, and strengthen monitoring and evaluation systems are strategic steps to build a comprehensive legal protection system for victims of crime. However, the gap between norms and practices in the Indonesian criminal justice system remains a serious problem. Reliance on normative approaches that are procedural and facultative, as stipulated in the Criminal Code and Criminal Procedure Code, has not been able to guarantee the fulfillment of victims' rights substantially.

In the context of the intersection of legal protection and victims' rights, this creates a paradox: on the one hand, the state has full authority to implement the *ius puniendi* formally, but on the other hand, victims are often marginalized and experience secondary victimization due to rigid legal procedures and bias towards protecting the defendant. This phenomenon reinforces the urgency of a reconception of justice that not only focuses on the perpetrator but also positions the Victim as the main subject of legal protection. This reconception demands a balanced, humanist and contextual model of justice, which integrates the social, psychological, economic and cultural dimensions of the Victim's experience. Only through a holistic and integrated approach can the Indonesian criminal justice system be transformed into a truly fair system that responds to the needs of victims. Thus, the reconstruction of criminal justice that is inclusive and based on social reality is a necessity to close the gap of inequality and realize proper legal protection for all citizens. The existence of the 2023 Criminal Code, if accompanied by the integration of various legal regulations related to victim protection such as the Law on the Elimination of Domestic Violence, the Law on Child Protection, the Law on Witness and Victim Protection, and the Law on Sexual Violence Crimes can be a new face in building a contemporary criminal justice system that is more equitable, transparent and responsive. With this framework, victims not only obtain justice through the perpetrator's punishment, but also get a comprehensive recovery on their physical, psychological, social, and economic aspects.

V. Conclusion

Justice for criminals in the criminal justice system in Indonesia requires a reconstruction of the criminal law paradigm that is oriented towards the human rights of victims as protected subjects, by paying attention to victim participation which is not only limited to witness status, but provides substantive space for victims to be involved in the adjudication process, so that the reconception for victims is not just a complement to evidence, but an active actor in the restorative

justice process which aims to provide proper recovery for victims. Therefore, this reconception of justice is expected to positively impact the justice system's context and increase social awareness about the importance of protecting victims' rights in every aspect of state life. In the end, the criminal justice system cannot only punish the perpetrator but also rebuild justice that involves recovery for every Victim by taking into account the intersecting factors that shape the Victim's experience in the legal process. Then with the novelty in the legal product of the Criminal Code 2023, if accompanied by the integration of various legal regulations related to victim protection such as the Law on the Elimination of Domestic Violence (Law No. 23/2004), Law on Legal Aid (Law No. 16/2011), Law on Child Protection (Law No. 35/2014), Law on Witness and Victim Protection (Law No. 31/2014) and Law on Criminal Acts of Sexual Violence (Law No. 12/2022), it can be a new face in building a contemporary criminal justice system that is more equitable, transparent, and responsive. Reconception of justice in victim protection is not just a change in the text of the Law, but a transformation of social restorative justice that places victim protection by considering the intersection of their identities as the core of modern criminal justice in responding to the challenges of fulfilling victims' rights.

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