Bodily Integrity and Sexual Autonomy: Protection Against Marriage-Based Exploitation in Indonesia

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Abstract. Deceptive marriage-based exploitation has traditionally been treated as a private moral issue rather than as a legal problem affecting women's bodily integrity and sexual autonomy. This article reconstructs the issue through feminist criminal law, victimology, and international human rights law. Using normative legal research with statutory, conceptual, human rights, and comparative approaches, the study analyzes Indonesian law, including Law Number 12 of 2022 concerning Sexual Violence Crimes and Law Number 1 of 2023 concerning the Indonesian Criminal Code. It also draws comparative lessons from Canada, England, and Australia concerning affirmative consent and sexual consent obtained through deception. The study finds that deceptive marriage-based exploitation may generate multidimensional harms, including physical, psychological, sexual, social, and economic victimization. CEDAW General Recommendation No. 35 strengthens the obligation of states to prevent, investigate, punish, and remedy gender-based violence in public and private spheres. Indonesian criminal law should therefore develop gender-sensitive protection that recognizes bodily integrity and sexual autonomy as protected legal interests.

Keywords: Bodily Integrity, Sexual Autonomy, Criminal Law Protection, Women Victims, Deceptive Marriage-Based Exploitation.

1 Introduction

The protection of women against violence has moved beyond the traditional paradigm that limits legal concern to visible physical injury. Contemporary human rights law and feminist criminal law have increasingly recognized that women may suffer serious harm through coercion, manipulation, deception, and abuse of trust within intimate relationships. This shift is important because harms occurring in private relationships have historically been minimized as moral, cultural, or familial issues, even when the consequences are severe for the victim's dignity, autonomy, and social life [1], [2].

The issue examined in this article originates from a recurring social and legal problem in Indonesia: women who enter intimate relationships on the basis of a promise of marriage, engage in sexual relations because of that promise, and later experience abandonment when the promise is not fulfilled. The original study emphasized that such women may suffer physical, psychological, sexual, social, and economic harms, and

© The Author(s) 2026
S. Untari et al. (eds.), *Proceedings of the 3rd International Conference on Citizenship Education and Democratic Issues (ICCEDI 2026)*, Advances in Social Science, Education and Humanities Research 1039,
https://doi.org/10.2991/978-2-38476-626-0_10

that their bodily integrity requires legal protection under human rights law [3]. The present article preserves that core substance while expanding the analysis through modern criminal law, sexual autonomy, and victim-oriented justice.

The conceptual focus of this article is not the mere failure to marry. A failed relationship, by itself, should not automatically become a criminal law issue. The legally relevant issue arises when a promise of marriage is intentionally used as a means of deception, manipulation, or exploitation to obtain sexual access that would not otherwise have been given. In that situation, the inquiry moves from moral disappointment to the protection of bodily integrity, sexual autonomy, and human dignity [4], [5].

Bodily integrity is increasingly understood as more than physical wholeness. It includes the right to personal security, psychological integrity, reproductive autonomy, and control over intimate decisions. Sexual autonomy similarly concerns the ability to make free, informed, and voluntary choices about sexual relations. Both concepts are central to the modern consent paradigm in criminal law, which treats sexual offences as violations of autonomy rather than merely as acts of force or physical domination [1], [6].

Feminist legal theory provides the theoretical foundation for this reconstruction. MacKinnon's critique of formal consent highlights that consent must be analyzed within gendered power relations rather than treated as a purely abstract expression of agreement. Fineman's vulnerability theory further explains that vulnerability is a universal human condition, but social structures and intimate dependency may intensify the vulnerability of particular persons. Cook's work on bodily integrity and Allen's work on privacy and bodily autonomy strengthen the proposition that women's bodies and intimate choices must be protected as legal interests, not reduced to morality or family honor [7], [8], [9].

The state of the art in international scholarship indicates that sexual violence law is moving from coercion-based models toward consent-based and autonomy-based models. Recent literature has analyzed affirmative consent, sex-by-deception, rape law reform, image-based sexual abuse, coercive control, and victim-centered justice. These studies collectively demonstrate that law must respond to non-physical forms of domination that compromise autonomy and produce real harm [10], [11], [12], [13].

CEDAW General Recommendation No. 35 is particularly relevant. It updates the international understanding of gender-based violence against women by confirming that such violence constitutes discrimination and may occur in both public and private spheres. The Recommendation requires states to exercise due diligence to prevent, investigate, punish, and provide reparation for gender-based violence. This approach supports the view that intimate exploitation cannot be dismissed as a private matter when it impairs women's rights and freedoms [14], [15].

Indonesia has enacted important legal reforms that can support a more victim-oriented response. Law Number 12 of 2022 concerning Sexual Violence Crimes recognizes several forms of sexual violence and emphasizes victim protection, recovery, and rights fulfillment. Law Number 1 of 2023 concerning the Indonesian Criminal Code also reflects a broader reform agenda in national criminal law. These developments provide an opportunity to reconsider how Indonesian criminal law should respond to

deceptive intimate exploitation while avoiding over-criminalization of ordinary private relationships [16], [17].

Comparative legal developments strengthen this analysis. Canada has long emphasized affirmative and ongoing consent in sexual offences. England has developed significant debate concerning deception and consent, particularly whether material deception should invalidate sexual consent. Australia has adopted major consent reforms in several jurisdictions, including New South Wales and Victoria, and recent scholarship describes affirmative consent as a leading standard for rape law reform [10], [18], [4].

The gap addressed by this article is therefore clear. Previous Indonesian scholarship tends to treat unfulfilled marriage promises through morality, civil responsibility, or general human rights discourse. International scholarship has developed sophisticated debates on sexual autonomy, consent through deception, and victim-centered justice, but these have not been sufficiently connected to the Indonesian context of deceptive marriage-based exploitation. This article fills that gap by integrating feminist criminal law, bodily integrity, sexual autonomy, victimology, CEDAW obligations, comparative analysis, and Indonesian legal reform.

This study aims to answer three questions. First, how should bodily integrity and sexual autonomy be understood as protected legal interests in human rights law and criminal law? Second, what forms of victimization are experienced by women subjected to deceptive marriage-based exploitation? Third, how should Indonesian criminal law develop future protection mechanisms consistent with international human rights standards and victim-centered justice?

2 Research Methods

This study uses normative legal research because it examines legal norms, legal principles, statutory frameworks, international human rights instruments, and doctrinal debates concerning bodily integrity, sexual autonomy, and criminal law protection. Normative legal research is appropriate because the principal objective is to analyze the adequacy of legal protection and to formulate legal policy recommendations rather than to measure empirical prevalence [19].

The research applies statutory, conceptual, human rights, and comparative approaches. The statutory approach analyzes the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights, Law Number 7 of 1984 concerning the Ratification of CEDAW, Law Number 12 of 2022 concerning Sexual Violence Crimes, and Law Number 1 of 2023 concerning the Indonesian Criminal Code. The conceptual approach examines bodily integrity, sexual autonomy, gender-based exploitation, deception, consent, and victim protection [20], [3], [16], [17].

The human rights approach is used to assess Indonesia's obligation to protect women from gender-based harms under international instruments and CEDAW General Recommendation No. 35. The comparative approach examines Canada, England, and Australia to identify legal developments concerning affirmative consent, sexual consent obtained through deception, and victim-centered criminal justice. Legal materials are

analyzed qualitatively through grammatical, systematic, teleological, and comparative legal interpretation [15], [4], [10].

3 Results and Discussion

3.1 Bodily Integrity as a Protected Legal Interest

The original article's central claim is that women's bodily integrity constitutes an inseparable part of human dignity and must therefore be protected by law. This claim remains legally important, but contemporary scholarship allows it to be developed further. Bodily integrity is now understood as a legal interest that protects not only physical wholeness but also psychological security, reproductive agency, personal dignity, and autonomy over intimate decisions [1], [21].

The shift from physical integrity to autonomous personhood is significant in cases involving deceptive marriage-based exploitation. A woman may not experience physical force in the conventional sense, yet her decision concerning sexual intimacy may be shaped by material deception. If the promise of marriage is deliberately used to obtain sexual access, the harm concerns the impairment of autonomous decision-making and the misuse of her body through manipulation [4], [5].

Human rights law supports this broader understanding. The Universal Declaration of Human Rights protects dignity and equality, while CEDAW requires states to eliminate discrimination against women. CEDAW General Recommendation No. 35 expressly links gender-based violence to the denial of women's fundamental freedoms and recognizes that such violence may occur in private relationships. This confirms that women's bodily integrity must be protected even when the violation takes place in intimate settings [14], [15].

In Indonesia, constitutional guarantees under Articles 28A to 28J of the 1945 Constitution provide the normative foundation for protecting dignity, equality, and security of the person. Law Number 39 of 1999 concerning Human Rights further defines human rights as rights inherent in human beings that must be respected, upheld, and protected by the state, law, government, and every person. The original manuscript relied on this framework, and the present article extends it toward bodily autonomy and criminal law protection [3].

3.2 Sexual Autonomy and Feminist Criminal Law

Sexual autonomy is central to modern criminal law reform. It requires that sexual decisions be made freely, consciously, and on the basis of meaningful information. The move from morality-based regulation to autonomy-based protection has been described as a major transformation in the legal treatment of sexuality. In this model, the wrong of sexual violence lies in the denial of a person's authority over intimate choices [1], [2].

Feminist criminal law challenges the assumption that consent is always valid merely because it is verbally expressed or externally observable. MacKinnon's critique shows

that women's choices may be shaped by unequal social structures, gendered expectations, and power relations. This does not mean that women lack agency; rather, it means that law must be capable of distinguishing genuine autonomy from consent produced through domination, manipulation, or exploitation [7], [22].

Fineman's vulnerability theory strengthens this analysis. Vulnerability is universal, but social institutions distribute resilience unequally. Women may become particularly vulnerable in intimate relationships when cultural expectations of marriage, emotional dependency, pregnancy, stigma, or economic dependence are present. When such vulnerability is intentionally exploited, the law should not treat the resulting harm as merely private disappointment [8], [23].

Allen's work on privacy and bodily autonomy also helps explain why intimate exploitation is legally significant. Privacy does not mean that law must ignore harms occurring in private relationships. Instead, privacy protects personal sovereignty and intimate self-determination. Deception that undermines intimate self-determination can therefore become a legal problem when it causes serious harm to autonomy and dignity [9], [1].

3.3 Sexual Consent Obtained Through Deception

The question of sexual consent obtained through deception has become a major issue in contemporary criminal law theory. A growing body of scholarship argues that the validity of consent depends not only on the absence of physical force but also on whether the decision was made with sufficient information and freedom from manipulation. However, scholars also warn that criminalizing every lie in intimate relationships would create over-criminalization and excessive state intrusion [4], [13].

Scheidegger proposes a balanced framework that protects sexual autonomy while respecting privacy and responsibility. The key question is whether the deception concerns a material fact that seriously affects the victim's autonomous decision. Tolley similarly distinguishes ordinary deception from deception that causes legally relevant harm or wrongdoing. These approaches are useful for Indonesia because they avoid treating every broken promise as a crime while still recognizing serious exploitative conduct [4], [5].

In deceptive marriage-based exploitation, the materiality of deception lies in whether the promise of marriage was intentionally false and functioned as the decisive reason for sexual consent. If a woman would not have consented but for the promise, and the promise was used strategically to obtain sexual access, the case differs from an ordinary failed romance. The legal analysis should focus on exploitation, abuse of trust, and harm to autonomy, not merely on the non-performance of marriage [13], [12].

This approach also resonates with the Indonesian context, where marriage continues to carry significant social, religious, and cultural meaning. The social consequences of premarital sexual relations often fall disproportionately on women, especially when pregnancy, stigma, and family pressure arise. Criminal law reform should therefore consider how deception operates within local gendered realities while still maintaining safeguards against moralistic criminalization [24], [16].

3.4 Victimization and Multidimensional Harm

Victimology shows that harm in sexual exploitation cases is rarely limited to physical injury. Victims may experience psychological trauma, social stigma, economic vulnerability, reproductive consequences, and institutional re-victimization. Contemporary research on sexual violence emphasizes that justice must respond to the lived experience of victim-survivors rather than only to formal legal categories [25], [26].

The original article identified physical, psychological, sexual, social, and economic suffering as consequences of unfulfilled marriage promises. This insight should be retained because it captures the multidimensional nature of harm. Physical harm may include unwanted pregnancy or reproductive health consequences. Psychological harm may include anxiety, depression, humiliation, betrayal, and loss of self-esteem. Social harm may include stigma, victim blaming, and exclusion [27].

Economic harm is also significant. When pregnancy or childcare occurs after abandonment, women may bear disproportionate responsibilities without adequate support. Economic vulnerability can worsen psychological harm and restrict access to justice. Victim-centered justice therefore requires compensation, restitution, psychosocial support, and recovery services, not merely criminal punishment [25], [28].

Recent literature on image-based sexual abuse and technology-facilitated abuse is relevant by analogy because it shows how sexual harms increasingly occur through non-traditional mechanisms, including betrayal, digital communication, and misuse of trust. The original article already noted that promises may be conveyed through WhatsApp, SMS, and other communication platforms. This strengthens the need for legal analysis that recognizes both offline and technology-mediated forms of intimate exploitation [11], [29].

3.5 CEDAW General Recommendation No. 35 and State Responsibility

CEDAW General Recommendation No. 35 is a central normative instrument for this article. It updates General Recommendation No. 19 and clarifies that gender-based violence against women is a form of discrimination. The Recommendation recognizes that violence may be physical, sexual, psychological, or economic, and that it may occur in private as well as public spaces. This makes it directly relevant to intimate exploitation [14], [15].

The due diligence obligation requires states to prevent, investigate, punish, and provide remedies for gender-based violence. A state may be responsible not only for direct acts by state agents but also for failing to protect women against private actors when it knew or should have known of the risk and failed to take reasonable measures. This principle supports a legal framework that addresses harms occurring in intimate relationships [30], [15].

For Indonesia, CEDAW obligations have domestic relevance because Indonesia ratified CEDAW through Law Number 7 of 1984. This ratification must be read together with constitutional guarantees and Law Number 39 of 1999 concerning Human Rights. The state's duty is therefore not passive; it must create legal mechanisms that allow

women to obtain protection, justice, and recovery when their dignity and autonomy are harmed [20], [3].

CEDAW General Recommendation No. 35 also supports a gender-sensitive and victim-centered approach. It emphasizes access to justice, protection from retaliation, availability of services, reparation, and institutional capacity. These elements are crucial in deceptive marriage-based exploitation because victims often face stigma, evidentiary difficulties, and fear of being blamed during legal proceedings [14], [26].

3.6 Comparative Criminal Law: Canada, England, and Australia

Comparative analysis provides important lessons for Indonesian criminal law. Canada's consent doctrine emphasizes that consent must be voluntary, active, and ongoing. Canadian law rejects assumptions based on silence or passivity and stresses the importance of meaningful choice. This approach is useful because it frames sexual offences as violations of autonomy rather than merely as physical violence [10], [1].

England has generated extensive debate on deception and consent. Although English law recognizes only certain forms of deception as automatically invalidating consent, academic debate has become increasingly concerned with deceptive sex, identity, recognition, and sexual autonomy. This scholarship is relevant because it shows the difficulty of drawing legal boundaries while still acknowledging that deception can sometimes seriously undermine consent [4], [5], [13].

Australia is particularly instructive because several jurisdictions have moved toward affirmative consent. New South Wales reforms define consent as free and voluntary agreement and require communicative steps to ascertain consent. Recent Australian scholarship describes affirmative consent as a leading standard in rape law reform, while also warning that reform must be carefully implemented to avoid symbolic change without practical justice for victims [10], [18].

These comparative developments do not mean Indonesia should simply copy foreign law. Instead, they demonstrate the global movement from force-based models toward autonomy-based and victim-centered models. Indonesia can use these lessons to develop a careful framework that recognizes bodily integrity and sexual autonomy while distinguishing serious exploitation from ordinary relationship breakdowns [12], [31].

3.7 Indonesian Criminal Law Reform: TPKS Law and the New Criminal Code

Law Number 12 of 2022 concerning Sexual Violence Crimes is a major development in Indonesian legal protection for victims. The law recognizes several forms of sexual violence and emphasizes the rights of victims to treatment, protection, and recovery. This represents an important shift from offender-centered punishment toward victim-centered justice [16], [24].

Although the TPKS Law does not expressly criminalize deceptive marriage promises, it provides a normative foundation for analyzing exploitation, abuse of vulnerability, and coercive sexual conduct. The concept of sexual exploitation under the law can

be used as an entry point to discuss cases where deception and abuse of trust are deliberately used to obtain sexual access. However, interpretation must remain careful to avoid transforming all relationship failures into criminal cases [16], [4].

Law Number 1 of 2023 concerning the Indonesian Criminal Code also offers a broader framework for criminal law reform. The new Code reflects the effort to replace colonial criminal law with a national criminal law system that considers Indonesian values, social realities, and modern legal principles. For this article, its importance lies in opening space for future policy that balances legality, proportionality, victim protection, and substantive justice [17].

A human rights-based criminal law policy should therefore develop three safeguards. First, liability should require intentional or reckless deception regarding a material marital commitment. Second, the deception must be causally connected to sexual consent and victimization. Third, the legal response should prioritize protection, recovery, and restitution for victims, not merely imprisonment. These safeguards allow law to protect autonomy without becoming moralistic or excessive [5], [25].

3.8 Toward a Victim-Centered Criminal Law Policy

The reconstruction proposed in this article is victim-centered but not blindly punitive. Contemporary feminist scholarship warns that criminal law can both protect and harm victims if it is applied without sensitivity to trauma, stigma, and institutional power. A victim-centered policy must therefore combine accountability with recovery, legal assistance, psychological support, and protection from secondary victimization [32], [26].

Restorative justice may be considered in limited and carefully supervised circumstances, but it should never be used to pressure victims into reconciliation or silence. Research on restorative justice after sexual violence shows that survivors may seek acknowledgement, accountability, and repair, but such processes require safety, voluntariness, professional facilitation, and a clear recognition of harm [25], [28].

The proposed policy direction is therefore not to criminalize all unfulfilled promises of marriage. Instead, Indonesian law should recognize deceptive marriage-based exploitation as a serious legal concern when the conduct involves intentional deception, abuse of trust, exploitation of vulnerability, and demonstrable harm to bodily integrity and sexual autonomy. This framing is consistent with feminist criminal law, CEDAW obligations, and victimology [14], [8], [7].

Legal reform should also include preventive education on consent, gender equality, and responsible intimate relationships. Criminal law alone cannot eliminate gender-based exploitation. Broader institutional reform is needed, including gender-sensitive investigation, trauma-informed prosecution, victim services, and public education that rejects victim blaming [11], [29], [24].

Table 1. Novelty of this article in relation to previous research.

Previous Research	Main Focus	Limitation	Novelty of This Article
MacKinnon [7]; Mehta and Tiwari [22]	Feminist critique of consent, sexuality, and criminal law.	Does not specifically analyze Indonesian deceptive marriage-based exploitation.	Uses feminist criminal law to reinterpret deceptive marital promises as autonomy-related exploitation.
Fineman [8]; Tolmie et al. [23]	Vulnerability, coercive control, and social entrapment.	Focuses broadly on vulnerability and coercive control, not marriage-promise deception.	Explains women's vulnerability in intimate relationships shaped by marriage expectations and stigma.
Valentiner [1]; Scheidegger [4]	Sexual autonomy and sex-by-deception.	Developed mainly in European legal theory.	Applies sexual autonomy and deception debates to Indonesian criminal law reform.
Quilter [10]; Quilter and McNamara [18]	Affirmative consent and sexual offence reform in Australia.	Does not address Indonesian legal culture or the TPKS Law.	Uses comparative lessons to propose safeguards for Indonesian victim-centered reform.
Vijeyarasa [15]; CEDAW Committee [14]	CEDAW General Recommendation No. 35 and gender-based violence.	Discusses international obligations generally.	Connects CEDAW due diligence with protection against deceptive intimate exploitation.
Tijow (original manuscript)	Human rights protection for women victims of unfulfilled marriage promises.	Primarily human rights-based and less connected to modern criminal law theory.	Reconstructs the original substance through bodily integrity, sexual autonomy, victimology, and criminal law policy.

4 Conclusion and Recommendation

Women's bodily integrity and sexual autonomy are fundamental legal interests protected by human rights law, feminist criminal law, victimology, and Indonesian constitutional principles. Deceptive marriage-based exploitation should not be reduced to a private moral dispute when intentional deception is used to obtain sexual access and produces serious multidimensional harm. The central legal issue is not the failure to marry but the exploitation of trust, vulnerability, and autonomy.

The study shows that CEDAW General Recommendation No. 35, comparative developments in Canada, England, and Australia, Law Number 12 of 2022 concerning Sexual Violence Crimes, and Law Number 1 of 2023 concerning the Indonesian Criminal Code collectively support a more victim-centered and gender-sensitive approach. Indonesian law already has normative foundations for protecting victims, but further doctrinal and policy development is needed to address deceptive intimate exploitation.

This article suggests that Indonesian criminal law policy should recognize bodily integrity and sexual autonomy as protected legal interests. Future reform should include clear safeguards: intentional material deception, a causal connection between deception and sexual consent, serious victimization, and proportional legal response. Protection should include not only punishment but also restitution, psychological recovery, legal assistance, and protection from secondary victimization.

The broader recommendation is that criminal law reform must be accompanied by education on consent, gender equality, and respectful intimate relationships. The legal system should avoid moralistic over-criminalization while ensuring that women harmed by deliberate deceptive exploitation receive meaningful protection, recovery, and justice.

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