Criminal Law Protection of Women's Bodily Integrity in Indonesia

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Abstract. The protection of women against violence has increasingly shifted from a conventional offender-oriented paradigm toward victim-centered criminal justice. Nevertheless, Indonesian criminal law has not explicitly formulated women's bodily integrity as an independent protected legal interest (rechtsgut). This article examines women's bodily integrity through criminal law protection, victimology, and criminal policy within the framework of Indonesian criminal law reform. It employs normative legal research using statutory, conceptual, victimological, and comparative approaches. The analysis focuses on Law Number 12 of 2022 concerning Sexual Violence Crimes, Law Number 1 of 2023 concerning the Indonesian Criminal Code, international human rights obligations, and contemporary criminal law theory. The study finds that violations of women's bodily integrity generate multidimensional victimization, including physical, psychological, sexual, social, and economic harms. Although the TPKS Law and the New Indonesian Criminal Code strengthen victim protection, they have not yet expressly positioned bodily integrity as a protected legal interest. The article argues that future criminal law reform should recognize women's bodily integrity as a rechtsgut and strengthen victim recovery, restitution, trauma-informed justice, and gender-sensitive enforcement.

Keywords: bodily integrity, criminal law protection, victimology, legal interest theory, women victims.

1 Introduction

The development of modern criminal law has increasingly moved from an offender-oriented paradigm toward a victim-centered framework that recognizes the lived experience of victims. Criminal law is no longer understood solely as an instrument for imposing punishment on offenders, but also as a normative system for protecting fundamental interests, restoring dignity, and preventing repeated victimization. This shift is visible in recent international literature on sexual violence, consent, and criminal justice reform, which emphasizes that criminal law must be assessed by its capacity to protect autonomy, bodily integrity, and the concrete needs of victims [1]–[3].

The central issue examined in this article is women's bodily integrity. The original manuscript conceptualized bodily integrity as the unity and completeness of a woman's

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physical, psychological, emotional, aspirational, and dignitary existence. That formulation remains important because it shows that bodily integrity is not confined to biological wholeness or the absence of visible injury. It also includes personal security, sexual dignity, psychological stability, and the capacity to develop a complete self-concept as a legal subject [4], [5].

The earlier article approached the issue mainly through human rights law, constitutional guarantees, and CEDAW obligations. That approach was appropriate at the time because the primary legal concern was to demonstrate that women whose bodily integrity was harmed by unfulfilled marriage promises deserved legal protection under national law. However, the development of Indonesian law after the enactment of Law Number 12 of 2022 concerning Sexual Violence Crimes and Law Number 1 of 2023 concerning the Indonesian Criminal Code creates a new opportunity to reposition the issue within the field of criminal law [6], [7].

This article therefore does not merely repeat the previous human rights argument. It reconstructs women's bodily integrity as a protected legal interest in criminal law. In criminal law theory, the concept of protected legal interest, or rechtsgut, functions as the normative justification for criminalization. Criminal law should not criminalize conduct simply because it is immoral or socially disapproved; it should intervene when conduct threatens a fundamental interest that is necessary for individual dignity, autonomy, and social coexistence [8], [9].

The concept of rechtsgut is especially relevant because women's bodily integrity has often been addressed indirectly through provisions concerning violence, morality, or family order. Such indirect protection is doctrinally insufficient. If bodily integrity is treated only as a derivative of public morality or family honor, the law risks obscuring the victim's own legal interest. Positioning bodily integrity as a rechtsgut clarifies that the protected object is the woman's own dignity, autonomy, bodily security, and self-determination [2], [10].

Victimology provides the second theoretical foundation of this article. Modern victimology explains that victimization is not exhausted by physical injury. It includes psychological trauma, social stigma, economic loss, institutional neglect, and secondary victimization within the criminal justice process. This is particularly important for women whose bodily integrity is violated because the harm often continues through stigma, victim blaming, evidentiary burdens, and inadequate recovery mechanisms [11]–[13].

Feminist criminal law provides the third theoretical foundation. Feminist scholars have long shown that formal legal categories may fail to capture women's experiences when the law ignores unequal power relations, social expectations, and gendered vulnerability. MacKinnon's critique of formal consent demonstrates that law cannot evaluate autonomy only through external appearance or verbal agreement. Fineman's vulnerability theory also explains that although vulnerability is universal, institutions distribute resilience unequally and often leave women exposed to social, economic, and intimate forms of domination [14]–[16].

The state of the art in recent scholarship confirms the need for a more sophisticated framework. Contemporary studies increasingly analyze sexual violence through autonomy, consent, victim-centered justice, technology-facilitated abuse, restorative justice,

and gender-sensitive enforcement. Recent work on affirmative consent, sex-by-deception, image-based sexual abuse, and technology-facilitated abuse demonstrates that criminal law is moving beyond narrow models of physical force toward models that protect autonomy and dignity [17]–[20].

In Indonesia, Law Number 12 of 2022 concerning Sexual Violence Crimes provides a victim-centered foundation because it recognizes diverse forms of sexual violence and gives attention to victim protection, treatment, recovery, and restitution. Law Number 1 of 2023 concerning the Indonesian Criminal Code also reflects broader criminal law reform by replacing the colonial Criminal Code with a national framework that incorporates proportionality, restorative justice, and the balancing of interests among offenders, victims, society, and the state [6], [7].

The objective of this article is to analyze why women's bodily integrity should be regarded as a protected legal interest in Indonesian criminal law, how victimology explains the multidimensional harms caused by violations of bodily integrity, and how the TPKS Law and the New Criminal Code contribute to victim-centered protection. The novelty of the article lies in reconstructing bodily integrity as a rechtsgut within Indonesian criminal law and formulating future criminal policy reforms that strengthen victim recovery, restitution, and gender-sensitive justice.

2 Research Methods

This research uses normative legal research because it analyzes legal norms, legal concepts, doctrinal theories, and statutory frameworks concerning the protection of women's bodily integrity. The study does not seek to measure empirical prevalence; rather, it examines how criminal law should conceptualize bodily integrity as a protected legal interest and how existing Indonesian legal instruments can be interpreted to support victim-centered protection [4], [21].

The research applies four approaches. The statutory approach examines 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, legal interest theory, victimology, feminist criminal law, and victim-centered justice [6], [7], [22], [23]. The victimological approach is used to identify the multidimensional harms suffered by women when bodily integrity is violated, including primary victimization, secondary victimization, psychological trauma, stigma, and economic vulnerability. The comparative approach draws limited lessons from recent international scholarship on consent, autonomy, and victim-centered criminal justice, not to transplant foreign law, but to clarify the direction of modern criminal law reform [10], [11], [17]. The legal materials are analyzed qualitatively through grammatical, systematic, teleological, and conceptual interpretation to formulate a coherent criminal law framework for protecting women's bodily integrity.

3 Results and Discussion

3.1 Women's Bodily Integrity as a Protected Legal Interest (Rechtsgut)

The starting point of the analysis is the concept of bodily integrity in the original manuscript. The manuscript explains that bodily integrity is the unity of the body, mind, feelings, aspirations, and self-achievement of women. It emphasizes that women experience bodily integrity not merely as a physical condition, but as a complete sense of personhood and dignity. This formulation is important because it moves beyond a biological view of the body and approaches bodily integrity as an integrated legal and human reality [4], [5].

In contemporary criminal law, this concept can be strengthened through rechtsgut theory. Rechtsgut theory maintains that the legitimacy of criminal law depends on the protection of legal interests that are essential for individuals or society. Criminal law should not function as a tool for enforcing abstract morality; rather, it should protect concrete interests such as life, bodily integrity, sexual autonomy, property, public trust, and social order. In this sense, bodily integrity qualifies as a legal interest because it is indispensable for human dignity and personal autonomy [8], [9].

The relevance of rechtsgut theory lies in its ability to distinguish criminal law protection from moral judgment. A woman's bodily integrity should not be protected because society wishes to preserve chastity, family honor, or traditional morality. It should be protected because the woman herself possesses an independent interest in bodily security, sexual self-determination, psychological integrity, and human dignity. This shift changes the legal focus from social morality to the victim's own legally protected interest [2], [10].

Bodily integrity as a rechtsgut also corresponds with international developments in sexual violence law. Modern criminal law has increasingly conceptualized sexual offenses as violations of autonomy rather than merely as physical force. Valentiner argues that the right to sexual autonomy has become central to the modern understanding of sexual rights, while Scheidegger shows that the criminalization of sex-by-deception must be evaluated through autonomy, responsibility, and privacy. These debates support the view that bodily integrity includes autonomy over intimate decisions [2], [10].

CEDAW General Recommendation No. 35 strengthens this framework by recognizing gender-based violence against women as a form of discrimination that may occur in public or private spheres. The Recommendation requires states to exercise due diligence to prevent, investigate, punish, and provide remedies for gender-based violence. This supports the recognition of bodily integrity as a protected legal interest because the state has an obligation to protect women from violations that undermine dignity and equality [24], [25].

The absence of explicit recognition of bodily integrity as a protected legal interest has practical consequences. When bodily integrity is not clearly identified as a rechtsgut, legal protection may depend on fragmented provisions such as violence, decency, morality, or family law. Such fragmentation may obscure the victim's legal interest and create inconsistent interpretation. Explicit recognition would enable law enforcement

and courts to evaluate harm through the lens of victim autonomy, dignity, and multidimensional injury [1], [20].

Therefore, the first finding of this article is that women's bodily integrity should be recognized as an independent protected legal interest in Indonesian criminal law. This does not mean that every private conflict becomes a criminal matter. It means that when conduct seriously violates bodily integrity through violence, exploitation, coercion, abuse of vulnerability, or other forms of gender-based harm, criminal law has a legitimate basis to intervene [8], [26].

3.2 Victimological Perspective on Violations of Women's Bodily Integrity

Victimology provides the second analytical foundation for understanding why bodily integrity requires criminal law protection. Classical criminal law tends to focus on offenders, elements of offenses, and punishment. Victimology shifts the analysis toward the harm suffered by victims and the social, institutional, and psychological consequences of crime. In cases involving women's bodily integrity, this perspective is indispensable because the harm often exceeds visible physical injury [13], [27].

The original manuscript recognized that women may suffer physical, psychological, sexual, social, and economic harms when their bodily integrity is violated. Primary victimization includes the immediate harm caused by the wrongful conduct, such as bodily injury, sexual trauma, unwanted pregnancy, reproductive health consequences, fear, and emotional suffering [4], [11].

Secondary victimization occurs when victims suffer additional harm from social responses or institutional processes. Women may be blamed for the violence, questioned about their morality, pressured to remain silent, or treated insensitively by legal institutions. These experiences can deepen trauma and discourage reporting. Studies on sexual violence justice gaps show that victims frequently experience criminal justice systems as retraumatizing, especially where proceedings focus on credibility attacks or social stereotypes [12], [28].

Psychological harm is also central. Violations of bodily integrity may produce anxiety, depression, shame, humiliation, loss of confidence, and post-traumatic stress. Such harm can affect education, employment, family relations, and social participation. Victim-centered justice recognizes that the objective of criminal law cannot be limited to conviction; it must also include recovery, protection, and the restoration of dignity [11], [29].

Social harm is particularly significant in gender-based cases. Women often bear a disproportionate burden of stigma, especially when bodily integrity violations are linked to sexuality, intimacy, or pregnancy. The social consequences may include victim blaming, exclusion from family or community support, reputational damage, and pressure to reconcile with the offender. These consequences show that bodily integrity is a social and legal interest, not merely a physical condition [13], [30].

Economic harm must also be recognized. Victims may incur medical expenses, counseling costs, loss of income, or caregiving responsibilities. Economic vulnerability can prevent victims from pursuing justice, especially when they depend financially on

the perpetrator or lack access to legal assistance. For this reason, restitution, compensation, and social rehabilitation are essential components of victim-centered criminal justice [6], [11].

Victimology thus supports a broader criminal law framework. If the law focuses only on visible injuries, it will fail to capture the actual harms suffered by women. A victimological approach requires criminal law to consider physical, psychological, social, sexual, and economic harms as part of the legal analysis. This supports the recognition of bodily integrity as a rechtsgut and strengthens the basis for victim recovery mechanisms [13], [27].

3.3 Criminal Law Protection under Law Number 12 of 2022 concerning Sexual Violence Crimes

Law Number 12 of 2022 concerning Sexual Violence Crimes represents a major transformation in Indonesian criminal law. Before the enactment of this law, many sexual violence cases were addressed through fragmented provisions that did not adequately recognize the complexity of victimization. The TPKS Law provides a more comprehensive framework by identifying various forms of sexual violence and emphasizing victim treatment, protection, and recovery [6], [31].

The significance of the TPKS Law lies in its victim-centered orientation. The law recognizes that sexual violence does not only produce physical injury but also psychological, social, economic, and reproductive consequences. This orientation is consistent with victimological theory and with the recognition of bodily integrity as a protected legal interest. By acknowledging victims' rights to treatment, protection, and recovery, the law moves beyond a narrow punishment-centered model [11], [12].

The TPKS Law also recognizes forms of sexual violence that are relevant to bodily integrity, including sexual harassment, sexual exploitation, forced contraception, forced sterilization, forced marriage, sexual torture, and electronic-based sexual violence. These categories reflect an expanded understanding of criminal harm. The protected interest is not merely physical safety but also bodily autonomy, sexual dignity, reproductive freedom, and psychological security [2], [6].

From the perspective of rechtsgut theory, the TPKS Law implicitly protects bodily integrity as a legal interest. Although the text of the law does not expressly use the term rechtsgut, the substance of the law shows that the protected interests include bodily security, sexual autonomy, dignity, and victim recovery. This makes the law an important foundation for developing a clearer doctrinal recognition of bodily integrity in Indonesian criminal law [6], [8].

The TPKS Law also provides a foundation for addressing forced marriage. Forced marriage is not merely a family law issue; it may involve coercion, sexual violence, reproductive harm, and psychological pressure. By recognizing forced marriage as a form of sexual violence, the law acknowledges that bodily integrity may be violated through social practices that compel women into relationships or sexual obligations against their will [6], [24].

Another important feature of the TPKS Law is the recognition of victim rights. Victims are entitled to treatment, protection, and recovery, including medical services, psychological assistance, legal assistance, social rehabilitation, and restitution. These provisions reflect the principles of victim-centered justice and respond to the multidimensional harms identified by victimology [6], [11].

The second finding of this article is that the TPKS Law has significantly strengthened the criminal law protection of women's bodily integrity, but it has not yet explicitly formulated bodily integrity as a protected legal interest. Future interpretation and reform should therefore use the TPKS Law as a foundation for recognizing bodily integrity as a rechtsgut and for strengthening victim recovery mechanisms [6], [31].

3.4 Women's Bodily Integrity in the New Indonesian Criminal Code

Law Number 1 of 2023 concerning the Indonesian Criminal Code is a historic reform because it replaces the colonial-era Criminal Code and seeks to formulate a national criminal law system. The New Criminal Code reflects a broader effort to align criminal law with national values, constitutional principles, human dignity, proportionality, and contemporary criminal policy. This reform is relevant to women's bodily integrity because it provides a wider framework for balancing offender accountability and victim protection [7].

One of the important features of the New Criminal Code is the movement toward a more balanced model of criminal justice. Criminal law is not only a matter of punishing offenders; it also concerns the restoration of social balance, protection of victims, and prevention of future harm. This orientation corresponds with criminal policy theory, which views criminal law as an instrument of social protection rather than merely retribution [32], [33].

The New Criminal Code's emphasis on dignity and proportionality supports the protection of bodily integrity. Although the Code does not explicitly define bodily integrity as a protected legal interest, many of its provisions can be interpreted as protecting personal security, sexual dignity, and bodily autonomy. The challenge is to ensure that doctrinal interpretation does not reduce bodily integrity to morality or public order but recognizes the victim's own legal interest [7], [9].

Restorative justice is another relevant feature. Restorative justice emphasizes harm, accountability, participation, and repair. In cases involving violations of bodily integrity, restorative justice must be handled carefully because victims should not be pressured into reconciliation or silence. Nevertheless, victim-centered restorative approaches may help victims obtain acknowledgment, restitution, and recovery when safeguards are strong and participation is voluntary [11], [29].

The relationship between the New Criminal Code and the TPKS Law requires careful harmonization. The TPKS Law provides specialized provisions concerning sexual violence and victim recovery, while the New Criminal Code provides general criminal law principles. Harmonization is necessary to ensure that victims receive consistent protection and that general criminal law does not weaken the specialized victim-centered framework of the TPKS Law [6], [7].

The third finding of this article is that the New Criminal Code provides an important framework for victim protection and criminal policy reform, but it still requires doctrinal development. The protection of women's bodily integrity should be made more explicit through interpretation, academic development, law enforcement guidelines, and future legislative reform [7], [33].

3.5 Future Criminal Policy Reform

The future of criminal law protection for women's bodily integrity depends on doctrinal clarity and institutional commitment. The first reform agenda is explicit recognition of bodily integrity as a protected legal interest. Such recognition would clarify that the protected object is not morality, family honor, or social reputation, but the woman's own dignity, autonomy, bodily security, and psychological integrity [2], [8].

The second reform agenda is the integration of victimology into criminal justice practice. Victimological analysis shows that victims require more than formal access to the courts. They require protection from intimidation, legal assistance, psychological support, medical treatment, restitution, compensation, and social reintegration. These measures should be understood as core components of justice, not merely administrative services [11], [27].

The third reform agenda is trauma-informed and gender-sensitive law enforcement. Police officers, prosecutors, judges, and victim service providers should be trained to understand trauma, gendered power relations, and secondary victimization. Without such training, even progressive legislation may be applied in ways that reproduce victim blaming and institutional harm [12], [13].

The fourth reform agenda is the harmonization of the TPKS Law and the New Criminal Code. Indonesia now has a specialized sexual violence statute and a reformed general Criminal Code. The effectiveness of both instruments depends on coherent interpretation, clear procedural guidance, and institutional coordination. Harmonization should prioritize victim recovery and avoid the dilution of specialized protections established by the TPKS Law [6], [7].

The fifth reform agenda is the careful development of legal standards for cases involving exploitation, deception, or abuse of vulnerability. Criminal law should not criminalize all failed relationships or private disappointments. However, it should be capable of responding when deception, coercion, or exploitation seriously impairs bodily integrity and produces concrete victimization. This approach balances autonomy, privacy, legality, and victim protection [10], [26].

The final reform agenda is the development of a coherent victim-centered criminal policy. Such policy should integrate legal interest protection, victim recovery, offender accountability, and social prevention. It should also align national law with CEDAW obligations and contemporary international standards on gender-based violence. By adopting this framework, Indonesian criminal law can strengthen its commitment to dignity and substantive justice [24], [25].

Table 1. Novelty

Previous Research	Main Focus	Limitation	Novelty of This Article
Tijow [4]	Human rights and national legal protection of women's bodily integrity.	Primarily human rights and constitutional; limited criminal law theory.	Reconstructs bodily integrity as a rechtsgut in Indonesian criminal law.
MacKinnon [14]; Mehta & Tiwari [16]	Feminist criminal law and critique of formal consent.	Not specifically focused on Indonesian TPKS and New Criminal Code.	Connects feminist criminal law to Indonesian criminal policy reform.
Valentiner [2]; Scheidegger [10]	Sexual autonomy, consent, and sex-by-deception debates.	Mostly European doctrinal debates.	Uses autonomy theory to clarify bodily integrity as a protected legal interest.
Burns & Sinko [11]; Carroll [12]; Walklate [13]	Victim-centered justice and secondary victimization.	Often discussed separately from legal interest theory.	Integrates victimology with rechtsgut theory.
Widyawati et al. [31]; Indonesian statutory studies	Sexual violence law and feminist legal theory in Indonesia.	Limited focus on bodily integrity as a criminal law interest.	Links UU TPKS and KUHP Nasional to bodily integrity protection.

4 Conclusion and Recommendation

Women's bodily integrity constitutes a fundamental protected legal interest in Indonesian criminal law. It encompasses physical security, psychological integrity, sexual autonomy, reproductive freedom, dignity, and self-determination. The original manuscript correctly emphasized that bodily integrity is part of women's complete personhood; this article develops that claim by repositioning bodily integrity as a rechtsgut that justifies criminal law protection [4], [8].

Victimological analysis demonstrates that violations of bodily integrity generate multidimensional harms. Victims may suffer physical injury, psychological trauma, social stigma, economic vulnerability, and secondary victimization within legal processes. For this reason, criminal law should not focus only on punishment but should also ensure recovery, restitution, compensation, legal assistance, and protection from institutional harm [11], [12], [27].

The TPKS Law and the New Indonesian Criminal Code provide important foundations for victim-centered criminal justice. The TPKS Law recognizes diverse forms of sexual violence and victim rights, while the New Criminal Code reflects broader principles of proportionality, restorative justice, and social balance. Nevertheless, neither instrument expressly formulates bodily integrity as an independent protected legal interest, and this gap should be addressed through doctrinal interpretation and future criminal policy reform [6], [7].

This article suggests that Indonesian criminal law should explicitly recognize women's bodily integrity as a protected legal interest, harmonize the TPKS Law and the New Criminal Code, strengthen trauma-informed and gender-sensitive enforcement, and expand victim recovery mechanisms. Further research should examine judicial interpretation, law enforcement practice, and victim experiences to ensure that legal reform produces substantive justice rather than merely formal legal change.

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