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BETWEEN LAW AND PRACTICE: AN EMPIRICAL ASSESSMENT OF VICTIM IMPACT STATEMENT IMPLEMENTATION IN INDONESIAN SEXUAL VIOLENCE CASES

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Abstract

Law No. 20 of 2025 on the Criminal Procedure Code (KUHAP), in force since 2 January 2026, now recognizes the victim's right to state the impact of the criminal offence, orally or in writing. Yet the procedure for Victim Impact Statements (VIS) remains largely undefined. Although the Elucidation of Article 144 identifies who may deliver the statement and to whom, neither the new Code nor Law No. 12/2022 on Sexual Violence Crimes fixes its stage in the trial, format, or verification standard, risking inconsistent practice and unverified claims. This study asks where VIS stands doctrinally after Law No. 20 of 2025; how Indonesian judges and prosecutors perceived and handled victim impact narratives in sexual violence cases under the 1981 Code; and what procedural design would enable structured victim participation without compromising due process. It combines doctrinal analysis of Law No. 20 of 2025 (with the repealed 1981 Code as baseline) and the Sexual Violence Law, comparative review of the United Kingdom, Australia, and the United States, and semi-structured interviews with judges and prosecutors. Practitioners recognize the value of VIS in conveying psychosocial harm and calibrating sentencing, yet flag the absence of verification standards, defence disclosure rules, and judicial guidance. The article therefore proposes a two-track implementation framework for Article 144: a Supreme Court Regulation (PERMA) and a Prosecutor-General regulation or circular, followed by consolidation in government regulation or, if necessary, statutory amendment. It translates standardized forms, corroboration requirements, privacy protocols, and judicial directions into Indonesian procedure.

Keywords: *Victim Impact Statement; Sexual Violence; Indonesian Criminal Procedure; Empirical Assessment.*

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1. Introduction

Sexual violence remains a persistent and under-addressed problem in Indonesia, and the scale is significant: the National Commission on Violence Against Women's Annual Notes 2024 reports 330,097 cases of gender-based violence against women in 2024, an increase that underscores the structural burden borne by survivors and service systems, and although the institution notes methodological improvements in case recording, the headline trend still signals a serious protection gap for victims. The government's real-time SIMFONI-PPA (Online Information System for the Protection of Women and Children) dashboard reinforces this picture: civil-society summaries based on that dashboard indicate 17,355 cases recorded by early August 2025 alone, with women comprising more than 80% of victims, figures that, though subject to under-reporting and definitional variations, illustrate the continuing pressure on law enforcement,

prosecution, courts, and victim services.[1] The phenomenon of sexual violence must be understood through the lens of victimology, which examines the relationship between victims and the criminal justice system. Contemporary victimology emphasizes that victims are not merely passive subjects of crime but active agents whose experiences and perspectives should inform justice processes.[2] Yet this scale of harm confronts a structural paradox in the prosecution of sexual violence: survivor harm is central to the offense yet marginal to the procedure. The Criminal Procedure Code of 1981 (Law No. 8 of 1981), which governed Indonesian criminal procedure for more than four decades, confined recognized evidentiary modes to five categories under Article 184(1) and positioned victims primarily as witnesses rather than active participants in proceedings. As a result, Victim Impact Statements (VIS), formal written or oral statements describing the physical, psychological, and socioeconomic effects of crime on survivors, had no defined procedural stage, no standardized format, and no verification standard under that Code. Any victim narrative that did reach the court was subsumed under witness testimony or documentary evidence, its weight left to case-by-case judicial discretion. The enactment of Law No. 12 of 2022 on Sexual Violence Crimes (the Sexual Violence Law) significantly expanded the catalogue of victims' substantive rights, yet it too stopped short of prescribing a sentencing-stage mechanism for victims to present structured impact narratives. Law No. 20 of 2025 on the Criminal Procedure Code, which repealed the 1981 Code when it entered into force on 2 January 2026, has since changed the baseline: Article 144 now lists among the rights of the victim the right to state the impact of the criminal offence experienced, orally or in writing. Recognition of the right, however, is not yet a complete procedure: the Elucidation of Article 144 provides that the statement is delivered in court to the public prosecutor by the victim, legal counsel, or a Pendamping (victim support person) and may cover physical, psychological, economic, social, and moral harm, but the Code does not specify the point in the trial at which it is delivered, a standard format, how it is verified, how it is disclosed to the defence, how the court weighs it at sentencing, or how the victim's privacy is protected in handling it. This rights-implementation disconnect, declaring victim-centred protections without operationalizing the procedural pathway, is the central legal problem this article addresses.

This pattern is not unique to Indonesia; justice systems worldwide too often struggle to translate the scale of sexual violence into a response that reflects its full human impact on survivors. The phenomenon must therefore be understood through the lens of victimology, which examines the relationship between victims and the criminal justice system. Contemporary victimology emphasizes that victims are not merely passive subjects of crime but active agents whose experiences and perspectives should inform justice processes. This theoretical foundation underscores the importance of victim participation mechanisms, including the opportunity to articulate the impact of crime on their lives. The marginalization of victims in traditional criminal procedure, where the state assumes the role of prosecutor and victims are relegated to witness status, has been widely critiqued in victimological scholarship.[3]

Internationally, recent official statistics reflect similar pressures. In Australia, the Australian Bureau of Statistics reported 40,087 recorded sexual-assault victims in 2024, up 10% year-on-year, the highest rate in the ABS time series, highlighting both greater reporting and persistent incidence.[4] In England and Wales, the Crime Survey (a gold-standard victimization survey) estimated that 2.2% of people aged 16+ experienced sexual assault (including attempts) in the year ending September 2024; separate outcome data show that charge rates across offence types remain low, and specialist NGOs report that only 2.7% of recorded rapes in 2024 resulted

[1] Ministry of Women Empowerment and Child Protection, “SIMFONI-PPA,” 2025, https://kekerasan.kemenpppa.go.id/ringkasan.

[2] John Peter Joseph Dussich, “The Evolution of International Victimology and Its Current Status in the World Today,” Revista de Victimología 1 (2015): 37–81, https://doi.org/10.12827/RVJV.1.02.

[3] Rena Yulia, Viktimologi Perlindungan Hukum Terhadap Korban Kejahatan (Yogyakarta: Graha Ilmu, 2010); Muladi, Kapita Selekta Sistem Peradilan Pidana (Semarang: Badan Penerbit UNDIP, 1995).

[4] Australian Bureau of Statistics, “Recorded Crime - Victims,” 2024, https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release.

in a charge, evidence challenges that help explain survivors' low confidence in the system.[5] These snapshots from high-income jurisdictions reinforce a common lesson: even robust systems struggle to translate reports into outcomes that survivors perceive as just.

Against this backdrop, Victim Impact Statements (VIS), formal written or oral statements describing the emotional, physical, and financial effects of crime, have become a core channel for survivor voice in many jurisdictions. In the United States, the Department of Justice explains that victims may submit VIS at sentencing pursuant to federal victims' rights instruments, including the Crime Victims' Rights Act, and the Attorney General's Guidelines.[6] The practical significance of VIS is visible in high-profile sexual-violence cases: in *People v. Nassar* (Michigan), 156 women delivered statements that documented trauma and institutional betrayal, material the court explicitly heard before imposing sentence.[7] In *People v. Turner* (California), survivor Chanel Miller's victim impact statement, later widely disseminated, exposed the lived harms of sexual assault and contributed to public and policy debates on sentencing.[8] The United Kingdom institutionalizes the same idea through the Victim Personal Statement (VPS) scheme, supported by cross-agency guidance and the Victims' Code; victims can set out in their own words how the crime affected them, for consideration at key procedural moments.[9] Australia likewise embeds VIS in state practice, e.g., Victoria's official forms and guidance and New South Wales procedural rules on how VIS are tendered, disclosed to the defence, and handled to protect confidentiality, showing how process design can empower victims while safeguarding fairness.[10]

By contrast, Indonesia long lacked explicit recognition of VIS in its criminal procedure framework. Scholarly analyses written under the 1981 Code emphasized that neither that Code nor the Sexual Violence Law provided a specific right or procedural slot for victims to submit a VIS to inform prosecution and sentencing; as a result, any victim's narrative tended to be folded into witness testimony or documentary evidence without a dedicated legal status. A stream of Indonesian legal scholarship argued for adoption of VIS to correct this omission and to align procedure with victim-centred justice, particularly in sexual-violence cases.[11] Parallel policy commentary during the deliberations on the Criminal Procedure Bill (RUU KUHAP) likewise noted that victim rights provisions and procedural clarity remained inadequate, urging lawmakers to address accountability and redress more concretely.[12] Law No. 20 of 2025 has since answered the first of these calls by recognizing the victim's right to state the impact of the offence, but procedural clarity remains largely open.[13] The practical consequence of this gap is inconsistent

5 Office for National Statistics, "Crime in England and Wales Year Ending September 2024," 2025, https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingseptember2024.

6 U.S. Department of Justice, "The Attorney General Guidelines for Victim and Witness Assistance" (Washington, 2023), https://www.justice.gov/d9/pages/attachments/2022/10/21/new_ag_guidlines_for_vwa.pdf.

7 Jamir R. Abrams and Amanda Potts, "The Language of Harm: What the Nassar Victim Impact Statements Reveal About Abuse and Accountability," University of Pittsburgh Law Review 82 (2020), https://doi.org/10.5195/lawreview.2020.775.

8 Jasmine Aguilera, "'Emily Doe's' Victim Impact Statement Became a National Rallying Cry," Time, 2019, https://time.com/5668738/stanford-victim-chanel-miller/.

9 Crown Prosecution Service, "Joint Agency Guide to the Victim Personal Statement" (London, 2018), https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/joint-agency-guide-victim-personal-statement_0.pdf.

10 Victims of Crime Victoria, "Victim Impact Statements," Victims of Crime Victoria, 2025, https://www.victimsofcrime.vic.gov.au/victim-impact-statements.

11 Mahrus Ali and Syarif Nurhidayat, "The Urgency to Adopt Victim Impact Statement in the Indonesian Criminal Justice System," KnE Social Sciences 8, no. 9 (May 26, 2023): 376–385, https://doi.org/10.18502/kss.v8i9.13350.

12 Institute for Criminal Justice Reform, "Nine Crucial Issues in the 2025 Draft Criminal Procedure Code," 2025, https://icjr.or.id/nine-crucial-issues-in-the-2025-draft-criminal-procedure-code-ruu-kuhap/.

13 Bambang Prayitno, "Victim Impact Statement dalam KUHAP Baru: Menguatkan Perlindungan Hak Bagi Korban," Hukumonline, February 23, 2026, https://www.hukumonline.com/berita/a/victim-impact-statement-dalam-kuhap-baru--menguatkan-perlindungan-hak-bagi-korban-lt699bb69f39229/.

treatment: prosecutors and judges may informally consider a victim's narrative, but without clear standards for stage, form, and verification, the weight accorded varies across courts and cases.

The stakes are especially high in sexual-violence prosecutions. First, the harms are multidimensional, psychological trauma, social stigma, disruption of education and work, precisely the dimensions that VIS can surface in a structured way for judicial consideration. International experience shows that when appropriately designed, VIS can coexist with due process and evidentiary safeguards: the UK's VPS guidance delineates content and timing; NSW's written rules require service on the defence and restrict retention of copies; Victoria standardizes forms and offers trained support officers to prevent coaching and preserve authenticity.[14] Second, process data in comparator jurisdictions underline why survivor voice matters: low charge and conviction rates, and case attrition driven by "evidential difficulties", erode trust; building structured spaces for victims to be heard at sentencing is one way systems seek to improve perceived legitimacy and survivor satisfaction.[15]

However, the implementation of VIS must be balanced against due process and fair trial guarantees. Sentencing theory requires that judicial decisions be based on proportionality, where punishment corresponds to both the gravity of the offense and the culpability of the offender[16]. The introduction of VIS raises legitimate concerns about the potential for over-emotionalization that may prejudice judicial decision-making[17]. Empirical studies with judges have revealed ambivalence: many values hearings from victims but want clear limits, disclosure requirements, and corroboration standards[18]. The normative solution emerging from this scholarship is not to suppress victim voice but to discipline the process through standardization of content, timing, disclosure to the defence, and verification mechanisms ensuring that the expressive and informational value of VIS enhances rather than undermines fair sentencing.

At the same time, without clear procedural rules, VIS can be misused or manipulated, for example, drafted by third parties without proper verification, or pressed into service as emotive advocacy rather than an evidence-informed account of harm. The very jurisdictions that have normalized VIS have responded to this risk with procedural architecture: standardized templates, limits on content, expert corroboration where appropriate (e.g., psychological reports), and rules on disclosure and handling to protect both privacy and fairness. NSW's official guide, for instance, specifies how VIS are provided to the prosecutor, disclosed to the defence, and then destroyed after sentencing to prevent misuse; such measures are process safeguards as much as victim-support tools.[19] Indonesia's lack, so far, of comparable operational rules leaves courts and prosecutors without shared benchmarks, heightening variability and potential challenges on appeal. Indonesian legal scholarship has already begun sketching adoption pathways; Law No. 20 of 2025 has since supplied statutory recognition, but regulatory follow-through on how the right is exercised remains pending.[20]

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[14] New South Wales Government, "Victim Impact Statements Guide" (New South Wales, n.d.), https://victimsservices.justice.nsw.gov.au/documents/victims-rights/charter-of-victims-rights/victim-impact-statement-guide.pdf.

[15] John Flatley, "Crime Outcomes in England and Wales 2024 to 2025," UK Home Office, 2025, https://www.gov.uk/government/statistics/crime-outcomes-in-england-and-wales-2024-to-2025/crime-outcomes-in-england-and-wales-2024-to-2025.

[16] Andrew Ashworth, "Victim Impact Statements and Sentencing," Criminal Law Review, 1993, 498–509.

[17] Andrew von Hirsch, Censure and Sanctions (Oxford: Clarendon Press, 1993), https://doi.org/10.1093/acprof:oso/9780198262411.001.0001; Julian V Roberts and Edna Erez, "Communication in Sentencing: Exploring the Expressive Function of Victim Impact Statements," International Review of Victimology 10, no. 3 (January 1, 2004): 223–44, https://doi.org/10.1177/026975800401000302.

[18] E Erez and L Rogers, "Victim Impact Statements and Sentencing Outcomes and Processes. The Perspectives of Legal Professionals," The British Journal of Criminology 39, no. 2 (March 1, 1999): 216–39, https://doi.org/10.1093/bjc/39.2.216.

[19] New South Wales Government, "Victim Impact Statements Guide."

[20] Ali and Nurhidayat, "The Urgency to Adopt Victim Impact Statement in the Indonesian Criminal Justice System."

These conditions create a clear research gap. Much Indonesian writing on VIS is normative, diagnosing the legal vacuum that existed under the 1981 Code and arguing for reform. What is missing is empirical mapping of how prosecutors and judges actually perceive and informally use victim harm narratives in sexual-violence cases, and how they balance those narratives against evidentiary and due-process constraints. This study addresses that gap through a socio-legal design: (i) a doctrinal review of Law No. 20 of 2025 (with the 1981 Code as the pre-reform baseline), the Sexual Violence Law, and comparative frameworks from the US, UK, and Australia; and (ii) interviews with Indonesian prosecutors and judges who handle sexual-violence matters. By triangulating these sources, the study aims to articulate a workable Indonesian framework for VIS that (a) gives operational content to survivors' right, now recognized in Article 144 of Law No. 20 of 2025, to state the impact of the offence before sentencing, (b) anchors content in verifiable harm (including clinical or psychosocial documentation where appropriate), and (c) integrates process safeguards (standard forms, timing, disclosure, privacy, and limits on retention) to minimize manipulation while enhancing legitimacy.

The scientific novelty of this research lies in its socio-legal design. While existing Indonesian scholarship on VIS, such as the work of Ali & Nurhidayat (2023), Hosana (2022), and Maulani & Windari (2022) has predominantly adopted a normative approach diagnosing the legal vacuum and advocating for reform, empirical accounts of how Indonesian legal practitioners actually perceive and handle victim-harm narratives remain scarce[21]. This study fills that gap by combining doctrinal analysis of Law No. 20 of 2025 and the Sexual Violence Law with field data from semi-structured interviews with judges and prosecutors who handle sexual violence cases.[22] By triangulating doctrinal, comparative, and empirical sources, this research moves beyond abstract endorsement of "victim-centred justice" to articulate a context-appropriate VIS framework that is both legally disciplined and practically implementable.[23]

This study addresses that gap through a socio-legal design. The research objectives are threefold: (i) to map the doctrinal position of VIS in Indonesian criminal procedure after Law No. 20 of 2025, specifically examining the extent to which Law No. 20 of 2025 and the Sexual Violence Law provide, or fail to provide, a procedural mechanism for victim impact statements; (ii) to capture the empirical perspectives of Indonesian judges and prosecutors on the use of victim harm narratives in sexual violence cases, including their views on evidentiary requirements, risks of manipulation, and procedural safeguards; and (iii) to propose an operational VIS framework for Indonesia grounded in both comparative design principles and domestic field evidence. The article's contribution is twofold: an Indonesia-specific VIS design that translates tested safeguards into the country's civil-law architecture, and an empirically justified rationale for that design rooted in how Indonesian practitioners already navigate victim-harm narratives without detailed codified guidance.

2. Method

This study uses a socio-legal (empirical-normative) method combining doctrinal analysis, comparative review, and semi-structured interviews. The design integrates three components: doctrinal analysis of Law No. 20 of 2025 on the Criminal Procedure Code (with the repealed 1981 Code as the pre-reform baseline) and the Sexual Violence Law, comparative review of mature common-law jurisdictions, and empirical field inquiry through interviews with Indonesian judges

[21] Yolanda Hosana, "Victim Impact Statement Sebagai Perlindungan Hukum Korban Kekerasan Seksual," Jurist-Diction 5, no. 3 (2022): 1171–84, https://doi.org/10.20473/jd.v5i3.35812; Ali and Nurhidayat, "The Urgency to Adopt Victim Impact Statement in the Indonesian Criminal Justice System"; Anggi Mustavia Maulani and Rusmilawati Windari, "Victim Impact Statement Dalam Sistem Peradilan Pidana: Sebuah Urgensi Hukum," Rechtidee 17, no. 1 (2022): 26.

[22] Nurini Aprilianda et al., "Re-Conceptualizing Child Victim Rights: A Normative and Comparative Analysis of Victim Impact Statement in Indonesia's Juvenile Justice System," Jambura Law Review 7, no. 2 (2025): 442–67, https://doi.org/10.33756/jlr.v7i2.30132.

[23] Rizaldy Anggriawan, "Recovering Ponzi Scheme Losses and Integrating the Victim Impact Statement into Indonesia's Criminal Justice System," Prawo i Więź 56, no. 3 (2025): 173–206, https://doi.org/10.36128/PRIW.VI56.1255.

and prosecutors handling sexual-violence cases.[24] The doctrinal component examines Law No. 20 of 2025, the Sexual Violence Law, and the current witness and victim protection legislation (Law No. 3 of 2026), with the 1981 Code as the baseline, through systematic, historical, and teleological interpretation to identify procedural gaps, their consequences for proof and sentencing, and the legally viable stage for operationalizing VIS[25]. A conceptual analysis grounded in victimology, *dominus litis*, sentencing rationales, and fair-trial/due-process safeguards are used to structure legal arguments where positive law is silent on procedure and to define minimum safeguards for VIS[26]. The comparative component extracts implementable procedural principles from mature jurisdictions' official guidance on victim statements, particularly regarding timing, content limits, disclosure to the defence, corroboration pathways, privacy, and document handling, without mechanical transplantation[27].

Primary data consist of semi-structured interviews with Indonesian prosecutors and judges experienced in sexual-violence cases, recruited through purposive sampling and expanded where necessary via snowball recruitment[28]. Ethical safeguards include informed consent, anonymization, secure data storage, and limited member-checking to confirm key quotations. The interviews were conducted while Law No. 8 of 1981 was still in force, that is, before 2 January 2026; the 1981 Code is accordingly the legal framework applicable to the period examined, while Law No. 20 of 2025 is treated as the current law against which the findings are reassessed in Section 3.3. Because the interviews record practitioners' experience of victim impact narratives and the safeguards they consider necessary, they are read in this article as evidence of practice and expectations at the point of transition to Law No. 20 of 2025, and not as an evaluation of how Article 144 is applied. Qualitative analysis proceeds through thematic coding and triangulation across doctrinal, empirical, and comparative strands to enhance credibility and to produce an operational VIS framework for Indonesian procedural reform, covering standardized format and timing, disclosure and privacy rules, calibrated corroboration requirements, and judicial handling measures to prevent prejudice and misuse[29].

3. Results and Discussion

3.1. Comparative Literature on VIS/VPS

Internationally, Victim Impact Statements (VIS) or Victim Personal Statements (VPS) in England and Wales, are widely recognized as structured opportunities for victims to describe the physical, psychological, social, and economic effects of crime, typically for judicial consideration at sentencing. In England & Wales, cross-agency policy sets out what a VPS is, when it can be made, how it is gathered, and how it is used, emphasizing that "every victim is given this opportunity to have their voice heard." The Crown Prosecution Service (CPS) Joint Agency Guide to the Victim Personal Statement is the key operational document underpinning this scheme and is treated as shared guidance across the criminal justice system. Comparable, detailed administrative guidance exists in Australia, both at the state level (e.g., New South Wales and Victoria) and via public-facing portals, describing forms, timing, handling, disclosure, and privacy

[24] Soerjono Soekanto, Pengantar penelitian hukum (Jakarta: UI-Press, 2010); Amiruddin and Zainal Asikin, Pengantar metode penelitian hukum (Depok: RajaGrafindo Persada, 2020); Mike McConville and Wing Hong Eric Chui, eds., Research Methods for Law, 2nd ed. (Edinburgh: Edinburgh University Press, 2017).

[25] Peter Mahmud Marzuki, Penelitian hukum (Jakarta: Kencana, 2008); Zainuddin Ali, Metode Penelitian Hukum (Jakarta: Sinar Grafika, 2014); Soerjono Soekanto and Sri Mamudji, Penelitian hukum normatif: Suatu tinjauan singkat (Jakarta: RajaGrafindo Persada, 2010).

[26] Johnny Ibrahim, Teori Dan Metodologi Penelitian Hukum Normatif (Malang: Bayumedia, 2018); Terry Hutchinson, Researching and Writing in Law, 4th ed. (Thomson Reuters Australia / Lawbook Co, 2018).

[27] Hutchinson; McConville and Chui, Research Methods for Law.

[28] Simon Halliday and Patrick Schmidt, Conducting Law and Society Research: Reflections on Methods and Practices (Cambridge University Press, 2009); Bambang Sunggono, Metodologi penelitian hukum (Jakarta: Pradnya Paramita, 2005).

[29] Halliday and Schmidt, Conducting Law and Society Research: Reflections on Methods and Practices; McConville and Chui, Research Methods for Law.

safeguards. In New South Wales, an official Victim Impact Statement Guide explains the benefits, structure, and timing of VIS; in Victoria, the Victims of Crime portal provides an overview and links to standardized forms and a plain-language booklet (Victim Impact Statements Made Easy). The United States recognizes victims' rights at federal level under the Attorney General's Guidelines for Victim and Witness Assistance, which operationalize the Crime Victims' Rights Act and other instruments; these guidelines describe when and how victim input may be presented to the court and integrated into prosecutorial practice. Read together, these sources show that mature systems do not treat VIS as ad hoc narrative but as a regulated process artifact with clearly defined purpose, form, timing, and protections.[30]

The comparative literature around VIS/VPS emphasizes both normative rationale and process design. A recent review from the UK Sentencing Academy synthesizes research on VPS and notes positive effects on perceived legitimacy and victim satisfaction, while also cataloguing practical and evidential concerns (e.g., managing prejudicial content, ensuring disclosure to the defence, and avoiding duplication with other materials). This aligns with Australian practice guidance that simultaneously empowers victims and disciplines the process (service, disclosure, privacy, destruction/retention of statements after sentencing). The methodological lesson for transplantation is that procedural infrastructure, standard forms, trained support staff, corroboration channels (e.g., clinical documentation), and disclosure/privacy rules, is what makes VIS workable and fair.[31]

Foundational Indonesian doctrinal work on the position of victims in criminal procedure—such as Rena Yulia's widely cited article, argues that victims are not full parties and have limited procedural agency, with the state (prosecutor) assuming responsibility for representing the public interest and, to some extent, victim interests. The practical consequence is a structural imbalance: without an explicit right to present impact narratives, victims' psychosocial harms risk being under-represented at the very moment when courts calibrate punishment and ancillary orders (e.g., restitution). Building on this doctrinal critique, Ali & Nurhidayat's conference paper specifically argues the urgency of adopting VIS in Indonesia's criminal justice system, positioning VIS as a corrective to current deficits in victim participation and as a tool for aligning Indonesian procedure with victim-centred justice. Although the paper is not a statutory instrument and is conference-proceedings (KnE Social Sciences), it captures an emerging scholarly consensus on the problem and the direction of travel.[32]

The comparative administrative law of VIS/VPS offers detailed design choices directly relevant to Indonesian reform. In England & Wales, the CPS joint guide addresses: who offers VPS to victims, at what points in the process, how content is framed, how statements are stored and transmitted, and how they are made available to the court and disclosed to the defence. New South Wales guidance and NSW Government portals emphasize voluntariness, content limits, timing prior to sentence, and the need to balance victim voice with procedural fairness—and they include instructions for prosecutors on disclosure and for courts on handling sensitive material. Victoria's public materials go further in practical accessibility by providing plain-language booklets and standardized forms, and by signposting to trained support officers who help victims draft statements without coaching. The U.S. AG Guidelines place VIS within a broader victims' rights architecture, reminding prosecutors to facilitate victim participation while preserving due-process protections. The point is not that Indonesia should transplant any model wholesale; rather, these sources identify transferable principles: (i) formal recognition of the right to be heard at sentencing, (ii) standardization of form and timing, (iii) professional corroboration channels (e.g.,

[30] Crown Prosecution Service, "Joint Agency Guide to the Victim Personal Statement"; New South Wales Government, "Victim Impact Statements Guide"; Victims of Crime Victoria, "Victim Impact Statements"; U.S. Department of Justice, "The Attorney General Guidelines for Victim and Witness Assistance."

[31] Freya Rock, "Victim Personal Statements" (Cambridge, 2024), https://www.sentencingacademy.org.uk/wp-content/uploads/2024/02/Victim-Personal-Statements-A-Review-of-Recent-Research-and-Developments.pdf.

[32] Rena Yulia, "Mengkaji Kembali Posisi Korban Kejahatan Dalam Sistem Peradilan Pidana," Jurnal Mimbar Hukum 28, no. 1 (2016): 33–45, https://doi.org/10.22146/jmh.15858.

psychological/medical documentation where appropriate), (iv) defence disclosure and privacy safeguards, and (v) document-handling rules (retention/destruction) to prevent misuse.[33]

A critical strand in the literature cautions against risks and unintended consequences of VIS/VPS. The Sentencing Academy review catalogues concern that victim statements, if poorly regulated, may encourage prejudicial or inflammatory content, conflate harm assessment with offender culpability, or place undue emotional pressure on sentencers, particularly in high-profile sexual-violence cases. However, rather than rejecting VIS, the literature argues for procedural counterweights: clear guidance on admissible content, judicial directions on weight, mandatory service on the defence, and ancillary privacy rules. Australian and UK guidance concretize these counterweights in granular operational steps, and the U.S. guidelines embed them within prosecutorial practice, suggesting a path where victim voice and due process are jointly optimized. For Indonesian doctrine, where Law No. 20 of 2025 recognizes the victim's right to state the impact of the offence but leaves the point in the trial, form, and verification unspecified, and the Sexual Violence Law does not fill the gap, these design choices are precisely the missing middle between principle and practice.[34]

From a methodological perspective, the Indonesian literature on VIS remains predominantly normative, diagnosing the legal vacuum and advocating reform. What is less developed are empirical accounts of how prosecutors and judges currently perceive victim-harm narratives: whether they consider such narratives in practice; what corroboration they expect (e.g., clinical reports); how they balance them against evidentiary and due-process constraints; and whether, in sexual-violence cases, they would welcome standardized guidance. This study addresses that gap by pairing doctrinal analysis of Law No. 20 of 2025 and the Sexual Violence Law with comparative policy tracing and semi-structured interviews with Indonesian prosecutors and judges. The objective, consistent with comparative method guidance in legal scholarship, is not to import foreign rules but to translate generalizable principles into context-appropriate Indonesian reforms.

In sum, the literature establishes three anchor claims: first, VIS/VPS are mainstream in mature systems and function as regulated process tools rather than informal narratives; second, empirical research on victim participation supports the proposition that structured victim voice improves perceived fairness and recovery, provided it is procedurally disciplined; and third, until the enactment of Law No. 20 of 2025 Indonesia's legal framework contained a clear VIS vacuum, which prompted calls for reform and which the new Code has filled only in part, by recognizing the right without prescribing the procedure. The comparative record shows not only whether to adopt VIS but how: through statutory or sub-statutory recognition, standardized formats and timing, professional verification pathways, defence disclosure and privacy rules, and document-handling protocols. These elements constitute the design space for Indonesian reform and frame the present study’s contribution: to articulate a workable legal and SOP framework for VIS in sexual-violence cases, grounded in doctrine, informed by comparative best practice, and tested against the realities of Indonesian prosecutorial and judicial practice.

3.2. VIS in Indonesian Law

Mapping the positive law requires distinguishing two layers. Under the 1981 Code (Law No. 8 of 1981), criminal procedure provided no explicit procedural slot for a Victim Impact Statement (VIS) at prosecution or sentencing. That Code structured victim participation primarily through the law of evidence and the status of the victim as a witness; it defined “witness” in Article 1(26) and enumerated the five legal means of proof in Article 184(1), witness testimony, expert testimony, documents, indications, and the defendant’s statement, without any mention of a victim-impact statement as a distinct process artifact. The Constitutional Court later broadened the interpretive reach of “witness,” in Decision No. 65/PUU-VIII/2010, which extended the statutory definition to persons who can give information relevant to the investigation, prosecution, and trial even if they

[33] Crown Prosecution Service, “Joint Agency Guide to the Victim Personal Statement”; New South Wales Government, “Victim Impact Statements Guide”; Victims of Crime Victoria, “Victim Impact Statements”; U.S. Department of Justice, “The Attorney General Guidelines for Victim and Witness Assistance.”

[34] Rock, “Victim Personal Statements.”

did not themselves hear, see, or experience the offence, but even after that doctrinal development, the 1981 Code did not carve out a dedicated channel for a structured account of victim harm that is presented to, and weighed by, the court at sentencing. In practice, any such narrative was subsumed under "witness" or "documentary" evidence, which left its form, timing, and weight to case-by-case discretion.

Law No. 20 of 2025 on the Criminal Procedure Code, which was promulgated on 17 December 2025, entered into force on 2 January 2026 and repealed the 1981 Code, changes this baseline. Under its transitional provision, however, cases whose examination at trial had already begun before 2 January 2026 continue to be tried under the 1981 Code (Article 361), so the earlier framework still governs those pending cases. Article 1(50) now defines a victim as a person who suffers physical or mental harm and/or economic loss caused by a criminal offence, a definition the 1981 Code did not contain. Article 144 lists twenty-five rights of the victim, among them protection of personal safety, confidentiality of identity, restitution, medical assistance and psychosocial and psychological rehabilitation, accompaniment by a Pendamping at every examination, and, in letter x, the right to state, orally or in writing, the impact of the criminal offence experienced. The Elucidation of letter x adds that the statement is delivered by the victim, the victim's legal counsel, or the victim's Pendamping, in the court hearing and to the public prosecutor, and may address physical, psychological, and economic harm, social and moral impact, and the victim's hopes for recovery or the form of justice desired.[35] The evidentiary framework has also been reconfigured: Article 235(1) lists seven named categories of evidence, namely witness testimony, expert testimony, documents, the defendant's statement, exhibits, electronic evidence, and the judge's own observation, together with an open residual category covering anything usable for proof at trial that was lawfully obtained.[36] A VIS is not listed as a category of evidence, and commentary on the new Code treats it as a participation device that informs the court's sentencing considerations rather than as evidence.[37] What the Code leaves open is the procedure. Neither Article 144 nor the trial provisions assign the statement a point in the sequence of examination, which runs from the evidence of the prosecution and the defence (Article 210) through the prosecutor's demand (tuntutan, Article 231(2)) and the defence reply (Article 231(3)) to the closing of the examination (Article 231(5)) and the verdict (Article 244), and the Code prescribes no standard format, no verification of the statement's content, no disclosure to the defence, no rule on the weight the court gives it, no protective handling of its content, and no link to the restitution request that Article 144 treats as a separate right. Nor does the Supreme Court's first implementation circular, SEMA No. 1 of 2026 of 2 January 2026, address VIS; it deals with transitional questions such as restorative justice, guilty pleas, and search and seizure. The positive law therefore now recognizes the victim's right and identifies who delivers the statement and to whom, while the procedure through which that right is exercised and weighed remains to be specified. Article 144 itself contains no delegation to an implementing regulation, whereas other provisions delegate to government regulation, but Article 366 requires implementing regulations to be issued within one year of promulgation, that is, by 17 December 2026, which makes the content of those instruments a live question.

The Sexual Violence Law significantly enlarges the catalogue of victims' rights, prevention, protection, access to justice, and recovery, yet it does not itself codify VIS as a procedural right or prescribe how a victim's impact narrative should be prepared, verified, disclosed to the defence, and considered by the court. Official abstracts and the statutory text underscore the law's commitment to victim recovery, but they do not specify a sentencing-stage mechanism for victims

[35] Rizky Kurnia-Hakim, "KUHAP Baru: Penguatan Kedudukan Korban dalam Sistem Peradilan Pidana," Dandapala, January 16, 2026, https://dandapala.com/opini/detail/kuhap-baru-penguatan-kedudukan-korban-dalam-sistem-peradilan-pidana; Brillian Hadi Wahyu Pratama, "Rekonstruksi SPP dalam Perlindungan Hukum yang Berkeadilan bagi Kelompok Rentan," MARINews, June 17, 2026, https://marinews.mahkamahagung.go.id/artikel/rekonstruksi-spp-demi-proteksi-hukum-adil-kelompok-rentan-0bl3.

[36] Achmad Setyo Pudjoharsoyo, "Hakim sebagai Gatekeeper Bukti Ilmiah di Era KUHAP Baru," MARINews, January 30, 2026, https://marinews.mahkamahagung.go.id/artikel/hakim-sebagai-gatekeeper-bukti-ilmiah-di-era-kuhap-baru-0O4.

[37] Prayitno, "Victim Impact Statement dalam KUHAP Baru."

to present a structured statement of harm. This silence produces a practical discrepancy: courts are tasked with calibrating punishment and proportionate sentencing measures for sexual-violence offences while lacking a uniform, procedurally defined vehicle through which victims' psychosocial harms can be systematically brought before the bench.

Indonesian legal scholarship has long criticized the structural marginalization of victims in criminal procedure, noting that the state (through the public prosecutor) assumes carriage of the case, while victims are not full parties and possess limited procedural agency. A seminal doctrinal article by Rena Yulia revisits victims' position in the system and argues that the 1981 Code's architecture left victim interests under-represented during the very stages when courts form judgments about culpability and harm. Recent contributions move from general victim participation to the specific call for VIS adoption: for example, Mahrus Ali and Syarif Nurhidayat argued that Indonesia should adopt VIS precisely because, at the time, no statute recognized the victim's right to express impact before sentencing, a vacuum that undermined both recognition and recovery; other national scholarship links VIS to the implementation gap under Sexual Violence Law, contending that formalizing VIS would align procedure with the statute's victim-centred purposes. Together, these works identify a consistent doctrinal lacuna in the 1981 Code and the Sexual Violence Law, the absence of a clear VIS mechanism, and a reform vector aimed at statutory or sub-statutory recognition, which Law No. 20 of 2025 has now partly realised at the statutory level.[38]

Synthesizing the secondary record, the state of the art in Indonesia can be stated in three propositions. First, the 1981 Code's proof regime and definitional provisions did not provide an express place for VIS, and Law No. 20 of 2025, while recognizing the victim's right to state the impact of the offence in Article 144, does not prescribe its point in the trial, form, verification, or evidentiary treatment; in practice victim narratives have travelled as witness or documentary evidence, with variable weight across courts. Second, Sexual Violence Law creates substantive rights for victims of sexual violence but omits a sentencing-stage instrument through which those rights (especially recognition of psychosocial harm) are operationalized in judicial decision-making. Third, the dominant scholarly response remains normative, diagnosing the legal vacuum and urging reform, while empirical accounts of how prosecutors and judges currently treat victim-harm narratives are scarce. This combination of statutory recognition without procedural detail and practical variability is precisely what justifies the present study's mixed design: it uses doctrinal mapping to demonstrate the remaining procedural gap and pairs it with field evidence to show how, in the absence of detailed rules, VIS-like materials are handled unevenly, thereby motivating a context-appropriate Indonesian framework for VIS.

The long persistence of this legal vacuum under the 1981 Code can be analysed through two theoretical lenses that explain the structural barriers to VIS recognition in Indonesian law and that continue to explain why recognition of the right has not yet produced a defined procedure. From the perspective of *dominus litis* doctrine, the Indonesian criminal procedure system under the 1981 Code positioned the state, represented by the public prosecutor, as the sole party with standing to pursue criminal charges[39]. This prosecutorial monopoly inherently marginalized victims, reducing them to mere witnesses whose function was limited to providing testimonial evidence rather than articulating the full spectrum of harm they have suffered. The *dominus litis* principle, while ensuring uniform prosecution standards and preventing private vengeance from dominating criminal proceedings, created a structural barrier to victim participation mechanisms like VIS. Under this doctrine, the prosecutor represented the public interest rather than the individual victim's interest, which explains why the 1981 Code's architecture prioritized state-centred proof over victim-centred harm articulation. By recognizing, in Article 144, the victim's own right to state the impact of the offence, Law No. 20 of 2025 begins to detach the expression

[38] M S El Islam and I N Juaningsih, "Victim Impact Statement As The Restoration Of The Rights Of Victims In Law Number 12 Of 2022 On Sexual Violence," Pancasakti Law Journal (PLJ), no. 12 (2023): 419–32, https://plj.fh.upstegal.ac.id/index.php/plj/article/view/43.

[39] Romli Atmasasmita, Sistem Peradilan Pidana Kontemporer (Jakarta: Kencana, 2010); Andi Hamzah and Tarmizi, Hukum Acara Pidana Indonesia, Edisi 2 (Jakarta: Sinar Grafika, 2014).

of harm from the victim's status as a witness; what remains undefined is the procedure through which that statement is made and weighed.

This structural arrangement contrasts sharply with common law systems where victims have gradually acquired participatory rights through statutory reform and judicial interpretation. In the United States, the Crime Victims' Rights Act (18 U.S.C. § 3771) explicitly grants victims "the right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding." Similarly, the UK Victims' Code (Right 7) creates an enforceable entitlement to make a Victim Personal Statement. Indonesia's *dominus litis* framework historically lacked equivalent victim-standing provisions, leaving VIS without a doctrinal anchor until Article 144 of Law No. 20 of 2025 recognized the victim's right to state the impact of the offence.

Second, the evidentiary framework of the 1981 Code reflected a *positivist legal tradition* that prioritized formally recognized evidence categories (Article 184 of the 1981 Code) over victim-centred narratives. This framework was designed in 1981 when victimological considerations were not yet mainstreamed into Indonesian criminal law doctrine. The rigidity of that evidentiary taxonomy explains why VIS, which does not fit neatly into witness testimony, expert opinion, or documentary evidence, remained procedurally homeless under that Code. Law No. 20 of 2025 relaxes the taxonomy but, as noted above, does not list VIS as evidence, so the question of where VIS belongs in the trial remains open.

Applying *sentencing theory*, particularly the proportionality principle articulated by von Hirsch (1993) and Ashworth (2015), reveals a critical gap: proportionate sentencing requires courts to assess the *gravity of harm* caused by the offense, yet criminal procedure provided no dedicated mechanism for victims to systematically present harm information, and Law No. 20 of 2025 recognizes the right to do so without yet specifying the mechanism.[40] The five evidentiary categories in Article 184(1) of the 1981 Code were designed to establish *guilt* (the *actus reus* and *mens rea* of the offense), not to inform sentencing calibration based on victim impact. This distinction, between guilt-phase evidence and sentencing-phase information, is well-established in comparative criminal procedure but remains underdeveloped in Indonesian doctrine.[41]

Unlike common law systems that evolved victim participation mechanisms through judicial interpretation and statutory reform, Indonesia's civil law tradition requires explicit legislative authorization for new procedural instruments[42]. Judges cannot create VIS rights through interpretive expansion; such rights must be codified by the legislature or authorized through sub-statutory instruments (*PERMA* or prosecutorial circulars). This institutional constraint explains why Indonesian courts have not organically developed VIS practice despite practitioners' recognition of its utility. The legislature has now codified the right in Article 144 of Law No. 20 of 2025; what remains are the design questions that fall to the sub-statutory instruments proposed in this article.

3.3. VIS in Law Enforcer Perspective

The testimonies below should be read against the transition from the 1981 Code to Law No. 20 of 2025: they describe practice in which VIS had no express statutory footing, and they are used here to identify the safeguards that practitioners consider necessary now that Article 144 recognizes the right. Interviews with Indonesian judges and prosecutors reveal a shared recognition that Victim Impact Statements (VIS) can illuminate the lived harms of sexual violence

[40] von Hirsch, Censure and Sanctions; Andrew Ashworth, Sentencing and Criminal Justice, 6th ed. (Cambridge University Press, 2015), https://doi.org/10.1017/CBO9781107415270.

[41] Rhiannon Davies and Lorana Bartels, “Challenges of Effective Communication in the Criminal Justice Process: Findings from Interviews with Victims of Sexual Offences in Australia,” Laws 9, no. 4 (2020), https://doi.org/10.3390/laws9040031; Eugene Otieno Owade, “A Conceptual Analysis of an Accused Persons’ Right to Reasonable Access to Victim Impact Statements under Kenya’s Victim Protection Act No. 17 of 2014,” African Journal of Law and Justice System 2, no. 2 (2023): 5–16, https://doi.org/10.31920/2753-3123/2023/v2n2a1.

[42] Edward Omar Sharif Hiariej, Prinsip-Prinsip Hukum Pidana, Edisi Revisi (Yogyakarta: Cahaya Atma Pustaka, 2016).

and inform sentencing,[43] yet, without a defined procedural basis, they are treated variably and require corroboration. The first judge of a court in Indonesia emphasized that a victim's impact statement "always" operates as an additional consideration before sentencing, helping the court calibrate aggravating and mitigating factors, understand offender motivation, and set restitution/compensation, but she also cautioned about manipulation risks when victims are coached or their delivery is influenced by third parties, which undermines the evidentiary value of the statement, a concern that parallels findings in comparative research, where unregulated victim statements have occasionally been found to contain prejudicial content that conflates harm assessment with culpability determination.[44] The second judge from an Indonesian court likewise treats VIS at least as a factor in aggravation/mitigation, yet insists it must be supported by other proof, documents, witnesses, or experts, because many harms materialize post-offence; she notes VIS was not expressly regulated and thus tended to be subsumed under existing categories (witness/expert/documentary evidence). The third judge of an Indonesian court adds that a victim's statement significantly influences sentencing when irreversible harm exists and no reconciliation occurs, then it weighs against the defendant; conversely, forgiveness or restitution can shift the balance toward mitigation.[45]

From the prosecution side, there is parallel support for VIS tempered by evidentiary caution. The first prosecutor to serve as a resource person recognizes that a victim's impact statement can form part of the basis for the demand, but only when grounded in documentary corroboration, *visum et repertum* for physical injury or psychiatric/psychological evaluation for mental harm, a demand consistent with clinical evidence showing that survivors of sexual assault face elevated and enduring PTSD trajectories relative to other traumas, underscoring why clinical documentation matters for accurately weighing psychological harm.[46] The second prosecutor serving as a resource person characterizes VIS as an official statement capturing physical, economic, psychological, and social losses, useful both to justify a harsher demand and to ensure victim recovery is addressed. The third prosecutor serving as a resource person explicitly frames VIS as protective of victims in sexual-violence cases but stresses the need for deep verification to prevent misuse and underscores the absence of a clear legal framework for treating VIS as lawful evidence.

Taken together, these testimonies surface two convergent themes. First, there was consensus on the legal vacuum: VIS lacked an express procedural anchor in Indonesian law, so courts and prosecutors relied on analogies to existing evidence categories, producing case-by-case variability (judicial "special considerations" or prosecutorial reliance with caveats), a pattern consistent with the classic distinction between "law in books" and "law in action," where formally declared rights diverge from their informal, uneven application in practice.[47] Second, stakeholders demand corroboration and standards: VIS should not stand alone but be coupled with medical/psychological documentation and handled within clear SOPs to manage content, timing, and disclosure, conditions repeatedly stressed by both judges and prosecutors.

These empirical findings reveal a practice-doctrine gap that warrants deeper analysis through the lens of legal sociology and sentencing theory. The judges' and prosecutors' acknowledgment that they informally consider victim harm narratives, despite the absence, at that time, of legal authorization, demonstrates what legal sociologists' term "law in action" diverging from "law in books." This gap creates three analytical concerns that must be addressed in any

[43] Charlotte L Wilinsky and Allyssa McCabe, "Agency and Communion in Sexual Abuse Survivors' Narratives," Narrative Inquiry 31, no. 1 (2021): 236–62, https://doi.org/10.1075/ni.20061.wil.

[44] Tracey Booth, "Victim Impact Statements and Sentencing Homicide Offenders: A Critical Analysis of Recent Changes to the Crimes (Sentencing Procedure) Act 1999 (NSW)," University of New South Wales Law Journal 41, no. 1 (2018): 130–56, https://doi.org/10.53637/wgyu8188.

[45] Miltonette Craig and Daniel Sailofsky, "What Happened to Me Does Not Define Who I Am: Narratives of Resilience in Survivor Victim Impact Statements," Victims & Offenders 19, no. 2 (2024): 329–47, https://doi.org/10.1080/15564886.2022.2116511.

[46] Emily R Dworkin et al., "PTSD in the Year Following Sexual Assault: A Meta-Analysis of Prospective Studies," Trauma, Violence & Abuse 24, no. 2 (April 2023): 497–514, https://doi.org/10.1177/15248380211032213.

[47] Roscoe Pound, "Law in Books and Law in Action," American Law Review 44 (1910): 12–36.

VIS framework. The reliance on judicial discretion without standardized criteria produces sentencing disparity that violates fundamental principles of proportionate justice. First Judge's statement that VIS always influences sentencing contrasts with The Second Judge's insistence on corroboration, revealing inconsistent evidentiary thresholds across courts. Article 144 of Law No. 20 of 2025 narrows the “law in books” side of this gap by recognizing the right to state the impact of the offence, but it does not by itself close the gap in action, because the disparities described here concern stage, corroboration, and weight, which the Code does not regulate.

Applying sentencing theory, particularly the proportionality principle articulated by von Hirsch (1993), such disparity undermines the fundamental requirement that similar cases receive similar treatment. [48] Von Hirsch argues that proportionate sentencing requires ordinal proportionality, ranking offenses by seriousness so that more serious crimes receive more severe punishment, and cardinal proportionality, ensuring the overall severity of the sentencing scale is appropriate. VIS, when considered without uniform standards, can distort both dimensions of proportionality. A victim who articulates harm eloquently may secure a harsher sentence than a victim who struggles to express trauma, even if the underlying harm is equivalent.[49] The absence of uniform VIS standards means that a victim's opportunity to be heard, and the weight accorded to that testimony, becomes a function of geography and individual judicial philosophy rather than legal entitlement.

The prosecutors' demand for corroboration (*visum et repertum*, psychological evaluations) reflects an implicit application of evidentiary reliability standards that still lack formal articulation. The First Prosecutor's requirement of documentary corroboration echoes reliability standards in comparative evidence law, which require evidence to be grounded in verifiable methodology. However, unlike formal evidentiary rules that specify reliability criteria, Indonesian practice leaves these requirements to ad hoc prosecutorial judgment, creating uncertainty for both victims and defence counsel.

This evidentiary uncertainty is particularly problematic in sexual violence cases, where psychological harm (PTSD, depression, anxiety) is often the most significant impact dimension yet requires clinical documentation that victims may not have obtained, as noted above.[50] Meta-analytic evidence confirms that sexual assault produces elevated and enduring PTSD trajectories relative to other traumas, but translating this clinical reality into courtroom-admissible evidence requires procedural infrastructure that Indonesia has yet to build. The concern about manipulation, expressed by multiple informants, identifies a due process tension that mature jurisdictions have addressed through procedural architecture. The risk that VIS may be "coached" or "influenced by third parties" (The First Judge) parallels concerns documented in comparative research discussed earlier, where unregulated victim statements were found to occasionally contain prejudicial content that conflated harm assessment with culpability determination.[51]

Because the interviews pre-date Law No. 20 of 2025, their bearing on the new framework needs to be stated explicitly. Table 1 sets out each principal finding, its status after the reform, and the operational question it now raises under Article 144. Findings that rested on the absence of statutory recognition, namely the consensus on a legal vacuum, are superseded as descriptions of the law and are retained only as a record of practice during the period examined. Findings about corroboration, manipulation, disclosure, and secondary victimization are not superseded, because Article 144 and its Elucidation do not address them; they now function as design requirements for the implementing rules. The interviews therefore continue to support the central argument of this article, but as evidence that recognition of the right must be followed by a defined procedure, not as evidence that the right remains unrecognized.

[48] von Hirsch, Censure and Sanctions.

[49] Amy L Wevodau et al., “Why the Impact? Negative Affective Change as a Mediator of the Effects of Victim Impact Statements,” Journal of Interpersonal Violence 29, no. 16 (2014): 2884–2903, https://doi.org/10.1177/0886260514527170.

[50] Dworkin et al., “PTSD in the Year Following Sexual Assault: A Meta-Analysis of Prospective Studies.”

[51] Booth, “Victim Impact Statements and Sentencing Homicide Offenders: A Critical Analysis of Recent Changes to the Crimes (Sentencing Procedure) Act 1999 (NSW).”

Table 1.
Reassessment of the interview findings under Law No. 20 of 2025

Interview finding (practice under the 1981 Code)	Status after Law No. 20 of 2025	Operational question under Article 144
Judges treated VIS as an additional consideration in aggravation and mitigation and in setting restitution.	Still supported as an account of practice; the underlying right is now statutory.	At what point in the trial is the statement delivered to the prosecutor, and must the court address it in its reasoning?
VIS had no express anchor and was subsumed under witness, expert, or documentary evidence.	Superseded as to legal basis (Article 144, letter x); the risk persists because Article 235(1) does not list VIS as evidence and the Elucidation routes the statement through the prosecutor.	Is VIS a participation device or a form of evidence, and what weight may the court give it?
Prosecutors required corroboration (visum et repertum; psychiatric or psychological evaluation).	Remains relevant; the Code does not regulate corroboration.	Is corroboration mandatory, encouraged, or optional, and who arranges and bears the cost?
Judges and prosecutors feared coaching and manipulation by third parties.	Remains relevant.	What submission mechanism, Pendamping arrangements, and judicial controls are needed?
Both groups stressed the need for SOPs on content, timing, and disclosure to the defence.	Strengthened: a statutory right now requires a uniform procedure.	Which instrument (PERMA, Prosecutor-General regulation, government regulation) fixes form, timing, and disclosure?
Concern about secondary victimization from a poorly managed participatory process.	Remains relevant; Law No. 12 of 2022 and Law No. 3 of 2026 supply protective guarantees but no VIS-specific rules.	How is the statement kept confidential, who may access it, and how long is it retained?

Source: authors' analysis of the interview data and Law No. 20 of 2025. "Status" refers to the relevance of the finding after 2 January 2026.

3.4. Analysis of VIS Implementation in Indonesia

A close doctrinal reading confirms that, although Law No. 20 of 2025 now recognizes the victim's right to state the impact of the offence, Indonesia's criminal-procedure framework still contains no fully defined procedural slot for a Victim Impact Statement (VIS). The 1981 Code defined evidentiary modes in Article 184(1), witness testimony, expert testimony, documents, indications, and the defendant's statement, without identifying any distinct vehicle for a structured victim-impact narrative at charging or sentencing; likewise, its general definitions of "witness" did not carve out a separate place for VIS, so any account of harm was subsumed under witness or documentary evidence and left to case-by-case discretion. The 2025 Code, for its part, recognizes the right in Article 144 and widens the list of evidence in Article 235(1), but, although the Elucidation of Article 144 identifies the prosecutor as the recipient and the court hearing as the forum, it identifies no point in the trial sequence, format, or verification standard through which a structured victim-impact statement is received and weighed at sentencing. The Sexual Violence Law significantly enlarges victims' rights (protection, access to justice, and recovery), yet it stops short of codifying a victim's procedural right to submit a VIS, nor does it prescribe how such statements should be prepared, verified, disclosed to the defence, and weighed by the court, producing a textual silence precisely at the sentencing stage where impact information is most relevant.

This statutory silence on procedure generates a structural inconsistency between proclaimed rights and procedural means: Sexual Violence Law articulates recovery-oriented aims

for survivors of sexual violence, but Law No. 20 of 2025 and the Sexual Violence Law together provide no uniform mechanism for courts to receive and evaluate a victim's structured account of harm. Indonesian scholarship has long diagnosed the marginalized position of victims within the 1981 Code's architecture, victims were not full parties and relied on the prosecutor to carry the case, so their psychosocial harms were often under-represented when judges calibrated culpability, restitution, and sentence.[52] Recent doctrinal commentary goes further, expressly urging adoption of VIS to close this gap, precisely because, at the time, no statute recognized the victim's right to present an impact statement prior to sentencing, an absence that undermined recognition, recovery, and consistency of outcomes.[53] In short, the statute-level mapping reveals a shift from a legal vacuum to an implementation gap: the victim's right to state the impact of the offence is now articulated in Article 144 of Law No. 20 of 2025, yet the procedural conduit (VIS) needed to operationalize that right at the decision-making moment remains largely unwritten in Indonesian law.

VIS holds particular significance in sexual-violence cases because of the distinctive weight and durability of the psychosocial harm involved: meta-analytic studies consistently show that survivors of sexual assault face heightened and more persistent PTSD trajectories compared to survivors of other traumatic events, often accompanied by cascading effects such as depression, anxiety, sleep disruption, and diminished daily functioning. VIS provides a structured way to place these harms before the court, beyond what conventional evidentiary forms capture.[54] At the same time, institutional contact can itself produce "secondary victimization", negative responses from legal or medical systems that compound trauma, so any participatory mechanism must be designed to protect as well as empower survivors.[55] Comparative sexual-violence research further cautions that these cases present high attrition and complex evidentiary dynamics, strengthening the case for a disciplined vehicle to convey impact without distorting adjudication.[56]

The literature also identifies risks of over-emotionalization if VIS is unguided. Ashworth warned that unstructured statements may introduce prejudicial content that confuses assessments of harm with culpability or proportionality; empirical studies with judges (Roberts; Erez) confirm ambivalence: many values hearings from victims but want clear limits, disclosure to the defence, and corroboration. The normative solution in this scholarship is not to suppress voice but to discipline the process, standardizing content, timing, and handling, so that the expressive and informational value of VIS enhances, rather than undermines, fair sentencing.[57]

In short, victimology and trauma-informed justice jointly provide the theoretical warrant for VIS: they justify making space for survivor voice because recognition of harm is central to justice and recovery. The sexual-violence evidence base explains why that space is indispensable (distinctive, long-term psychosocial impact), while sentencing theory and judicial experience explain how that space must be bounded (rules on admissibility, disclosure, corroboration). Framed this way, VIS is neither an emotive add-on nor an evidentiary anomaly; it is a structured participation device that, if normed, can reconcile victim-centred justice with procedural fairness in Indonesian courts.[58]

Across mature common-law jurisdictions, victim impact statements are not ad hoc narratives but regulated process tools with clear entitlements, SOPs, content guidance, and

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52 Yulia, "Mengkaji Kembali Posisi Korban Kejahatan Dalam Sistem Peradilan Pidana."

53 Ali and Nurhidayat, "The Urgency to Adopt Victim Impact Statement in the Indonesian Criminal Justice System."

54 Dworkin et al., "PTSD in the Year Following Sexual Assault: A Meta-Analysis of Prospective Studies."

55 Rebecca Campbell, "The Psychological Impact of Rape Victims," The American Psychologist 63, no. 8 (November 2008): 702–17, https://doi.org/10.1037/0003-066X.63.8.702.

56 Cassia Spohn and Katharine Tellis, Policing and Prosecuting Sexual Assault: Inside the Criminal Justice System (Boulder, CO: Lynne Rienner Publishers, 2014), https://doi.org/10.1515/9781626374133.

57 Edna Erez, "Victim Participation in Sentencing: Rhetoric and Reality," Journal of Criminal Justice 18, no. 1 (1990): 19–31, https://doi.org/10.1016/0047-2352(90)90017-6; Erez and Rogers, "Victim Impact Statements and Sentencing Outcomes and Processes. The Perspectives of Legal Professionals."

58 Emily R Dworkin et al., "Sexual Assault Victimization and Psychopathology: A Review and Meta-Analysis," Clinical Psychology Review 56 (August 2017): 65–81, https://doi.org/10.1016/j.cpr.2017.06.002.

safeguards. In England & Wales, the government's Victims' Code (Right 7) gives every victim a right to make a Victim Personal Statement (VPS) that the court may consider at sentencing; the Criminal Practice Directions 2023 instruct courts to take VPS into account while underscoring voluntariness and appropriate handling; and the Sentencing Council explains how VPS inform judicial assessment of consequences while preserving proportionality. Together, these instruments embed VPS within a defined procedural pathway, who offers it, when, and how it is used, rather than leaving it to discretion.[59]

Australian jurisdictions codify similarly granular rules. In New South Wales, the Crimes (Sentencing Procedure) Act 1999 sets out who may prepare a VIS, its tender through the prosecutor, and limits on judicial consideration; the Judicial Commission's Sentencing Bench Book maps provisions and amendments, clarifying preparation and receipt under Part 3, Division 2. In Victoria, the Sentencing Act 1991 authorizes victims to make a statement and specifies its contents, while the Sentencing Council Victoria explains presentation at sentencing (including permissible supporting material). Where policy learning continues, commissioners have called for the VIS process to be more trauma-informed to reduce harm and encourage participation, showing that standardization coexists with iterative improvement.[60]

The United States anchors victim participation in federal law. Federal Rule of Criminal Procedure 32 requires that, before imposing sentence, the court address any victim present and permit them to be reasonably heard; the Crime Victims' Rights Act (18 U.S.C. § 3771) separately guarantees the right to be reasonably heard at plea and sentencing. Federal agencies then translate these rights into practice: the DOJ Criminal Division describes how VIS assist judicial sentencing decisions, while the U.S. Sentencing Commission issues primers that situate victim participation within the guideline framework. Several jurisdictions also formalize disclosure (service on the defence) and inclusion in pre-sentence reports, aligning voice with due-process safeguards.[61]

Taken as a whole, these comparative regimes converge on five design lessons that are directly portable to the Indonesian context: (1) standardized formats (statutory authority plus forms and plain-language guidance); (2) corroboration pathways (encouraging or requiring clinical/psychological documentation where appropriate); (3) timing rules (when the statement is taken and tendered); (4) disclosure to the defence with judicial control over prejudicial content; and (5) privacy and document-handling protocols (limits on retention and public access). Each element disciplines emotion into reliable information while preserving the expressive function that victims and courts value.

By contrast, Indonesia lacked any explicit statutory recognition of VIS until Law No. 20 of 2025 entered into force, an absence repeatedly flagged by domestic scholarship, and it still lacks a detailed procedural mechanism for VIS at charging or sentencing. Recent Indonesian legal studies written under the 1981 Code emphasized that neither that Code nor the Sexual Violence Law specified a procedural channel, format, or verification standard for VIS, and that even draft reform discussions had yet to settle basic elements such as standardized forms or facilities for delivery. This sustained doctrinal observation, paired with our empirical findings of case-by-case variability, underscores that VIS is not a novel invention globally but a procedural conduit that Indonesian law now recognizes in principle but has yet to build in practice, which is why implementing rules are urgent.[62]

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[59] Ian Edwards, "The Evidential Quality of Victim Personal Statements and Family Impact Statements," The International Journal of Evidence & Proof 13, no. 4 (November 1, 2009): 293–320, https://doi.org/10.1350/ijep.2009.13.4.330.

[60] Booth, "Victim Impact Statements and Sentencing Homicide Offenders: A Critical Analysis of Recent Changes to the Crimes (Sentencing Procedure) Act 1999 (NSW)."

[61] Lauren K. Cook, "A Victim's Right to Confer Under the Crime Victim's Rights Act," Campbell Law Review 43, no. 3 (2021): 543, https://scholarship.law.campbell.edu/cgi/viewcontent.cgi?article=1720&context=clr.

[62] Heru Susetyo, "Pemenuhan Dan Perlindungan Hak-Hak Prosedural Korban Terorisme Atas Victim Impact Statements (VIS) Dalam Sistem Peradilan Pidana," Southeast Asian Journal of Victimology 2, no. 1 (2024): 35, https://doi.org/10.51825/sajv.v2i1.25161; Ufran Herman, "Analisis Urgensi Fungsi Victim Impact Statement Dalam Proses Peradilan Pidana," Indonesian Journal of Criminal Law and

The theoretical warrant for VIS in sexual violence cases should be grounded in *victim-centred prosecution theory* and *trauma-informed justice* frameworks. These approaches prioritize the *elimination* of sexual violence through effective accountability mechanisms while centering survivors' dignity and agency throughout the legal process.[63] Within this framework, VIS serves as an *accountability enhancement tool* that ensures sentencing reflects the true gravity of harm. This framing is critical: VIS in sexual violence cases should inform proportionate punishment rather than serve reconciliatory or relationship-repair functions. The elimination-oriented approach aligns with Sexual Violence Law's express purpose of elimination of sexual violence, terminology that signals punitive and preventive aims.

Trauma-informed justice theory further supports VIS by recognizing that survivors of sexual violence experience distinctive psychological harm patterns, including PTSD, depression, and complex trauma, that conventional evidentiary forms fail to capture[64]. VIS provides a structured mechanism for placing these harms before the court without requiring survivors to navigate adversarial cross-examination about their post-offense experiences.

The informational function of VIS, supplying courts with harm data necessary for proportionate sentencing, is analytically distinct from therapeutic functions. As Herman (2005) demonstrates, victims' visions of justice centrally include acknowledgment and being heard, outcomes that conventional procedure often fails to deliver[65]. VIS operationalizes this expressive dimension at the moment of sentencing while simultaneously providing courts with information necessary for proportionality assessment.

VIS provides a structured way to place these harms before the court, beyond what conventional evidentiary forms capture. At the same time, contact with legal or medical institutions can itself generate additional harm, a phenomenon known as "secondary victimization", through responses that deepen rather than alleviate a survivor's trauma[66]. Any mechanism inviting victim participation must therefore be built to shield survivors from further harm, not only to give them voice.

3.5. Witness and Victim Protection Framework

The right to state the impact of the offence operates alongside other participation and protection rights, and its implementation cannot be assessed apart from the wider protection framework, which has itself been renewed. Law No. 20 of 2025 places the victim's right in a catalogue of rights. Article 143 lists the rights of witnesses, among them testimony free from pressure, confidentiality of identity, and protection of personal safety and of the safety of family and property. Article 144 lists the rights of victims and adds, among others, confidentiality of identity (letter j), medical assistance and psychosocial and psychological rehabilitation (letter o), accompaniment by a Pendamping at every examination (letter q), restitution (letters l and v), a new identity (letter u), and the statement of impact (letter x). The Elucidation lists as Pendamping the officers of the witness and victim protection agency, regional women's and children's protection units, health workers, psychologists, psychiatrists, social workers, and community service providers. Articles 145 to 148 add provisions on persons with disabilities, women, and the elderly, including, for women whose psychological condition so requires, the right to be heard by remote audio-visual means (Article 147(2)). The same Code regulates restitution and compensation in Articles 178 to 188: investigators, prosecutors, and judges must inform the victim of the rights to restitution and compensation and notify the witness and victim protection agency,

Criminology (IJCLC) 6, no. 1 (2025): 10–20, https://doi.org/10.18196/ijclc.v6i1.25394; Hosana, "Victim Impact Statement Sebagai Perlindungan Hukum Korban Kekerasan Seksual."

63 Spohn and Tellis, Policing and Prosecuting Sexual Assault: Inside the Criminal Justice System; Campbell, "The Psychological Impact of Rape Victims."

64 Judith Lewis Herman, Trauma and Recovery: The Aftermath of Violence—From Domestic Abuse to Political Terror (New York, NY: Basic Books, 1992); Campbell, "The Psychological Impact of Rape Victims."

65 Judith Lewis Herman, "Justice from the Victim's Perspective," Violence against Women 11, no. 5 (May 2005): 571–602, https://doi.org/10.1177/1077801205274450.

66 Campbell, "The Psychological Impact of Rape Victims."

investigators and prosecutors must facilitate the calculation of restitution, the state pays compensation where the offender cannot pay restitution, and a victim endowment fund is to be regulated by government regulation. The joinder of civil claims is regulated in Articles 189 to 192. A statement of impact will therefore have to be coordinated with the restitution calculation.

The statute governing the Witness and Victim Protection Agency (Lembaga Perlindungan Saksi dan Korban, LPSK) was replaced after Law No. 20 of 2025 was enacted. Law No. 3 of 2026 on Witness and Victim Protection, enacted and promulgated on 20 May 2026, repealed Law No. 13 of 2006 as amended by Law No. 31 of 2014. As summarized in secondary commentary, the new statute extends protection to justice collaborators, informants, and experts as well as witnesses and victims; grants protected persons rights that include a new identity, safe-house accommodation, protection against digital threats, and medical recovery; requires the court to state the amount of restitution in its verdict; makes the state responsible for compensation for victims of serious human rights violations, terrorism, and trafficking and for restitution shortfalls of victims of sexual violence; creates a victim trust fund, the Dana Abadi Korban, to finance compensation and psychosocial rehabilitation; and obliges investigators, prosecutors, and judges to coordinate confidentially with LPSK through an information-technology-based system.[67]

Law No. 12 of 2022 supplies the substantive rights of victims of sexual violence. Victims are entitled to handling, protection, and recovery from the moment the offence occurs, including legal services, psychological strengthening, confidentiality of identity, protection from threats, and restitution and/or compensation (Articles 66 to 70).

None of the sources reviewed for this study indicates that Law No. 3 of 2026 or Law No. 12 of 2022 regulates the victim impact statement itself, but the Elucidation of Article 144(x) ties the statement to the support structures of this framework by allowing a Pendamping to deliver it. The framework also supplies the conditions under which a statement can be made safely and credibly, and these conditions correspond to the concerns raised by the interviewees. As to participation, the statement should be designed as an opportunity to be heard that does not expose the victim to adversarial questioning about post-offence experiences, with accompaniment by a Pendamping and, where the victim's condition requires, remote delivery. As to psychological assistance, the clinical documentation that practitioners ask for as corroboration can be channelled through the rehabilitation services guaranteed by Article 144 (letter o), Law No. 12 of 2022, and Law No. 3 of 2026, rather than left to the victim's own initiative and expense. As to privacy, the confidentiality of identity guaranteed to witnesses and victims by Articles 143 and 144 of Law No. 20 of 2025 and to victims of sexual violence by Law No. 12 of 2022, the closure of hearings in cases concerning decency (Article 202(2)), the confidentiality of the identity of witnesses and victims in the information-technology-based criminal justice system (Article 360(5)), and the duty of confidential coordination with LPSK under Law No. 3 of 2026 together provide a basis for handling statements, which often contain intimate detail, within controlled circulation. As to restitution, because the court must state the restitution amount in its verdict under Law No. 3 of 2026 and the prosecutor must facilitate its calculation under Article 179 of Law No. 20 of 2025, the relationship between the harm described in a statement and the restitution assessment should be specified so that the same harm is neither assessed twice nor left unassessed. These links are the authors' reading of the statutes; none of the instruments examined expressly connects the protection regimes to the procedure for the statement.

Two limits should be noted. First, the interviews were conducted before Law No. 20 of 2025 and Law No. 3 of 2026 applied, so they do not show how the strengthened mandate of LPSK will operate in sexual violence trials, and whether LPSK or other Pendamping may assist victims in preparing or delivering a statement remains to be settled in implementing rules, which Article 366 of Law No. 20 of 2025 requires to be issued within one year of promulgation. Second, Law No. 3 of 2026 is recent, and this study did not identify implementing regulations under it or detailed rules on its relationship with Law No. 20 of 2025.

[67] Veritask, "Undang-Undang Nomor 3 Tahun 2026 Perluas Pelindungan Saksi dan Korban, serta Perkuat Kewenangan LPSK," https://www.veritask.ai/id/artikel/undang-undang-nomor-3-tahun-2026-perluas-pelindungan-saksi-dan-korban-serta-perkuat-kewenangan-lpsk.

3.6. Legal Framework Recommendation

Typical contributions argue the urgency of VIS to strengthen victims' participation and protection but stop short of examining how Indonesian courts and prosecutors actually treat victim-harm narratives in practice. For example, national analyses in *Rechtidee* and Jurist-Diction frame VIS as a needed legal innovation and map its statutory basis in principle, yet they do not report field evidence from judicial actors regarding admissibility, timing, or weight at sentencing. Foundational victim-position studies reach similar conclusions about the structural marginalization of victims in the 1981 Code, again largely on doctrinal grounds.[68] Edwards' analysis of VPS/VIS in England and Wales, and Roberts' empirical review of the VPS scheme, both highlight the tension between victim voice and due process and the necessity of procedural safeguards, evidence that strengthens, and is now complemented by, our Indonesia-specific field findings.[69]

To operationalize the right recognized in Article 144 of Law No. 20 of 2025 while safeguarding due process, Indonesia should adopt a two-track implementation framework: immediate sub-statutory regulation (via a Supreme Court Regulation/PERMA and/or a Prosecutor-General regulation or circular) that gives the right a defined procedural stage and safeguards, followed by consolidation of those standards in government regulation or, if experience shows that sub-statutory instruments cannot secure nationwide uniformity, in a statutory amendment. Comparative scholarship shows that mature common-law systems do not treat VIS as ad hoc narratives but as regulated process tools; Australian and UK evidence demonstrates that statutory anchoring plus judicial guidance improves consistency, perceived legitimacy, and victim satisfaction, without uniformly aggravating sentences, provided statements are procedurally disciplined. The Supreme Court's first implementation circular, SEMA No. 1 of 2026, addresses transitional questions but does not mention VIS, which indicates that the operational guidance proposed here remains to be written. Beyond the two instruments, consistent practice will depend on institutional standards, namely court and prosecution SOPs, standard forms, and training for judges, prosecutors, and victim-support personnel, and on monitoring whether the right is in fact exercised across courts. Embedding VIS in Indonesian procedure would align the recovery-oriented aims of Sexual Violence Law with a concrete sentencing-stage vehicle for victims' voices.[70]

Alongside recognition, standard operating procedures (SOPs) are essential. SOPs should specify the structure (concise, harm-focused content with clear boundaries on opinion and culpability assertions), timing (a defined window after the close of evidence and before the verdict), submission mechanism (a written statement lodged with the prosecutor, or an oral statement delivered in court to the prosecutor, by the victim, legal counsel, or a Pendamping, with accommodations such as a support person and, where the victim's condition requires, remote audio-visual delivery, as the Code already contemplates for women victims whose psychological condition so requires in Article 147(2)), content guidance (permissible topics and exclusions), disclosure rules (service on the defence within set timelines, with judicial control over potentially prejudicial passages), and judicial consideration (an obligation to acknowledge the statement in the reasoning and to indicate the weight given to it, without treating it as evidence of guilt).[71] The stage proposed here must be read against the structure of the trial. Neither the 1981 Code nor Law No. 20 of 2025 provides for a separate sentencing hearing: guilt and sentence are decided in a single verdict (Article 244 of the 2025 Code), preceded by the evidentiary stage (Article 210), the prosecutor's demand, in which the prosecutor sets out the matters that aggravate and mitigate (tuntutan, Article 231(2)), and the defence reply (Article 231(3)), and no stage devoted to the victim's statement appears in these provisions. Because the Elucidation of Article 144 (letter x) directs the statement to the prosecutor in the court hearing, the most coherent placement is after the evidentiary stage and before the prosecutor's demand, so that the statement can be reflected

[68] Anggi Mustavia Maulani and Rusmilawati Windari, "Victim Impact Statement Dalam Sistem Peradilan Pidana: Sebuah Urgensi Hukum," Rechtidee 17, no. 1 (2022): 26.
[69] Edwards, "The Evidential Quality of Victim Personal Statements and Family Impact Statements."
[70] Hosana, "Victim Impact Statement Sebagai Perlindungan Hukum Korban Kekerasan Seksual."
[71] Owade, "A Conceptual Analysis of an Accused Persons' Right to Reasonable Access to Victim Impact Statements under Kenya's Victim Protection Act No. 17 of 2014."

in the prosecutor's account of aggravating and mitigating matters and be disclosed to the defence before it replies; where it is received later, the court may reopen the examination under Article 232(1). The "post-conviction, pre-sentencing" stage used in this article is therefore a functional label: the statement is received within the hearing, but the court should consider it only for sentencing and only if guilt is established. The instruments should also state how the statement relates to the restitution request that Article 144 treats as a separate right (letters l and v; Articles 178 to 182), so that the court does not assess the same harm twice. Empirical and doctrinal analyses of VIS/VPS emphasize that format standardization and role clarity are what transform victim voice into reliable information for judges, rather than emotive advocacy, hence the need for templates, plain-language guidance, and trained support personnel.[72]

Given interview findings about manipulation risks and the uneven current practice, Indonesia should require corroboration pathways for key harm claims, e.g., clinical or psychological documentation (*visum et repertum*, psychiatric/psychological evaluation) when VIS asserts lasting physical or psychosocial injury. Because Law No. 12 of 2022 and Law No. 3 of 2026 guarantee psychological strengthening and recovery services, the implementing instruments should also say who arranges and funds such documentation, so that corroboration does not become a financial barrier or a further source of secondary victimization. Comparative research from Australia and broader victimology literature indicates that verification channels both enhance informational quality and reassure courts that VIS are anchored in demonstrable harm rather than untested assertions; they also help prosecutors integrate VIS into sentencing submissions responsibly.[73]

Finally, the framework must include privacy and data-handling protocols. Rules should cover collection and storage, limited circulation (prosecution, defence, court), open-court management (redactions or in-camera handling for sensitive material), and post-sentencing retention/destruction to prevent misuse. These rules should be drawn up with reference to the identity-confidentiality guarantees of Law No. 20 of 2025, Law No. 12 of 2022, and Law No. 3 of 2026, and to the confidential coordination with LPSK provided for in Law No. 3 of 2026. Indonesian legal commentary already argues for VIS standardization and cautions against secondary victimization; trauma-informed handling reduces harm and encourages participation, as noted in both domestic analyses and comparative evaluations. By combining recognition (Article 144 of Law No. 20 of 2025 as the statutory anchor, supplemented by a PERMA and a Prosecutor-General regulation), SOPs (structure–timing–content–disclosure), mandatory corroboration, and strict privacy/retention rules, Indonesia can adopt a VIS model that is victim-centred and legally disciplined, faithful to Sexual Violence Law's spirit while consistent with fair-trial guarantees.[74]

This article offers a contextualized VIS framework for Indonesia that is expressly designed to balance victim participation with evidentiary integrity. Recent meta-level and empirical syntheses underline this calibration problem, how to convert victim voice into reliable sentencing information rather than emotive advocacy, and recommend precisely the kinds of guardrails we propose (standardized forms, defence disclosure, and verification pathways). This framework operationalizes these insights for the Indonesian context by grafting them onto Law No. 20 of 2025 and the Sexual Violence Law, specifying where VIS should sit procedurally (after the close of evidence and before the verdict, so that it is considered only once guilt is established), what it may contain (harm-focused, non-prejudicial content), how it should be corroborated, and how

[72] Roberts and Erez, "Communication in Sentencing: Exploring the Expressive Function of Victim Impact Statements."

[73] Nieke A Elbers et al., "The Role of Victims' Lawyers in Criminal Proceedings in the Netherlands," European Journal of Criminology 19, no. 4 (2022): 830–48, https://doi.org/10.1177/1477370820931851.

[74] Anang Riyan Ramadianto, Milda Istiqomah, and Nurini Aprilianda, "Victim Impact Statement as a Model of Victim-Centered Justice in Child Sexual Abuse Cases," IUS QUIA IUSTUM 32, no. June (2025): 337–60.

privacy and retention should be handled. In this respect, we move beyond abstract endorsement of "victim-centred justice" to a rule-of-law blueprint suitable for courts and prosecutors.[75]

This article offers a contextualized VIS framework for Indonesia that operationalizes doctrinal and comparative insights within Law No. 20 of 2025 and the Sexual Violence Law, specifying where VIS should sit procedurally, what it may contain, how it should be corroborated, and how privacy should be handled. The contribution is twofold: an Indonesia-specific design implementing tested international safeguards, and an empirically grounded justification rooted in how Indonesian judges and prosecutors already navigate victim-harm narratives.

4. Conclusion

This study set out to address three questions: what doctrinal foundation Indonesian criminal procedure provides for Victim Impact Statements (VIS) after the entry into force of Law No. 20 of 2025; how judges and prosecutors currently perceive and handle victim harm narratives in sexual violence cases; and what operational framework would enable structured victim participation without compromising due process. The doctrinal position has changed but the gap has not closed: the 1981 Code's closed evidentiary taxonomy under Article 184(1) left no place for VIS, and while Article 144 of Law No. 20 of 2025 now recognizes the victim's right to state the impact of the offence, orally or in writing, neither that Law, whose Elucidation identifies only the deliverer, the recipient, and the content of the statement, nor the Sexual Violence Law's expansive victim-rights provisions establishes a dedicated procedural stage, standardized format, or verification standard for VIS, so victim impact narratives that reach the court risk remaining subsumed under witness testimony or documentary evidence, their timing and weight governed largely by judicial discretion with no shared benchmarks, a pattern this article terms the rights-implementation disconnect. The empirical findings add nuance existing scholarship has not captured: judges and prosecutors interviewed for this study consistently recognized the value of VIS in conveying psychosocial harm and calibrating aggravating and mitigating circumstances, indicating that practitioner support, rather than resistance, exists as a foundation for reform, yet the same practitioners raised three implementation concerns, the risk of coaching and manipulation, the inadequacy of current verification infrastructure for corroborating claims of psychological, financial, or physical harm, and the risk of secondary victimization from a poorly managed participatory process. These practitioner-identified risks, rather than abstract policy aspirations, justify the two-track implementation framework proposed in this article: immediate operationalization of Article 144 through a Supreme Court Regulation (PERMA) and Prosecutor-General regulation or circular at the post-conviction, pre-sentencing stage (functionally, after the close of evidence and before the verdict), followed by consolidation in government regulation or, if necessary, statutory amendment to establish nationwide uniformity. The reassessment of the interview findings (Table 1) shows that the findings about the legal vacuum are historical, whereas those about stage, corroboration, disclosure, manipulation, and privacy remain design requirements; and the protection framework of Law No. 12 of 2022 and Law No. 3 of 2026 supplies identity confidentiality, psychological and psychosocial recovery, and restitution support around the statement, but not the procedure for receiving it. This study's contribution is therefore empirical before it is prescriptive: it documents, for the first time in the Indonesian literature, that practitioners are not opposed to VIS but are unprepared for it, and that the reform question is accordingly no longer whether VIS should be recognized, which Law No. 20 of 2025 has settled in principle, but how its principled use can be built with the same urgency that the scale of sexual violence in Indonesia demands.

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[75] Maarten Kunst et al., "The Impact of Victim Impact Statements on Legal Decisions In Criminal Proceedings: A Systematic Review of The Literature Across Jurisdictions and Decision Types," Aggression and Violent Behavior 56 (2021): 101512, https://doi.org/10.1016/j.avb.2020.101512.

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References

Abrams, Jamir R., and Amanda Potts. "The Language of Harm: What The Nassar Victim Impact Statements Reveal About Abuse and Accountability." *University of Pittsburgh Law Review* 82 (2020). https://doi.org/10.5195/lawreview.2020.775.

Aguilera, Jasmine. "'Emily Doe's' Victim Impact Statement Became a National Rallying Cry." Time, 2019. https://time.com/5668738/stanford-victim-chanel-miller/.

Ali, Mahrus, and Syarif Nurhidayat. "The Urgency to Adopt Victim Impact Statement in the Indonesian Criminal Justice System." *KnE Social Sciences* 8, no. 9 (May 26, 2023): 376–385. https://doi.org/10.18502/kss.v8i9.13350.

Ali, Zainuddin. *Metode Penelitian Hukum*. Jakarta: Sinar Grafika, 2014.

Amiruddin, and Zainal Asikin. *Pengantar metode penelitian hukum*. Depok: RajaGrafindo Persada, 2020.

Anggriawan, Rizaldy. "Recovering Ponzi Scheme Losses and Integrating the Victim Impact Statement into Indonesia's Criminal Justice System." *Prawo i Więź* 56, no. 3 (2025): 173–206. https://doi.org/10.36128/PRIW.VI56.1255.

Aprilianda, Nurini, Febrianika Maharani, Nadhilah A Kadir, Ardi Ferdian, and Solehuddin. "Re-Conceptualizing Child Victim Rights: A Normative and Comparative Analysis of Victim Impact Statement in Indonesia's Juvenile Justice System." *Jambura Law Review* 7, no. 2 (2025): 442–67. https://doi.org/10.33756/jlr.v7i2.30132.

Ashworth, Andrew. *Sentencing and Criminal Justice*. 6th ed. Cambridge University Press, 2015. https://doi.org/10.1017/CBO9781107415270.

———. "Victim Impact Statements and Sentencing." *Criminal Law Review*, 1993, 498–509.

Atmasasmita, Romli. *Sistem Peradilan Pidana Kontemporer*. Jakarta: Kencana, 2010.

Australian Bureau of Statistics. "Recorded Crime - Victims," 2024. https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release.

Booth, Tracey. "Victim Impact Statements and Sentencing Homicide Offenders: A Critical Analysis of Recent Changes to the Crimes (Sentencing Procedure) Act 1999 (NSW)." *University of New South Wales Law Journal* 41, no. 1 (2018): 130–56. https://classic.austlii.edu.au/au/journals/UNSWLawJl/2018/6.html

Campbell, Rebecca. "The Psychological Impact of Rape Victims." *The American Psychologist* 63, no. 8 (November 2008): 702–17. https://doi.org/10.1037/0003-066X.63.8.702.

Cook, Lauren K. "A Victim's Right to Confer Under the Crime Victim's Rights Act." *Campbell Law Review* 43, no. 3 (2021): 543. https://scholarship.law.campbell.edu/cgi/viewcontent.cgi?article=1720&context=clr.

Craig, Miltonette, and Daniel Sailofsky. "What Happened to Me Does Not Define Who I Am: Narratives of Resilience in Survivor Victim Impact Statements." *Victims & Offenders* 19, no. 2 (2024): 329–47. https://doi.org/10.1080/15564886.2022.2116511.

Crown Prosecution Service. "Joint Agency Guide to the Victim Personal Statement." London, 2018. https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/joint-agency-

guide-victim-personal-statement_0.pdf

Davies, Rhiannon, and Lorana Bartels. “Challenges of Effective Communication in the Criminal Justice Process: Findings from Interviews with Victims of Sexual Offences in Australia.” *Laws* 9, no. 4 (2020). https://doi.org/10.3390/laws9040031.

Dussich, John Peter Joseph. “The Evolution of International Victimology and Its Current Status in the World Today.” *Revista de Victimología* 1 (2015): 37–81. https://doi.org/10.12827/RVJV.1.02.

Dworkin, Emily R, Anna E Jaffe, Michele Bedard-Gilligan, and Skye Fitzpatrick. “PTSD in the Year Following Sexual Assault: A Meta-Analysis of Prospective Studies.” *Trauma, Violence & Abuse* 24, no. 2 (April 2023): 497–514. https://doi.org/10.1177/15248380211032213.

Dworkin, Emily R, Suvarna V Menon, Jonathan Bystrynski, and Nicole E Allen. “Sexual Assault Victimization and Psychopathology: A Review and Meta-Analysis.” *Clinical Psychology Review* 56 (August 2017): 65–81. https://doi.org/10.1016/j.cpr.2017.06.002.

Edwards, Ian. “The Evidential Quality of Victim Personal Statements and Family Impact Statements.” *The International Journal of Evidence & Proof* 13, no. 4 (November 1, 2009): 293–320. https://doi.org/10.1350/ijep.2009.13.4.330.

Elbers, Nieke A, Sonja Meijer, Iris M Becx, Arlette J J G Schijns, and Arno J Akkermans. “The Role of Victims' Lawyers in Criminal Proceedings in the Netherlands.” *European Journal of Criminology* 19, no. 4 (2022): 830–48. https://doi.org/10.1177/1477370820931851.

Erez, E, and L Rogers. “Victim Impact Statements and Sentencing Outcomes and Processes. The Perspectives of Legal Professionals.” *The British Journal of Criminology* 39, no. 2 (March 1, 1999): 216–39. https://doi.org/10.1093/bjc/39.2.216.

Erez, Edna. “Victim Participation in Sentencing: Rhetoric and Reality.” *Journal of Criminal Justice* 18, no. 1 (1990): 19–31. https://doi.org/10.1016/0047-2352(90)90017-6.

Flatley, John. “Crime Outcomes in England and Wales 2024 to 2025.” UK Home Office, 2025. https://www.gov.uk/government/statistics/crime-outcomes-in-england-and-wales-2024-to-2025/crime-outcomes-in-england-and-wales-2024-to-2025.

Halliday, Simon, and Patrick Schmidt. *Conducting Law and Society Research: Reflections on Methods and Practices*. Cambridge University Press, 2009.

Hamzah, Andi, and Tarmizi. *Hukum Acara Pidana Indonesia*. Edisi 2. Jakarta: Sinar Grafika, 2014.

Herman, Judith Lewis. “Justice from the Victim’s Perspective.” *Violence against Women* 11, no. 5 (May 2005): 571–602. https://doi.org/10.1177/1077801205274450.

———. *Trauma and Recovery: The Aftermath of Violence—From Domestic Abuse to Political Terror*. New York, NY: Basic Books, 1992.

Herman, Ufran. “Analisis Urgensi Fungsi Victim Impact Statement Dalam Proses Peradilan Pidana.” *Indonesian Journal of Criminal Law and Criminology (IJCLC)* 6, no. 1 (2025): 10–20. https://doi.org/10.18196/ijclc.v6i1.25394.

Hiariej, Edward Omar Sharif. *Prinsip-Prinsip Hukum Pidana*. Edisi Revisi. Yogyakarta: Cahaya Atma Pustaka, 2016.

Hirsch, Andrew von. *Censure and Sanctions*. Oxford: Clarendon Press, 1993. https://doi.org/10.1093/acprof:oso/9780198262411.001.0001.

Hosana, Yolanda. “Victim Impact Statement Sebagai Perlindungan Hukum Korban Kekerasan Seksual.” *Jurist-Diction* 5, no. 3 (2022): 1171–84. https://doi.org/10.20473/jd.v5i3.35812.

Hutchinson, Terry. *Researching and Writing in Law*. 4th ed. Thomson Reuters Australia / Lawbook Co, 2018.

Ibrahim, Johnny. *Teori Dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia, 2018.

Institute for Criminal Justice Reform. "Nine Crucial Issues in the 2025 Draft Criminal Procedure Code," 2025. https://icjr.or.id/nine-crucial-issues-in-the-2025-draft-criminal-procedure-code-ruu-kuhap/.

Islam, M S El, and I N Juaningsih. "Victim Impact Statement As The Restoration Of The Rights Of Victims In Law Number 12 Of 2022 On Sexual Violence." *Pancasakti Law Journal (PLJ)*, no. 12 (2023): 419–32. https://plj.fh.upstegal.ac.id/index.php/plj/article/view/43.

Kunst, Maarten, Giulia de Groot, Jelmar Meester, and Janne van Doorn. "The Impact of Victim Impact Statements on Legal Decisions In Criminal Proceedings: A Systematic Review of The Literature Across Jurisdictions and Decision Types." *Aggression and Violent Behavior* 56 (2021): 101512. https://doi.org/10.1016/j.avb.2020.101512.

Kurnia-Hakim, Rizky. "KUHAP Baru: Penguatan Kedudukan Korban dalam Sistem Peradilan Pidana." Dandapala, January 16, 2026. https://dandapala.com/opini/detail/kuhap-baru-penguatan-kedudukan-korban-dalam-sistem-peradilan-pidana.

Marzuki, Peter Mahmud. *Penelitian hukum*. Jakarta: Kencana, 2008.

Maulani, Anggi Mustavia, and Rusmilawati Windari. "Victim Impact Statement Dalam Sistem Peradilan Pidana: Sebuah Urgensi Hukum." *Rechtidee* 17, no. 1 (2022): 26, https://doi.org/10.21107/ri.v17i1.14369.

McConville, Mike, and Wing Hong Eric Chui, eds. *Research Methods for Law*. 2nd ed. Edinburgh: Edinburgh University Press, 2017.

Ministry of Women Empowerment and Child Protection. "SIMFONI-PPA," 2025. https://kekerasan.kemenpppa.go.id/ringkasan.

Muladi. *Kapita Selekta Sistem Peradilan Pidana*. Semarang: Badan Penerbit UNDIP, 1995.

New South Wales Government. "Victim Impact Statements Guide." New South Wales, n.d. https://victimsservices.justice.nsw.gov.au/documents/victims-rights/charter-of-victims-rights/victim-impact-statement-guide.pdf.

Office for National Statistics. "Crime in England and Wales Year Ending September 2024," 2025. https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingseptember2024.

Owade, Eugene Otieno. "A Conceptual Analysis of an Accused Persons' Right to Reasonable Access to Victim Impact Statements under Kenya's Victim Protection Act No. 17 of 2014." *African Journal of Law and Justice System* 2, no. 2 (2023): 5–16. https://hdl.handle.net/10520/ejc-aa_ajljs_v2_n2_a1

Pound, Roscoe. "Law in Books and Law in Action." *American Law Review* 44 (1910): 12–36.

Pratama, Brillian Hadi Wahyu. "Rekonstruksi SPP dalam Perlindungan Hukum yang Berkeadilan bagi Kelompok Rentan." MARINews, June 17, 2026. https://marinews.mahkamahagung.go.id/artikel/rekonstruksi-spp-demi-proteksi-hukum-adil-kelompok-rentan-0bl3.

Prayitno, Bambang. "Victim Impact Statement dalam KUHAP Baru: Menguatkan Perlindungan Hak Bagi Korban." Hukumonline, February 23, 2026. https://www.hukumonline.com/berita/a/victim-impact-statement-dalam-kuhap-baru--menguatkan-perlindungan-hak-bagi-korban-lt699bb69f39229/.

Pudjoharsoyo, Achmad Setyo. "Hakim sebagai Gatekeeper Bukti Ilmiah di Era KUHAP Baru." MARINews, January 30, 2026. https://marinews.mahkamahagung.go.id/artikel/hakim-sebagai-gatekeeper-bukti-ilmiah-di-era-kuhap-baru-0O4.

Ramadianto, Anang Riyan, Milda Istiqomah, and Nurini Aprilianda. "Victim Impact Statement as a Model of Victim-Centered Justice in Child Sexual Abuse Cases." *IUS QUIA IUSTUM* 32,

no. June (2025): 337–60, https://doi.org/10.20885/iustum.vol32.iss2.art4.

Roberts, Julian V., and Edna Erez. “Communication in Sentencing: Exploring the Expressive Function of Victim Impact Statements.” *International Review of Victimology* 10, no. 3 (January 1, 2004): 223–44. https://doi.org/10.1177/026975800401000302.

Rock, Freya. “Victim Personal Statements.” Cambridge, 2024. https://www.sentencingacademy.org.uk/wp-content/uploads/2024/02/Victim-Personal-Statements-A-Review-of-Recent-Research-and-Developments.pdf.

Soekanto, Soerjono. *Pengantar penelitian hukum*. Jakarta: UI-Press, 2010.

Soekanto, Soerjono, and Sri Mamudji. *Penelitian hukum normatif: Suatu tinjauan singkat*. Jakarta: RajaGrafindo Persada, 2010.

Spohn, Cassia, and Katharine Tellis. *Policing and Prosecuting Sexual Assault: Inside the Criminal Justice System*. Boulder, CO: Lynne Rienner Publishers, 2014. https://doi.org/10.1515/9781626374133.

Sunggono, Bambang. *Metodologi penelitian hukum*. Jakarta: Pradnya Paramita, 2005.

Susetyo, Heru. “Pemenuhan Dan Perlindungan Hak-Hak Prosedural Korban Terorisme Atas Victim Impact Statements (VIS) Dalam Sistem Peradilan Pidana.” *Southeast Asian Journal of Victimology* 2, no. 1 (2024): 35. https://doi.org/10.51825/sajv.v2i1.25161.

U.S. Department of Justice. “The Attorney General Guidelines for Victim and Witness Assistance.” Washington, U.S. Department of Justice, 2023. https://www.justice.gov/d9/pages/attachments/2022/10/21/new_ag_guidlines_for_vwa.pdf.

Wijaya, Ivonnie, and Steven Aristides Wijaya. "Undang-Undang Nomor 3 Tahun 2026 Perluas Pelindungan Saksi dan Korban, serta Perkuat Kewenangan LPSK." Veritask, 11 Juni 2026. https://www.veritask.ai/id/artikel/undang-undang-nomor-3-tahun-2026-perluas-pelindungan-saksi-dan-korban-serta-perkuat-kewenangan-lpsk

Victims of Crime Victoria. “Victim Impact Statements.” Victims of Crime Victoria, 2025. https://www.victimsofcrime.vic.gov.au/victim-impact-statements.

Wevodau, Amy L, Robert J Cramer, Andre Kehn, and John W Clark III. “Why the Impact? Negative Affective Change as a Mediator of the Effects of Victim Impact Statements.” *Journal of Interpersonal Violence* 29, no. 16 (2014): 2884–2903. https://doi.org/10.1177/0886260514527170.

Wilinsky, Charlotte L, and Allyssa McCabe. “Agency and Communion in Sexual Abuse Survivors’ Narratives.” *Narrative Inquiry* 31, no. 1 (2021): 236–62. https://doi.org/10.1075/ni.20061.wil.

Yulia, Rena. *Viktimologi Perlindungan Hukum Terhadap Korban Kejahatan*. Yogyakarta: Graha Ilmu, 2010.

Yulia, Rena. “Mengkaji Kembali Posisi Korban Kejahatan Dalam Sistem Peradilan Pidana.” *Jurnal Mimbar Hukum* 28, no. 1 (2016): 33–45. https://doi.org/10.22146/jmh.15858.