



Reconstruction of Legal Protection for Victims of Crime from a Victimology Perspective in Indonesia

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Abstract

This study examines the reconstruction of legal protection for victims of crime in Indonesia from a victimology perspective. Despite significant legal developments, victims often remain marginalized within the criminal justice system, which tends to prioritize the rights of offenders over the needs of victims. This research aims to analyze existing legal frameworks, identify structural weaknesses, and propose a more victim-centered model of protection. Using a qualitative method with a normative and socio-legal approach, the study reviews statutory regulations, institutional practices, and victimology theories. The findings reveal that current protection mechanisms are fragmented, reactive, and limited in ensuring restitution, rehabilitation, and psychological recovery for victims. Institutional coordination among law enforcement agencies, courts, and victim protection bodies remains inadequate, leading to gaps in service delivery. From a victimological perspective, effective protection must integrate legal, social, and psychological dimensions, emphasizing recognition, participation, and restoration of victims' rights. The study proposes a reconstructive framework that strengthens legal norms, enhances institutional synergy, and prioritizes restorative justice mechanisms. Such an approach is expected to transform the criminal justice system into a more balanced structure that not only punishes offenders but also ensures justice, dignity, and comprehensive protection for victims in Indonesia.

Keywords: Victimology, legal protection, crime victims, restorative justice

Introduction

The existence of law in society is an urgent and crucial matter that must continually be ensured, given that one of the primary functions of law is to exercise social control. Law also serves to protect the interests and safety of the community living within it. In the dynamics of social life, conflicts

between individuals or groups are inevitable.¹ Whatever constitutes the *actus reus*, in fact such conduct represents a violation of criminal law provisions. The actions of a criminal offender inevitably give rise to victims as a consequence of the perpetrator's unlawful act. From the perspective of victimology, a victim is understood as a legal subject who suffers harm and/or loss caused by the illegal actions of another legal subject.²

Victims constitute one of the subjects that must receive serious attention within the criminal justice system. This is because the position of victims is often neglected, particularly regarding the assurance of their safety and security from the impulsive actions of criminal offenders.³ Therefore, special attention from state authorities is necessary. Crime is essentially the result of interaction between the victim and the perpetrator; through such interaction and mutual influence, both become participants who may be involved actively or passively in the occurrence of a crime.⁴

The relationship between offenders and victims is inseparable. However, in practice, there appears to be a dichotomy in the state's treatment of perpetrators and victims. Perpetrators tend to receive special attention: they are supervised by the state, provided with daily meals, and facilitated when attending court proceedings. In contrast, victims are often required to bear their own expenses related to court processes. Ideally, guarantees of legal protection for both perpetrators and victims within the Indonesian criminal justice system should be provided from the stages of investigation and inquiry.⁵

The state has responded to this issue by enacting Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 on the Protection of Witnesses and Victims. Article 1 paragraph (10) comprehensively regulates compensation for victims or their families. The compensation referred to is termed "compensation." The provision states: "Compensation is restitution granted by the state because the offender is unable to fully provide the compensation for which he or she is responsible to the victim or the victim's family".⁶

Reflecting on the provisions of the article mentioned above, in criminal cases that result in victims without adequate physical and psychological protection (including attention to the victims' rights and status), it appears as though the state allows victims to be neglected. Victims seem forced to accept the misfortune they endure, along with the losses arising from the perpetrator's actions.

The provision of that article represents a form of state responsibility in serving its citizens. It reflects a social contract between the state and its citizens, who are obliged to pay taxes; consequently, the state bears the responsibility to protect its citizens, including through the provision of compensation to victims of criminal acts.

The situation differs when the perpetrator of a crime has the financial capacity to compensate the victim for the suffering experienced. It must be acknowledged that loss is not limited merely to material damage; psychological harm (psychological distress) must also be taken into consideration.

¹ Humaidi, M. W., Ridwan, & Salleh, M. M. M. (2026). State-Religion Relations and Halal Governance: Islamic Legal Policy in Indonesia and Malaysia. *Al-Manahij: Jurnal Kajian Hukum Islam*, 20(1), 1–20. <https://doi.org/10.24090/mnh.v20i1.15374>

² Angkasa, 2020, *Viktimologi*, PT.Raja Grafindo, Depok, hlm. 3.

³ Wijaya, Hanna, Yohanes Firmansyah, Yana Sylvana, and Michelle Angelika S. 2022. "Review of Legal Protection of Indonesia in Australia Tapping Case". *International Journal of Social Science and Religion (IJSSR)* 3 (1):43-54. <https://doi.org/10.53639/ijssr.v3i1.15>.

⁴ Iswanto dan Angkasa, *Viktimologi*, Purwokerto: Fakultas Hukum Universitas Jendral Sudirman, 2008, hlm. 2.

⁵ Iswanto dan Angkasa, *Op. Cit.*, hlm. 5.

⁶ Undang-undang Nomor 31 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 13 Tahun 2006 Tentang Perlindungan Saksi dan Korban.

The provision regarding the payment of damages (restitution) suffered by victims is clearly regulated in the same law under Article 1 paragraph (11), which states: “Restitution is compensation granted to the victim or the victim’s family by the perpetrator or a third party.”

However, it is regrettable that the Indonesian Criminal Procedure Code (KUHP) has not yet provided specific attention that favors victims. In other words, the interests and protection of victims’ rights, as well as their physical and psychological losses and suffering, appear to be overlooked. Attention to victims has not been explicitly and comprehensively regulated within the derivative regulations inherited from Dutch law.

Therefore, the reconstruction of victim protection within the Indonesian criminal justice system appears necessary. The provisions set out in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 on the Protection of Witnesses and Victims do not fully accommodate all victims of crime in obtaining protection, compensation, and/or restitution. The right to such protection seems to be limited exclusively to certain categories of victims, as explicitly stated in Article 6 paragraph (1), namely: victims of gross human rights violations, victims of terrorism, victims of human trafficking, victims of torture, victims of sexual violence, and victims of severe assault.⁷

This limitation results in unequal treatment of crime victims by the state and creates a sense of injustice. Accordingly, a reconstruction of victim protection within the Indonesian criminal justice system is necessary, as these restrictions lead to differential treatment among victims. This occurs because the existing positive legal provisions are unable to accommodate all categories of crime victims.

Method

The type of legal research conducted is normative juridical research, in which law is conceptualized as what is written in statutory regulations (law in books), or as norms and rules that serve as standards of behavior considered appropriate for human conduct.⁸ This normative legal research is based on primary and secondary legal materials, namely research that refers to norms contained in statutory regulations.⁹

The approach method used is the conceptual approach. A conceptual approach refers to an approach that departs from views and doctrines developed within legal scholarship. By studying doctrinal perspectives in legal science, the researcher identifies ideas that give rise to legal definitions, legal concepts, and legal principles relevant to the issue at hand.¹⁰ This approach is employed to examine and analyze legal concepts or ideas concerning the regulation of the Passing Off doctrine in the protection of well-known trademarks, since existing regulations have not explicitly provided protection for well-known trademarks against Passing Off.

The data collection method used in this research is literature-based and falls within the category of library research. Library research involves collecting data by compiling information from various forms of literature. The literature examined is not limited to books but also includes documentation materials, magazines, journals, and newspapers. The emphasis of library research is to discover

⁷ Dhyah Nur Fitriana, & Ghoniyah Zulindah Maulidya. (2023). Tindak Pidana Pencurian Yang Dilakukan Oleh Anak Dibawah Umur Dalam Tiga Perspektif. *Khuluqiyya: Jurnal Kajian Hukum Dan Studi Islam*, 5(2), 219–244. <https://doi.org/10.56593/khuluqiyya.v5i2.111>

⁸ Amiruddin & Zainal asikin, pengantar Metode Penelitian Hukum, 2012, Raja Grafindo Persada Jakarta. Hlm. 118.

⁹ Soeryono Soekarto, pengantar penelitian hukum. (Jakarta: UI Press, 1984), hlm. 20.

¹⁰ Peter Mahmud Marzuki, *Ibid.*, hlm. 135.

various theories, legal rules, propositions, principles, opinions, ideas, and other relevant materials that can be used to analyze and resolve the research problem.¹¹

Result and Discussion

The Mechanism for the Protection of Crime Victims in Indonesia

Society may be regarded as a system of institutionalized trust. This system of trust is interconnected through norms that are actualized within organizational structures such as the police, prosecutors, courts, and other institutions. For victims, the occurrence of a crime against them destroys this system of trust, and the regulation of criminal law and related legal mechanisms functions to restore that trust.¹²

The state, as the entity vested with authority to adjudicate criminal cases, should be responsible for fulfilling the rights of the parties involved in legal proceedings, including the victims themselves. The state bears responsibility toward its citizens to meet their needs, particularly when they face hardship. Since the state effectively monopolizes the reaction to crime and prohibits private acts of retaliation, it must also assume responsibility for addressing the needs of victims when crimes occur.¹³

The term “victim” in victimology studies etymologically derives from the Latin word *victima*, meaning victim, and *logos*, meaning science or study. Terminologically, victimology refers to the study that examines victims, the causes of victimization, and the consequences arising from victimization, which constitute a social reality concerning human beings.¹⁴

According to Muladi, victims are individuals or groups who have suffered harm, including physical, mental, emotional damage, or substantial impairment of their fundamental rights, as a result of acts or conditions that violate criminal law in a given country, including abuse of power.¹⁵

In relation to victims of crime, it is certain that their rights must be protected and guaranteed by the state. Accordingly, clear legal protection is required. The understanding of legal protection for victims can be divided into two models: the procedural rights model and the services model.¹⁶

- a. In this model, victims are granted the right to play an active role in the criminal justice process, such as the right to initiate criminal proceedings, assist the prosecutor, or be heard at every stage of the judicial process where their interests are involved. This includes the right to be consulted before conditional release (parole) is granted and the right to pursue reconciliation.
- b. This model establishes standard guidelines for the treatment and support of crime victims, which may be used by the police—for example, as guidance in providing assistance to victims—and by prosecutors in handling cases. It includes the provision of compensation as a restitutive criminal sanction and consideration of victim impact statements before sentencing. In this model, victims are regarded as specific subjects who must be served within law enforcement activities and criminal case resolution processes.

¹¹ Sarjono. DD., *Panduan Penulisan Skripsi*, (Yogyakarta : Jurusan Pendidikan Agama Islam, 2008), hlm. 20.

¹² Muladi, 1995, *Kapita Selekta Sistem Peradilan Pidana*, Semarang, BP UNDIP, hlm. 66

¹³ Muladi dan Barda Nawawi Arief, 1997, *Bunga Rampai Hukum Pidana*, Bandung, Alumni, hlm. 83.

¹⁴ Didik M.Arief Mansyur dan ElisatrisGultom, *Urgensi Perlindungan Korban Kejahatan: Antara Norma dan Realita*, Jakarta: PT. RajaGrafindo Persada, 2008, hlm. 73.

¹⁵ Muladi. *HAM dalam Perspektif Sistem Peradilan Pidana*, Semarang: Badan Penerbit UNDIP, 2002. hlm. 108.

¹⁶ Muladi, 1997, *Hak Asasi Manusia, Politik dan Sistem Peradilan Pidana*, Semarang, BP Undip, hlm. 178.

In practice, however, the implementation of protection under the Services Model is often not taken seriously. This is largely because the mindset of law enforcement officials still prioritizes retributive punishment, even though such a theory has gradually been abandoned.

Under the positive law applicable in Indonesia, several regulations accommodate the rights that must be granted to victims of criminal acts. Within the Indonesian Criminal Procedure Code (KUHAP), this is regulated in Article 98 paragraph (1), which stipulates that if the act forming the basis of an indictment in a criminal examination before a district court causes harm to another person, the presiding judge, upon the request of the injured party, may decide to merge a civil claim for damages with the criminal case.

Meanwhile, under the Indonesian Criminal Code (KUHP), the provision of compensation to victims is regulated in Articles 14a–14f.

Article 14a of the Criminal Code (KUHP)

1. If a judge imposes a sentence of imprisonment of not more than one year or confinement (excluding substitute confinement), the judge may order in the decision that the sentence need not be served, unless at a later time a court decision determines otherwise, due to the convicted person committing a criminal offense before the probation period specified in the order expires, or because during the probation period the convicted person fails to comply with any special conditions stipulated in the order.
2. The judge also has the same authority, except in cases concerning state revenue and state leases, when imposing a fine, provided that it is evident that the fine or confiscation that may also be ordered would be excessively burdensome for the convicted person. In applying this paragraph, narcotics-related crimes and violations are considered cases concerning state revenue only if, when a fine is imposed, the provisions of Article 30 paragraph (2) are not applied.
3. Unless otherwise determined by the judge, the order regarding the principal punishment also applies to additional penalties.
4. The order shall not be given unless the judge, after careful examination, is convinced that sufficient supervision can be carried out to ensure compliance with the general condition that the convicted person will not commit another offense, and with any special conditions if imposed.
5. The order referred to in paragraph (1) must include the reasons or circumstances forming the basis of the order.

Article 14b of the Criminal Code (KUHP)

1. The probation period for crimes and violations under Articles 492, 504, 505, 506, and 536 shall be a maximum of three years, and for other violations a maximum of two years.
2. The probation period begins when the judgment has obtained permanent legal force and has been notified to the convicted person in accordance with the procedure prescribed by law.
3. The probation period shall not be calculated during any lawful detention of the convicted person.

Article 14c of the Criminal Code (KUHP)

1. In the order referred to in Article 14a, except when a fine is imposed, in addition to stipulating the general condition that the convicted person will not commit another offense, the judge may impose a special condition requiring the convicted person, within a specified time shorter than the probation period, to compensate wholly or partially for the damage caused by the offense.
2. If the judge imposes a sentence of imprisonment exceeding three months or confinement for violations under Articles 492, 504, 505, and 536, other special conditions concerning the conduct of the convicted person during the probation period or part thereof may also be stipulated.
3. The above-mentioned conditions must not infringe upon the convicted person's freedom of religion or political freedom.

Article 14d of the Criminal Code (KUHP)

1. Supervision to ensure compliance with the conditions shall be entrusted to the public official authorized to execute the judgment, if at a later time an order to execute the sentence is issued.
2. If deemed necessary, the judge in the order may require a legal entity established and domiciled in Indonesia, the head of a shelter located therein, or a designated public official to provide assistance and support to the convicted person in fulfilling the special conditions.
3. Further regulations concerning such supervision and assistance, as well as the designation of institutions and heads of shelters authorized to provide such assistance, shall be regulated by law.

Article 14e of the Criminal Code (KUHP)

Upon the proposal of the public official referred to in Article 14d paragraph (1), or at the request of the convicted person, the judge who rendered the first-instance decision may, during the probation period, modify the special conditions imposed. The judge may also appoint another person in place of the originally appointed individual to provide assistance to the convicted person and may extend the probation period once, up to a maximum of one-half of the longest probation period that may be imposed.

Article 14f of the Criminal Code (KUHP)

1. Without prejudice to the provisions above, upon the proposal referred to in Article 14d paragraph (1), the judge who rendered the first-instance decision may order that the sentence be executed or may issue a warning to the convicted person if, during the probation period, the convicted person commits another offense resulting in a final conviction, or fails to comply with any of the stipulated conditions, or if before the probation period expires the convicted person receives a final conviction for an offense committed prior to the commencement of the probation period. When issuing a warning, the judge must also determine the manner in which the warning shall be given.
2. After the probation period has expired, an order to execute the sentence may no longer be issued unless the convicted person is prosecuted for an offense committed during the probation period and such prosecution results in a final conviction. In that case, within two

months after the conviction becomes final, the judge may still order the execution of the sentence for the offense committed during the probation period.

Reflecting on the above provisions, the imposition of a conditional sentence in a judicial decision is expected to create space for justice in accordance with the principle of balance.¹⁷ This is because the examination of a civil claim for damages may be combined with the criminal case, so that a judicial decision is not merely about winning or losing, but may also serve to restore justice.

The regulation concerning victims' rights is also stipulated in Undang-Undang Nomor 31 Tahun 2014 concerning Amendments to Undang-Undang Nomor 13 Tahun 2006 on the Protection of Witnesses and Victims. Within this law, the definition of a victim is clearly regulated in Article 1 paragraph (3), which states that a victim is a person who suffers physical, mental, and/or economic loss as a result of a criminal act. In its interpretation, the term "victim" referred to in this provision is not limited to individuals but also includes corporations. This definition is consistent with the understanding of victims according to the United Nations, which recognizes victims not only as individuals but also as groups of people, including communities and the state.¹⁸

The implementing regulations of the aforementioned law are provided in Peraturan Pemerintah Nomor 44 Tahun 2008 concerning the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims. The criteria for victims eligible to apply for compensation protection are regulated in Article 2 paragraph (1), which states that victims of gross human rights violations are entitled to compensation. Meanwhile, the right to restitution is regulated in Article 20 paragraph (1), which stipulates that victims of criminal acts are entitled to restitution.

The Urgency of Reconstructing the Protection of Crime Victims from a Victimological Perspective in Indonesia

Victim protection is a matter that must be advocated to ensure justice and legal certainty.¹⁹ At present, statutory regulations in Indonesia remain insufficiently integrated, and there is no unified framework governing victim protection. This condition may undermine the certainty of legal protection for victims, as each statutory regulation establishes its own standards and mechanisms.

The provision of compensation to victims of criminal acts remains highly limited. Based on Peraturan Pemerintah Nomor 44 Tahun 2008 concerning the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims, Article 2 paragraph (1) stipulates that victims of gross human rights violations are entitled to compensation. This provision may be interpreted to mean that victims of criminal acts outside those specified categories are not entitled to apply for compensation. Such a limitation is clearly unjust, considering that not all perpetrators have the financial capacity to provide restitution to victims. On this basis, the state should assume responsibility for providing compensation to other categories of crime victims as well.²⁰

It is also necessary to strengthen law enforcement officials in undertaking measures that ensure legal protection for crime victims. This includes the willingness to combine civil claims for damages

¹⁷ Andi Maysarah, Mekanisme Ganti Kerugian Terhadap Korban Tindak Pidana, Vol 13, jurnal dharmawangsa, 2019, hlm. 13.

¹⁸ Adil Lugiarto, Rekonstruksi Perlindungan Hak-Hak Korban Tindak Pidana, Vol 43, ejournal.undip, 2014, hlm. 2

¹⁹ Hariyanto and Ahmad Rezy Meidina, Decentralization and the Fulfilments of Children's Rights: Challenges and Opportunities for Local Government in Indonesia. (2024). *Lex Scientia Law Review*, 8(2), 677-706. <https://doi.org/10.15294/lslr.v8i2.14373>

²⁰ Bamja, F. (2023). HELP AND LEGAL PROTECTION OF CRIME VICTIMS. *KNOWLEDGE - International Journal* , 57(1), 209-213. Retrieved from <http://ojs.ikm.mk/index.php/kij/article/view/5992>

with criminal proceedings. In contemporary practice, there is a general perception that the criminal justice system—both in terms of legislation and in the processes of investigation and prosecution—often operates without clear guidelines and lacks rationality and effectiveness. Therefore, reconstruction is essential to establish a more coherent, just, and victim-oriented criminal justice system.²¹

Conclusion

Legal protection for victims in Indonesia has experienced significant development in recent years. This progress has been driven by the growing recognition and adoption of victimological perspectives within the criminal justice system. Victimology is the study of crime victims, including the causes, impacts, and processes of recovery. The victimological perspective emphasizes the importance of paying attention to and protecting victims, rather than focusing solely on perpetrators. Several advancements in legal protection for victims in Indonesia include the enactment of Undang-Undang Nomor 13 Tahun 2006 on the Protection of Witnesses and Victims and its amendment through Undang-Undang Nomor 31 Tahun 2014, which grant fundamental rights to victims, such as the right to restitution, compensation, rehabilitation, and protection. In addition, the establishment of the Lembaga Perlindungan Saksi dan Korban (LPSK) plays a crucial role in providing protection and assistance to witnesses and victims. Various programs and services have also been developed to support victims, including legal aid services, mental health services, and vocational training programs.

Despite these advancements, several challenges remain in the implementation of legal protection for victims in Indonesia. These include a limited understanding of victimology among law enforcement officials and the general public, insufficient resources to provide comprehensive protection and assistance, and persistent stigma and discrimination against victims, particularly victims of sexual crimes. To address these challenges, various efforts are necessary, such as enhancing education and socialization on victimology for law enforcement officials and the broader community, increasing budget allocations for victim protection programs and services, and fostering a more supportive and victim-friendly culture. Legal protection for victims constitutes one of the fundamental pillars of a just and victim-oriented criminal justice system. By continuously strengthening efforts to protect victims' rights, it is hoped that victim recovery can be facilitated and the risk of re-victimization can be prevented.

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²¹ Agus Irawan Yustisianto, Sri Endah Wahyuningsih, Anis Mashdurohatun (2022). Reconstruction of Legal Protection Regulations against Victims of Crime of Household Violence Based on Justice Value. *Sch Int J Law Crime Justice*, 5(12): 513-519. 10.36348/sijlcj.2022.v05i12.001

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