

**LEGAL STUDY ON THE STATUS AND RIGHTS OF
CRIME VICTIMS IN THE INDONESIAN CRIMINAL
JUSTICE SYSTEM**

Adinda Christina Deny

Swadaya Gunung Jati University, Cirebon, Jawa Barat, Indonesia

Email dindachristina3268@gmail.com

Abstract

Background. The principle of presumption of innocence, from a legal and investigative standpoint, is an application of the *acquisitoir* principle. This principle positions a suspect as a subject, rather than an object, of the investigation. It means that a suspect must be treated with respect, dignity, and self-worth.

Objectives. Based on this context, this research aims to answer the following questions: How is the presumption of innocence applied during the investigation process at the Kuningan Police Station? What are the supporting and hindering factors in its implementation?

Methodology. This study employs a normative juridical approach. The initial step involves a fundamental legal inventory of positive law. This is followed by a systematic analysis of the legal framework to identify core concepts and legal principles. The research also examines legal principles that guide the application of sanctions and the fundamental principles of criminal law.

Results. The findings show that police investigators at the Kuningan Police Station have applied the presumption of innocence, though not yet optimally. The principle's presence in law enforcement is vital.

Conclusion. The Indonesian Criminal Procedure Code (KUHAP) has established a set of rights that law enforcement officials must respect and protect. The presumption of innocence is a cornerstone of a fair legal process (*due process of law*). This includes: a) protection from arbitrary actions by state officials; b) the right of a court to determine guilt; c) the requirement for open, non-secret trials; and d) the guarantee that suspects and defendants are given a full opportunity to defend themselves.

Keywords: Indonesian Criminal Code, Presumption of Innocence.



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INTRODUCTION

A victim of a crime is an individual who suffers physical, psychological, or material harm as a result of a criminal act. However, the legal protection afforded to victims is often not on par with the protection given to the perpetrators. In many cases, victims are neglected throughout the legal process.

Although victims are the parties who suffer the most, they do not receive as much legal protection as criminals. After a perpetrator is sentenced, the victim's situation is often completely disregarded. Justice and human rights should not only apply to the perpetrator but to the victim as well. According to the 1945 Constitution of the Republic of Indonesia, "All citizens are equal before the law and government and are required to uphold the law and government without exception." Furthermore, Law No. 27 of 2004 on the Commission for Truth and Reconciliation defines a victim as "an individual or group of people who experience physical, mental, or emotional suffering, economic loss, or neglect, reduction, or deprivation of their basic rights."

The concept of a crime victim is dynamic and has evolved with the increasing variety and complexity of crimes. The discourse surrounding victims has expanded to include political, social, economic, and human rights issues, as highlighted by Mardjono Reksodiputro (2004).

In the criminal justice system, the victim is often considered part of private law and not fully integrated into criminal law as a matter of public law. While the actions of police, prosecutors, and judges are for the public interest, they should also serve the victim's interests. Unfortunately, the position of victims in the Indonesian criminal justice system is not yet equitable and is often overlooked. The legal framework tends to be "offender-oriented," focusing more on protecting the rights of the accused (Reksodipoetro, 2004).

This situation can lead to a lack of legal protection for victims and court decisions that fail to provide a sense of justice for the victim, the perpetrator, or the public. The criminal justice process, which culminates in a judge's verdict, often overlooks the victim's needs. All parties involved, police investigators, public prosecutors, legal counsel for the accused, and witnesses, tend to focus on proving the charges against the suspect. The legal process becomes a matter of whether the suspect's actions fit the legal definition of the crime they are accused of. In this process, the goal of finding the most complete material truth and protecting human rights is not fully achieved.

METHOD

This study will use a normative juridical approach. This method is centered on the analysis of legal norms, principles, and positive law. The research will begin with a foundational legal inventory to identify and categorize all relevant legal provisions. This will be followed by a systematic examination of the legal framework to find core concepts within the law. The study will also investigate the legal principles that guide the application of

sanctions and the fundamental tenets of criminal law.

To gather this information, the author will conduct library research, consulting various sources, including:

- Laws and regulations
- Academic literature
- Expert opinions
- Newspapers

The goal of this library research is to collect theories and concepts that are directly related to the research problem.

DISCUSSION

Defining Crime and Punishment

In general, punishment can be defined as a form of suffering intentionally inflicted by the state upon an individual or individuals as a legal consequence of violating a criminal law. This specific violation is referred to as a criminal act (*strafbaar feit*). According to Simons, as cited by P.A.F. Lamintang (2004), punishment is suffering that is legally linked to the violation of a norm and imposed by a court's verdict on a guilty person.

The term "pidana" comes from the Dutch word *straf*, meaning punishment. However, some scholars, such as Mulyatno (Effendy, 2005), prefer the term "pidana" over "hukuman" (sentence), arguing that the latter has a broader meaning, encompassing civil and administrative court decisions.

Based on these definitions, punishment contains the following core elements (Muladi, 2005):

1. It is fundamentally the imposition of suffering or an unpleasant consequence.
2. It is intentionally administered by an authorized person or body.
3. It is applied to an individual legally responsible for a criminal act.

Understanding the Concept of a Victim

The Indonesian dictionary defines a victim as someone who suffers (or dies) as a result of an event or a malicious act. Arief Gosita (Sunarso, 2015) elaborates, defining victims as individuals who endure physical and psychological suffering due to the actions of others who seek to fulfill their own interests. Similarly, Abdussalam describes a victim as a person who suffers physical or mental harm, property loss, or death due to a minor offense or another criminal act.

The term "victim" is not limited to individuals; it can also refer to groups of people,

communities, or even legal entities. In certain cases, like environmental crimes, other forms of life can also be victims. However, the scope of this discussion is limited to human victims. Criminology shows that crime originates from and is sustained by society itself, which provides opportunities for crime and bears its consequences. Crime is not only committed by the poor or uneducated; it can also be carried out by people in high social, economic, and political positions. Victims play a crucial role in the occurrence of a crime, sometimes as significant as the perpetrator's. As Samuel Welker suggests, the relationship between a victim and an offender is one of cause and effect.

Some examples of victim behavior that can contribute to a crime include:

1. Provocation: The crime may be initiated by the victim's own actions, such as a collaboration that leads to a loss they would not have suffered otherwise (Hermitadi, 2009).

The Marginalization of Victims in the Legal System

The Indonesian Criminal Procedure Code (KUHAP), implemented in 1981, has significantly improved the protection of the rights of perpetrators. While this was a positive step toward preventing violations during the legal process, the same level of protection was not extended to victims. As a result, the KUHAP is often seen as more offender-oriented than victim-oriented (Parman, 2006). This is a serious concern, as everyone is equal before the law and deserves the same protection without discrimination. Victims who have suffered loss or harm should have the right to justice, even if the perpetrator cannot be punished. Restitution, for instance, could be a form of compensation that is highly beneficial to victims and their families, but it is not explicitly regulated. This lack of explicit regulation shows that victims are often forgotten in the legal system.

The KUHAP's offender-centric approach is apparent in several key areas. First, the general provisions in Chapter I of the KUHAP, which contain 32 definitions related to the legal process, do not include a single definition for "victim." Second, Chapter VI, which focuses on the rights of suspects, is filled with articles dedicated to protecting the human rights of offenders.

Legal protection for victims has historically relied on the Indonesian Criminal Code (KUHP) and the KUHAP as a procedural law. The victim's status in the KUHAP is not optimal compared to that of the perpetrator. The KUHP does not have clear provisions that directly mandate legal protection for victims, such as requiring judges to consider the impact of the crime on the victim or their family during sentencing. The KUHP also doesn't define restitution

as a type of punishment, which would be very useful for victims. Furthermore, the Indonesian legal system follows a neo-classical approach, which allows for mitigating circumstances based on the perpetrator's physical, environmental, and mental state, further shifting the focus away from the victim.

CONCLUSION

1. **Status and Rights of Victims:** Within the criminal justice system, victims of crime have the right to report a crime and the obligation to act as witnesses, as stated in Article 108 (1) of the KUHAP. Victims also have the right to file for compensation through criminal proceedings under Article 98 (1) of the KUHAP. Beyond these provisions, the rights of victims are further regulated by specific laws, such as Law No. 31 of 2014 on Witness and Victim Protection.
2. **Limitations in Positive Law:** The status and rights of crime victims in Indonesian positive law, particularly within the Indonesian Criminal Code (KUHP), are quite limited and fragmented. Victims are only granted the right to compensation, and the existing regulations do not provide adequate access for victims to fully obtain their rights. This lack of comprehensive legal framework highlights the need for stronger victim-oriented legal reform.

IMPLICATION

1. **Integrated Victim Protection Mechanism:** It's imperative to establish an integrated victim protection mechanism within the criminal justice system. All law enforcement bodies, including the police, prosecution, and courts, should actively collaborate to provide comprehensive protection for crime victims. This integrated approach would ensure a consistent and supportive process for victims from the initial report to the final verdict.
2. **Increased Awareness of Victim Rights:** It is essential for crime victims to understand how to claim their rights. A clear understanding of the applicable legal provisions is crucial for victims to effectively and efficiently exercise their rights. Ensuring that these rights are met objectively and without bias is a key goal that all parties involved in the legal process should strive for.

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