

International Journal of Judicial Law

Legal defense in criminal law for victims of victimization

Akhwan Nadzirin

Postgraduate Program in Doctor of Law University of 17 August 1945 Semarang, Indonesia

* Corresponding Author: **Akhwan Nadzirin**

Article Info

ISSN (online): 2583-6536

Volume: 03

Issue: 02

March-April 2024

Received: 15-01-2024;

Accepted: 17-02-2024

Page No: 05-06

Abstract

Crime victims' legal protections must be promptly implemented. maximum. Victims still have rights that need to be upheld in their implementation, even while they are involved in the crime. Victims' rights should be honored as fellow members of society and as human beings. Similarly, those who commit crimes and are victims of vigilantism are the same as those who are victims of crime; both groups have rights. Safeguarded.

Keywords: victimization, defense, legal, criminal, law

Introduction

Benjamin Mendhelsohn, a Romanian lawyer, employed victimology for the first time in 1947. The science of victims is how victimology is defined here. Making the most accommodations possible in an attempt to get rights commensurate with the victim's experiences as a result of the perpetrator's illegal act is imperative, as the victim is prohibited from participating in the criminal justice system ^[1].

The state, through law enforcement authorities and other organs, has the power or ability to inflict crimes (*ius puniedi*) under the criminal justice system, which is based on criminal law and criminal procedural law. If a crime is committed, the offender will face criminal penalties as part of the legal system's punishment. With criminal convictions against offenders, the state inevitably represents victims and society.

When they see law enforcement, some people recognize that justice has not been applied to the fullest extent possible. This is due to the fact that many people continue to break the law. This also applies to acting violently against those who commit crimes. Vigilantism, also known as *eigenrighting*, is the community's manifestation of violent conduct. The reason the community does this is because, in their eyes, it is a kind of punishment meted out to criminals before they are really punished by the state through trials, preventing illegal behavior from happening again and serving as a lesson.

Even though victims contribute to crimes, they still have rights that must be upheld when law enforcement is conducted. The rights of victims should be respected in the same way as other members of society. The rights of crime victims also apply to perpetrators of criminal acts who are also victims.

Problem Formulation

What is the form of legal defense under criminal law for victimization victims?

Purpose

The purpose is to clarify how criminal law provides victims of vindication with legal protection.

Discussion

The current criminal code gives perpetrators more protection than it does for victims; hence, the goal of victim justice has not yet been fulfilled. This victim feels forgotten, despite the fact that they ought to have the legal protection that is guaranteed to every individual who is a subject of the law.

1. Janet K. Wilson, *The Praeger Hand Book of Victimology* (California, 2009).

In actuality, victims lose their opportunity to participate in their own cases since criminal justice systems frequently do not include them in the trial process. In addition, Benjamin Mendhelson claims that the system disregards, denigrates, and even places the blame on the victims^[2].

As a result, the victim suffers victimization twice, as indicated by Ellias' claim that there have been two victimizations in the criminal justice system and Nils Christie's assertion that the victim encounters the criminal justice system twice^[3].

Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims provides legal protection for victims in Indonesia; nonetheless, the regulation is thought to fall short of meeting the needs of victims' rights. Furthermore, the Criminal Code does not directly or adequately address the concerns of victims in terms of their legal protection or that of their families. This Criminal Code should include provisions governing the payment of criminal compensation to victims in addition to regulating more illegal activities, culpability, and threats. Additionally, the Indonesian Code of Criminal Procedure makes greater provisions for offenders than for victims.

The Criminal Procedure Code and Law Number 22 of 2022 regulating corrections are similar in that the focus is mostly on the offender and does not take into account the victim's perspective. Article 9 of the Correctional Law, which governs the rights acquired by the offender, makes this clear. It says as follows:

- a. carry out worship in accordance with religion or Trust;
- b. get treatment, both physical and spiritual;
- c. get education, teaching, and activities recreational and development opportunities potential;
- d. get health and food services appropriate according to nutritional needs;
- e. obtain information services;
- f. get legal counseling and assistance law;
- g. submit complaints and/or complaints
- h. Get reading materials and follow broadcasts Unbanned mass media
- i. Receive humane treatment and protected from acts of torture, exploitation, neglect, violence, and all actions that physical and mental harm
- j. Obtain job safety guarantees, wages, or premiums of working results
- k. Obtaining social services; and
- l. Accept or refuse visits from family, advocates, mentors, and the community

The above article's explanation demonstrates how the victim is not given any attention. These funds are the work of prisoners who are serving jail sentences and are intended to be paid to their victims, in contrast to the American system of imprisonment, where victims receive attention because they have the right to receive reparation payments from offenders^[4].

The goal of Law Number 31 of 2014 concerning the Protection of Witnesses and Victims is to protect victims of victimization in order to facilitate the smooth operation of the legal system. According to Article 4, the goal of victim and witness protection is to give victims and/or witnesses a sense

of security when they testify in any criminal court proceeding. Next, pursuant to Article 7, paragraph 1, victims via the LPSK are entitled to provide to the court in the following formats:

- a. The right to compensation in cases of gross human rights violations
- b. Ha katas restitution or compensation that is the responsibility of the perpetrator of the criminal act.

Regarding the protection of witnesses and victims, Law Number 31 of 2014 superseded Law Number 13 of 2006. Legal protection for victims is here equated with the general witness rights found in Article 5, paragraph 1, and other rights, such as medical help and psychosocial and psychological rehabilitation assistance, are included in Article 6. These additional rights are meant for victims of severe persecution, victims of torture, victims of sexual violence, victims of terrorism, victims of trafficking, and victims of flagrant abuses of human rights.

Closing

Conclusion

Because Indonesian laws and regulations place a greater emphasis on pursuing criminals than on providing complete legal protection for victims of victimization, victims' roles in the criminal justice system have not been fully realized.

Suggestion

Law enforcement personnel should provide victims of criminal actions with a position larger than the state. Regulations are currently paying more attention to the rights of suspects. The ADR (alternative dispute resolution) procedure is used to safeguard victims by taking strong action against the offenders.

References

1. Janet K. Wilson. *The Praeger Hand Book of Victimology* (California, 2009).
2. ANGKASA, *Viktimologi*, ed. Yusuf Saefudin Ogiandhatic Juanda (Depok: PT Raja Grafindo Persada, 2020)
3. ANGKASA. *Viktimologi*, ed. Yusuf Saefudin Ogiandhatic Juanda (Depok: PT Raja Grafindo Persada, 2020).
4. John Harding, *Victims and Offenders Needs and Responsibilities* Bedford Square Press, 1982.
5. Undang-Undang Dasar Republik Indonesia.
6. Kitab Undang-undang Hukum Pidana
7. Undang-Undang Nomor 22 Tahun 2022 Tentang Pemasarakatan
8. Undang-Undang Nomor 31 Tahun 2014 Tentang Perkebunan, Lembaran Negara Republik Indonesia Tahun 2014 Nomor 308, Tambahan Perlindungan Saksi dan Korban.

2. ANGKASA., *Viktimologi*, ed. Yusuf Saefudin Ogiandhatic Juanda (Depok: PT Raja Grafindo Persada, 2020)

3. J ANGKASA., *Viktimologi*, ed. Yusuf Saefudin Ogiandhatic Juanda (Depok: PT Raja Grafindo Persada, 2020)

4. John Harding, *Victims and Offenders Needs and Responsibilities* (Bedford Square Press, 1982)