

Upaya ganti kerugian bagi korban tindak pidana di Indonesia (studi pemenuhan ganti rugi bagi korban dalam Putusan Pengadilan) =
Compensation means for victims of crime in Indonesia (studies of compensation fulfillment for victims in Judicial Order)

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Abstrak

Korban tindak pidana adalah pihak yang mengalami penderitaan fisik, mental, maupun kerugian ekonomi. Namun dalam sistem hukum pidana yang berlaku saat ini, korban tindak pidana dihadirkan dalam persidangan sebagai alat bukti. Dalam hal ini, perlu diketahui: 1) pengaturan perlindungan korban tindak pidana dalam ketentuan perundang-undangan di Indonesia, 2) mekanisme ganti rugi bagi korban tindak pidana, dan 3) regulasi mengenai upaya pengembalian kerugian bagi korban tindak pidana di masa mendatang. Penelitian ini bersifat normatif. Hasil penelitian menunjukkan: 1) Indonesia sudah memiliki beberapa undang-undang yang memuat perlindungan bagi korban tindak pidana. Namun perlindungan tersebut belum mencakup pemberian peran dan kesempatan yang adil bagi korban tindak pidana dalam persidangan; 2) Korban tindak pidana bisa mendapatkan ganti kerugian melalui mekanisme peradilan perdata, penggabungan perkara gugatan ganti kerugian, serta restitusi dan kompensasi yang dalam mekanismenya, terdapat ketergantungan dengan penuntut umum; 3) Regulasi masa mendatang dapat mempertimbangkan untuk menyisipkan Victim Impact Statement di dalam prosedur peradilan pidana, memberntuk aturan mengenai prosedur lanjutan tersendiri untuk pidana tambahan pembayaran ganti kerugian (Pasal 66 ayat (1) RKUHP), serta memberikan kompensasi bagi korban tindak pidana yang tidak terbatas pada tindak pidana pelanggaran HAM berat dan terorisme.

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A victim of crime is a person who suffers from physical pain, mental suffering, and/or financial loss. However, based on the criminal law system (i), a victim is presented in a trial as an evidence. Therefore, the purposes of this research are: 1) to know the protections given for a victim based on regulations that applies in Indonesia; 2) to understand the mechanism of compensation for victims of crime; and, 3) to discover how the regulation of returning the loss on account from a criminal act should be in the future. This research is a normative reasearch. From this research, it is known that: 1) Indonesia already has some regulations that accommodate criminal victim protection. Nonetheless, the protection to give criminal victim a much fair and appropriate place in a trial is still not covered, 2) A victim has the chance to get the return of losses happened because of the criminal act by making a sure through a civil law procedure, the merger of lawsuit in a criminal case, and also restitution and state compensation which theres a dependency towards public prosecutors roles; 3) future legislation might considered to input Victim Impact Statement into the criminal justice procedure, establish specific arrangement relating to the continuation of how restitution as additional criminal sanction (Article 66 section (1) RKUHP) implemented, along with providing state compensation that isnt limited for victims of gross violation of human rights and terrorism.