



## The urgency of law and health in the formation of the medical rehabilitation and education center of crime victims<sup>☆</sup>



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### KEYWORDS

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### Abstract

**Objective:** Important to conduct a scientific study of for empirical reality of the crime victims, that used as benchmark in achieving objectives of criminal law for the protection of: victims' rights both physical and psychological, justice for crime perpetrators, the effectiveness of the justice system function, also crime prevention efforts.

**Methods:** This institutional instrument dealing with victims and showed importance in a practical and theoretical manner in criminal law.

**Results:** The MREC can be formed under the Ministry of Law and Human Rights as one of the sub-unit. When MREC has been established in the Ministry of Law and Human Rights with functions to restore and to counsel, then technically it can be collaborated with various parties including the Ministry of Health to provide physical and psychological health services due to traumatic experiences, cooperation with Legal Education Institutions in Higher Education through the empowerment of Legal Clinics in each law faculty in providing legal understanding of victim crime with stimulant role.

**Conclusions:** it is very important to establish the Medical Rehabilitation and Education Center with the main task of medical rehabilitation and the counseling of crime victims. The establishment of the MREC at the Ministry of Law and Human Rights is urgent in fostering the coordination of various parties relevant to the implementation of MREC.

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## Introduction

Victimology scientific study of crime victims has opened new horizons of thought that the reality of crime cannot only be viewed from a simple angle without taking into account the role of the victim, the suffering of the victim in any criminal event. Since the beginning of its development, victimology together with criminology has begun to play a role in improving the concept of classical thinking about criminal law and crimes.

Initially, criminal law only positioned the victim as a witness (evidence) in criminal procedural law even though it was more than that, in subsequent developments, besides the protection of the rights of the victims in the form of physical and psychological recovery, the empirical reality of the victim could be widely studied both regarding efforts to deal with crime more effectively and so on. As stated by Rena Yulia the benefits of the study of crime victims are related to efforts to defend the rights of victims and their legal protection, the explanation of the role of victims in a crime, and also related to the prevention of crime victims.<sup>1</sup>

The study of victimology must be developed toward rational thinking about the nature of crime. In reality, the concept of criminology is developed more theoretically and practically than victimology. The concept of thinking about efforts to prevent crime is more oriented to the perpetrators of crimes through the development of criminological theories about the causes of crime and the development of patterns of counseling perpetrators in correctional institutions to avoid repetition of criminal acts (recidivist). This phenomenon is less favorable for the crime prevention policy efforts, because the elements of victims are not counted as one of the *criminogen* factors that must be addressed and received special attention. Additionally, the rights of the victims to recover physical and psychological health due to the crime need serious attention by the government as a form of policy from the perspective of restorative justice.

Based on the phenomenon mentioned above, it is important to conduct a scientific study of for empirical reality of the crime victims, that used as benchmark in achieving objectives of criminal law for the protection of: victims' rights both physical and psychological, justice for crime perpetrators, the effectiveness of the justice system function, also crime prevention efforts. This institutional instrument dealing with victims and showed importance in a practical and theoretical manner in criminal law.

## Discussion

### Criminal system and victim

The study of crime develops realistic and comprehensive after the thoughts about the existence of different elements that support the occurrence of crime, particularly the role of victims in the complex situation of the crime. Victims are not only the cause and basis of the crime process, but it also plays an important role in the search for truth as an effort to understand the problem of crime. The role of victims in the occurrence of crimes can be either active or passive participants, either play a role in a conscious or unconscious state,

either directly or indirectly, all depending on the situation and conditions at the time the crime took place.<sup>2</sup>

Jackson, J. dan Gouseti, I. stated.<sup>3</sup>

Violent crime can also cause victims to feel a sense of uncertainty and disempowerment and to feel more vulnerable, leading to high levels of worry about personal safety.

The concept must be practically used as a benchmark in taking effective efforts to prevent crimes and other legal policies. The role of the victims is not just a matter of understanding the reality of crime but this phenomenon will further important in the instrument of criminal law objectives for achieving legal certainty, justice, and expediency.

Essentially, the purpose of studying crime and the role of victims is to eradicate crime in order to create a safe and prosperous society, although practically W. M. E. Noach stated that<sup>4</sup>:

...crime as a social phenomenon cannot be completely removed from social life and that may only reduce its frequency. Various government policies have been carried out to prevent the occurrence of crimes, including the improvement and welfare of the community, fostering awareness and obedience of the community's law, to the enhancement of the role of correctional institutions in providing counselling and resocialization to prisoners and recidivist as the purpose of the criminal justice system. Mental, skills, spiritual and community development is carried out in correctional institutions for prisoners in the hope that prisoners can return to the community to become fully productive people, and no longer conduct negative things that may harm others later after undergoing this counselling program.

Norris, F. H., & Kaniasty, K. urged<sup>5</sup>:

Violent victimization has also been found to be linked to the development of symptoms of fear, anxiety, depression or confusion.

To overcome the victim situation, the legal system formulate the mechanism nor on the consultation program or more comprehensive on the education and rehabilitation. This, in line with the objectives of the Criminal Justice System which constitutes one of the tools in overcoming crime with the aim of preventing people from becoming victims of crime, resolving crime cases so that the satisfied community that justice has been upheld, and ensuring that those who have committed crimes not to repeat the crime again.<sup>6</sup>

The comprehension of the three legal objectives to be achieved from the Criminal Justice System will not be accomplished if the benefits of the victimology itself are be put in policy criminal law. Criminology has contributed on government policy thoughts about the reasons why perpetrators commit crimes that practically used it on effective remedy to rehabilitate the perpetrators. Government provides a counseling program and correctional institutions. Whereas, there is no institution that can accommodate the role of victims formed by the government, which results in the simultaneous factor of victims continues to play a role. The reality that the ex-convicts have returned to society after serving their convictions still has high possibility on committing other criminal offenses. There is no denying that crime not only begins with the intention factor of the

perpetrators, but the intention can also arise when there are opportunities which played out by victims, situations, and conditions. Whatever the condition of the perpetrators if the victim continues to play role as a *victimogen* factor, crime cannot be avoided. One of the essays written by John S. Carrol mentioned that an act of crime is the realization of the decisions that have been taken by the perpetrators of crime.<sup>7</sup> The consideration of the perpetrators whether to commit a crime or not is influenced by how much profit and loss he will get if he decides to do so and who is the victim by looking at the reality of the victim's role. Several empirical realities illustrate this phenomenon, criminal acts of theft with violence against victims who wear jewelry where they should not (in the traditional market), victims of motorcycle theft who parked carelessly, victims of online commerce fraud for being deceived by misleading advertisements, etc.

Such phenomenon illustrates the importance of the role of victims and discourse on the establishment Medical Rehabilitation and Education Center (hereafter MREC) in understanding the problem of crime, fulfillment of victims' rights and efforts to deal with criminal acts.

### The urgency of the establishment of the Medical Rehabilitation and Education Center (MREC)

The MREC by the government carries two main missions, namely Medical Rehabilitation and Crime Victims Education. These are not merely seen as an effort to provide services for the fulfillment of the victims' rights but furthermore the broad benefits for the interests of criminal law and criminology. This rehabilitation and education center is a place to restore the physical, psychological, and mental health of victims as well as a form of efforts to reduce crime rates. This, also prevent people from becoming victims of crime with integrated, effective, and efficient programs. Based on that, urgency of establishing this institution with objectives:

#### 1. As a Medical and Psychological Rehabilitation Center for Crime Victims.

In Indonesia victims of violence do not have access to adequate health recovery of physical and psychological. The Indonesian Witness and Victim Protection Agency (WVPA/LPSK) has not touched the essential aspects of the urgency of victims' overall recovery, not given the protection and service of victims of crime depend on certain conditions, make many victims of violent crime bear their own medical treatment costs. The hospital appointed by the government for medical examinations of crime victims also not covered the urgency of victims' overall recovery because the target of the examination is only for the benefit of *visum et repertum* or crime evidence.

From a legal standpoint, it can be said that the recovery of the physical and psychological health of crime victims impacts the effectiveness of the diversion program in the juvenile justice system. Diversion refers to diverting the settlement of accused child outside formal criminal justice procedure by instilling the values of restorative justice. Diversion, as stated in Article 9 paragraph (2) of Law No. 11 of 2012, that the diversion agreement must obtain the victim's consent. Victim consents as requirement to recover

psychological aspects that is the goal of the juvenile criminal justice system. The criminal justice system supports that children who become perpetrators, victims and witnesses in litigation mechanisms are protected psychologically. With the recovery of the victim's psychological condition and understanding of the benefits of diversion, victim consent to start the diversion process can be easily obtained.

It would be difficult to obtain the victim's consent for diversion if the victim is still in a traumatic condition and had not yet received psychological recovery and counseling, instead there is a sense of revenge against the perpetrators and the access to mediation outside the court would be difficult to achieve. This condition will also hinder the diversion program as mandated in the Law of Juvenile Criminal Justice System.

Besides, psychological recovery is useful as a means of generating a sense of confidence and a sense of responsibility toward crime victims in an effort to fulfill their obligation as victim witnesses in criminal cases.

#### 2. As an Education Center for Crime Victims

This facility helps to support the government's efforts to tackle crimes by providing understanding, guidance, and training to the community, potential victims of crime, and to recidivist victims who have repeatedly become crime victims, so that they can avoid being victims of crime again in the future.

Furthermore, MREC also functions as a means or a tool that plays a role in the criminal justice system in an effort to provide justice for criminals through judge decisions by considering the results of the Victim Research Report conducted by the Victim Community Researcher about victim's role, victim's suffering and recovery which will be read out before the trial.

United Nation Convention Against Torture Initiative<sup>8</sup>:

Rehabilitation helps torture victims rebuild their lives through a combination of services, including medical, psychological, legal and social support. It is a process that supports the agency of victims and empowers them. It also takes into account individual needs and identities, as well as the cultural, social and political background and specific environment.

The MREC can also be used as a system to collect data on crime victims so that it can support scientific research from the aspect of victims and criminology. The MREC as an institution that provides understanding to the public to be more careful and in preventing with providing counseling to collaboration with stakeholders.

As recommendation, the MREC can be formed under the Ministry of Law and Human Rights as one of the sub-unit. When MREC has been established in the Ministry of Law and Human Rights with functions to restore and to counsel, then technically it can be collaborated with various parties including the Ministry of Health to provide physical and psychological health services due to traumatic experiences, cooperation with Legal Education Institutions in Higher Education through the empowerment of Legal Clinics in each law faculty in providing legal understanding of victim crime with stimulant role. All of this collaboration is for

strengthening protection and recovery for victims, and preventing the crimes.

## Conclusions

The legal and health dimensions of victims of crime are two things that influence each other in efforts to recover victims as well as being very urgent for criminal law enforcement, in this case diversion of juvenile cases as regulated in Law No.11 of 2012 concerning Juvenile Criminal Justice System requires psychological recovery for the victims so that the victims have the maturity and mental reinforcement to be able to give diversion approval. For this reason, it is very important to establish the Medical Rehabilitation and Education Center with the main task of medical rehabilitation and the counseling of crime victims. Likewise, this unit is very important as a means in the judiciary that provides victims' community research to be used as a basis for policy making in judges' decisions. Moreover, MREC is beneficial for comprehensive crime prevention efforts. On the government and other legal actors and regulators, must review the Legal and Health Policy of crime victims for the sake of upholding the victims' rights and for the sake of criminal law enforcement. The establishment of the MREC at the Ministry of Law and Human Rights is urgent in fostering the coordination of various parties relevant to the implementation of MREC.

## Conflict of interest

The authors declare no conflict of interest.

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