



Victim Protection Against Acts of Fraud on the Phenomenon of Coldplay Concert Jakarta Victimology Perspective

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Abstract

This research aims to analyze what are the factors of victimization of victims of fraud via social media and what forms of legal protection exist for victims of fraud via social media. This research is a type of normative legal research using a conceptual approach, a statutory approach, and a case approach. The Coldplay Jakarta concert acknowledged several problems during the concert, especially the ticket issue which was widely highlighted by netizens. Harry explained that the problem started because of the increasing number of spectators who bought tickets through brokers. This practice caused some tickets to become duplicates because they were held by more than one person. Regarding brokers or secondary ticketing, this is indeed one of the biggest and most difficult problems or challenges for us to face on concert days. In cases of online fraud, victims often demand more material compensation from the perpetrator to get their rights returned because of the losses suffered by the victim himself and the form of accountability of the perpetrator of online fraud. However, this has not been fully realized because no one has legally regulated how to compensate victims of online fraud themselves

Keywords: *Fraud; Victim Protection; Victimology*

Introduction

Fraud can be said to be a crime that is very close to people, not even a few people will realize that they have been cheated. Fraud as a crime is included in the group aimed at property rights and other rights arising from property rights or in Dutch called: "Misdrifven tegen de eigendom en de daaruit voortvloeiende zakelijk rechten (Crimes against property and rights arising from it)" (Suryanto, dkk., 2020).

This crime is regulated in Articles 378 to 394 of the Criminal Code (KUHP). Article 378 of the Criminal Code reads: "Any person who with intent to unlawfully benefit himself or another using a false name, false dignity, deceit or falsehood causes another person to easily surrender goods, money or property, shall, being guilty of fraud, be punished by a maximum imprisonment of four years".

In cases of online fraud, victims often demand more compensation in the form of material to the perpetrator to get their rights returned because of the losses incurred by the victim himself and the form of responsibility of the perpetrator of online fraud. However, this has not been fully realized because no one has legally regulated compensation to victims of online fraud itself (Kakoe et al., 2020).

The importance of compensation to victims of online transaction fraud is the achievement of victims' rights, which is one form of justice. In the ITE Law, it can be seen that there is only one main criminal article and criminal penalties given to the perpetrator but it does not explain how protection for victims, what kind of protection the victim can get after the case is over with material and immaterial losses suffered by the victim.

Compensation for victims who are harmed is legal protection for victims where victims can get certainty, victims are not only protected by legal witnesses but how to achieve their rights of victims afterward. Compensation itself only exists in civil cases, if the victim feels the need to get compensation, they can make a lawsuit through civil channels, but it looks very detrimental to the victim because it can be seen that the victim has been harmed by material losses and complaints through criminal channels for fraud, especially if it is re-loaded on the compensation claim, it causes more losses to the victim, so it is very detrimental to the victim when looking from the victim's side (Indrawan & Permatasari, 2022).

The revision of the 2008 ITE Law to the 2016 ITE Law provides one of the new legal regimes that is still very hot in society to accommodate all forms of crime within the scope of the internet, but there are several gaps even though the revision of the 2008 ITE Law has been carried out. In this case, the 2016 ITE Law has not fully updated the crimes in the ITE Law, such as not updating the Electronic Transaction Article. This can be seen in the absence of a specific definition of sales through electronic systems in the Law, which only includes "Electronic Transactions" which has a very broad definition, namely a legal action carried out using a computer, computer network, and/or other electronic media (Haryani Putri & Endang Hadrian, 2022).

In addition, the tendency of criminal law reform that is no longer offender-oriented is not visible in the 2016 ITE Law because even though there is a criminal offense that causes harm to victims, the 2016 ITE Law does not regulate the compensation that should be obtained by victims of criminal acts, in this case, victims of cybercrime, as an example can be seen from the criminal act of online transaction fraud in the 2016 ITE Law which is regulated in CHAPTER VII Article 28, namely: "every person intentionally and without the right to spread false and misleading news that results in consumer losses in electronic transactions" With the criminal provisions of Article 45A paragraph (1) with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp.1,000,000,000.00 (one billion rupiah).

The ITE crime in Article 28 paragraph (1) consists of the following elements:

1. Error: intentionally;
2. Against the law: without right;
3. Action: spreading;
4. Object: false and misleading news;
5. Constitutive effect: resulting in consumer harm in electronic transactions.

Regarding fraud through online transactions, the 2016 ITE Law only regulates the provisions of imprisonment and fines without regulating an obligation to provide compensation to victims of the crime of fraud. Every year cases of fraud in online buying and selling transactions increase. One of these increases is due to interest.

The public wants practicality in shopping and because the products offered vary and can be practically purchased, it creates convenience for the public. With the regulation related to fraud contained

in the 2016 ITE Law, victims will be greatly disadvantaged because there is no compensation obligation. Moreover, in online transactions, especially related to buying and selling, the position of the victim is very weak because only with trust can transactions be carried out. So it is often used as an opportunity for some people to reap profits in the process of online buying and selling transactions themselves. The victims referred to here are consumers who receive goods. The victim is an important factor in the emergence of a crime, either directly or indirectly. As stated by Mulyana W Kusuma when quoting the opinion of Hepered which states: in the study of violent crimes it is revealed that often the victim plays a key role in violent interactions, not infrequently even committing acts of provocation against others or revenge with patterns of violence which often also result in injury and death.

The position of victims seems to have been "discriminated" by criminal law, whereas in the context of criminal law, victims are the most disadvantaged party. Therefore, there has been a growing movement to change the offender-oriented orientation of criminal law in Indonesia, where the perpetrator is the main focus of criminal law. The development of thought and the need for attention to victims is based on two ideas.

In ensnaring the perpetrators, law enforcement uses special rules in Article 28 Paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions which states: "Every person who intentionally and without rights spreads false and misleading news that results in consumer losses in electronic transactions shall be punished." As regulated in Article 45 A Paragraph (1) reads: "Any person who intentionally and without right disseminates false and misleading news resulting in consumer harm in electronic transactions shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp.1000,000,000.00 (one billion rupiah)."

The development of the modus operandi of criminal acts of fraud shows a widespread and increasingly sophisticated scale. Not only is fraud varied, but various kinds of social media applications are very common among the public. The use is not only for adults, children can also access social media. All activities range from teaching and learning activities to offices, and shopping for daily needs via the internet / online. Cybercrime is growing along with the development of the internet and the impact of COVID-19 (Drew and Farrell, 2018). On average, the internet is the starting place for the growth of crime, and the source of various types of crime, but on the other hand, it is the pace of government development. The high number of criminal acts of fraud online or through social media is directly proportional to the weak regulations in preventing and taking action against criminal acts of fraud. According to Lubis and Maulana, there are many weaknesses in Indonesian regulations, such as the way out is the Law on Information and Technology regulates cyberspace (Gibson, 1984). The need for cyberspace regulation is because the user community (internet global community) seems to have found a new space/world called cyberspace as popularized by William Gibson.

The process of someone becoming a victim starts with someone doing their routine activities and the existence of a lifestyle that a person does. By paying attention to the routine activity theory, victimology will occur when there is potential for a person such as suitable targets (the right target), capable guardians (protection and safeguards to prevent crime from occurring) are weak, motivated offenders (motivated offenders) to commit crimes because suitable targets and capable guardians have been taken into account by the perpetrator. The lifestyle theory, formulated by Hindelang, states that differences in the risk of people facing crime victimology are influenced by differences in the lifestyle of the person. These lifestyle differences are important for the possibility of facing the risk of criminal victimology because they are related to differences in exposure to crime-prone areas, crime-prone times, etc. which are conditions of high risk of experiencing criminal victimology. Thus a person's lifestyle, defined as routine vocational daily activities (work, school, home maintenance, etc.), and leisure activities, is a critical factor in the person's risk of criminal victimization. A person's daily activities can bring that person into contact with crime or increase the risk of criminal victimology. People who live

indoors generally have a reduced risk of criminal victimology, whereas people who are in public places will have an increased risk of criminal victimology.

Several victims of the Coldplay concert ticket scam have been clarified regarding their reports at the National Police Criminal Investigation Agency (Bareskrim), Jakarta. The victims' lawyer Muhammad Zainul Arifin said that during the examination, the victims also submitted 23 social media accounts suspected of committing Coldplay ticket fraud. There are 23 social media accounts that we conveyed to investigators. Of course, these are the accounts that the victims interacted with through social media. Zainul plans to visit the Witness and Victim Protection Agency (LPSK) to ask for protection and restitution rights for the victims. Zainul also said that until now the number of victims he has handled has increased to 65 people with an estimated loss of around Rp 227 million. It must be resolved from upstream to downstream. This fraud will not occur if the process related to online ticket sales is correct, related to the promotion is correct, therefore prevention and prosecution must be carried out. Therefore, we hope that the police can reveal this incident, Zainul also hopes that the promoter can be responsible by giving free Coldplay concert tickets to the victims.

The report is being investigated by the Police Criminal Investigation Unit (Bareskrim). The Directorate of Cyber Crime (Ditpid Siber) of Bareskrim will also clarify the unofficial vendors selling Coldplay concert tickets. The Criminal Investigation Unit will clarify to vendors related to online sales that have the potential to cause victims, with the mode of providing ticket purchase services or resellers that are not through official ticket boxes, namely through social media accounts. Reza Dwi Dayana, 30, has reported Ghisca Debora's mother, Vera Debora, for Coldplay ticket fraud to the Central Jakarta Metro Police on November 24, 2023, at 20:03 WIB. The report was submitted through his attorney, Masbeni Immanuel Zebua. The police report has been registered under the number LP/B/2835/XI/2023/SPKT/Polres Metropolitan Central Jakarta/Polda Metro Jaya. So actually I reported it because there were two transactions that I was told by Ghisca to transfer to her mother (Vera Debora) when met at an apartment in Bekasi, on Tuesday, December 5, 2023. Reza's total loss when making transactions with Ghisca amounted to IDR 208 million.

By looking at some of the above, the researcher argues that victimological, victim protection can apply for restitution, victims are entitled to restitution in the form of compensation for loss of wealth and/or income; compensation for losses, both material and immaterial, incurred due to suffering directly related as a result of a criminal offense; reimbursement of medical and/or psychological treatment costs; and/or other losses suffered by the victim as a result of a criminal offense, including basic transportation costs, lawyers, or other costs associated with the legal process.

Research Method

The research used in this research process uses a type of normative legal research (Soekanto & Mamudji, 2015). By using library materials or secondary materials that have been collected. Legal research is also a process to determine legal rules, legal principles, and legal doctrines to answer the legal issues faced.

Result and Discussion

1. Protection of Victims from Fraud in Various Legal Perspectives

Money from fraud and embezzlement can be returned to the rightful party (victim). This is as regulated in Article 67 paragraph (2) of the Anti-Money Laundering Law, namely: If the suspected

perpetrator of the criminal offense is not found within 30 days, the investigator may submit a request to the district court to decide the property as a state asset or returned to the rightful person. The victim may file a lawsuit through civil court. Article 101 of the Criminal Procedure Code states that the provisions of the rules of civil procedure apply to lawsuits for compensation to the extent not otherwise regulated. This means that parties who feel harmed by the actions of a convicted person can file a lawsuit, even after the defendant has been found guilty (Rachmat, 2023).

Furthermore, the legal basis for the request for compensation due to Unlawful Acts is regulated in Article 1365 of the Civil Code. The elements for filing this lawsuit are the existence of an unlawful act, fault, loss incurred, and the existence of a causal relationship between the act and the loss. ak claiming compensation for PMH does not require a subpoena. At any time, the injured party can immediately file a lawsuit. The Civil Code itself does not regulate the form and details of compensation. Thus, the plaintiff can apply for compensation for losses that are suffered and can be calculated (material) and losses that cannot be valued in money (immaterial) (Robyanugrah & Raja Desril, 2021).

According to M.A. Moegni Djojodirdjo, Article 1365 of the Civil Code provides the possibility of several types of PMH lawsuits, among others:

1. Compensation in the form of money;
2. Compensation in kind or restoration of the original condition;
3. A statement that the act committed is unlawful;
4. Prohibition to act;
5. Nullifying something that is unlawfully held;
6. Announcement of a decision or of something that has been fixed.

The process of distributing money losses given to victims also refers to Article 1132 of the Civil Code which contains the principle of "pari passu pro rata parte" (Lie, 2023) which means that creditors who are entitled to the fulfillment of the obligation must receive the fulfillment of the obligation from the assets of the obligated party (debtor) *pari passu* (jointly obtaining repayment, without any precedence), and *pro rata parte* (proportionally calculated based on the number of their respective receivables compared to their receivables as a whole, against the debtor's assets).

As a victim of fraud who has the right to claim compensation, it is regulated in Article 98 paragraph (1) of the Criminal Procedure Code as follows: If an act which is the basis of an indictment in a criminal case examination by a district court causes harm to another person, then the presiding judge at the request of that person may determine to merge the case of a claim for compensation with the criminal case. Based on the above provision, the merger of cases is intended so that the lawsuit case is examined and decided at the same time as the criminal case concerned. Meanwhile, the loss in question is the loss of the victim of the crime. However, it should be noted that based on Article 98 Paragraph (2) of KUHAP, the request as referred to in Article 98 Paragraph (1) of KUHAP can only be submitted no later than before the public prosecutor files criminal charges. If the public prosecutor is not present, the request shall be submitted no later than before the judge pronounces the verdict. The procedural law for claiming compensation applies to the Civil Procedure Law as stipulated in Article 101 of the Criminal Procedure Code. From this article the following conclusions can be drawn:

- a) There must be a request from the aggrieved party;
- b) There is a loss that occurred as a result of the defendant's act/actions; and
- c) This request for compensation can be submitted at the latest before the judge makes a decision.

Furthermore, if the injured party requests the incorporation of the lawsuit into the criminal case, the district court shall consider its authority to hear the lawsuit, the validity of the basis of the lawsuit, and the award of reimbursement of costs incurred by the injured party.

If the district court declares that it does not have the authority to hear the lawsuit or the lawsuit is declared inadmissible, then the judge's decision only contains the determination of the penalty for reimbursement of costs that have been incurred by the injured party. Then, the verdict on compensation automatically becomes final, if the criminal verdict also becomes final.

In addition to combining civil and criminal cases, the prosecution of compensation can also be carried out on initiative by the Attorney General based on Article 2 paragraph (1) letter a of AGO 27/2014 as follows: In carrying out the responsibilities as referred to in Article 1, the Attorney General has the authority to: establish policies so that asset recovery activities by the Asset Recovery Center and other prosecution work units, are carried out effectively, efficiently, transparently and accountably; that is, the Attorney General will return confiscated assets to victims or rightful owners through the Asset Recovery Center. PPA is the role of the prosecutor's office to ensure that asset recovery in Indonesia works optimally, not only for asset recovery to victims but also for the state which is the responsibility of PPA (Sofwan & Sulastri, 2019).

In addition to the matters mentioned above, the Victim Witness Protection Agency and the victim can also apply for restitution for the victim. What is restitution? Restitution is compensation given to victims or their families by the perpetrator of a criminal offense or a third party. If the victim does not submit an application for restitution during the trial process, the application can be submitted after the court decision is legally binding. Victims are entitled to restitution in the form of:

1. Compensation for loss of wealth and/or income;
2. Compensation for damages, both material and immaterial, incurred as a result of suffering directly attributable to the criminal offense;
3. Reimbursement of medical and/or psychological treatment costs; and/or
4. Other losses suffered by the victim as a result of the crime, include basic transportation costs, lawyer, or other costs associated with the legal process.

Then, an application for restitution can be submitted by the applicant to the court directly or through LPSK, which is submitted no later than 90 days after the applicant learns of a court decision that has permanent legal force. Furthermore, the court must decide on the application in the form of a stipulation no later than 21 days after the first hearing. If the restitution request is submitted through LPSK, a copy of the court decision shall be submitted to LPSK no later than 7 days from the date of the decision.

2. The Phenomenon of Coldplay Concert in Jakarta from a Victimology Perspective

PK Entertainment Co-Founder and COO Harry Sudarma opened his voice about the chaos that occurred at the Coldplay concert at the Gelora Bung Karno Main Stadium in Jakarta. The representative of the Coldplay Jakarta concert promoter acknowledged several problems during the concert, especially the ticket issue that was widely highlighted by netizens. Harry explained that the problem was triggered by the rampant audience who bought tickets through scalpers. This practice causes some tickets to be duplicated because they are held by more than one person. Regarding scalpers or secondary ticketing, this is indeed one of the biggest and most difficult problems or challenges we face on the day of the concert. So we can imagine thousands of people who tried to enter but could not enter because the ticket was detected as duplication and the original ticket had entered and the person had been scanned. The condition then spread to the audience who piled up at the gate to disrupt access to the venue. Harry revealed that his

party had also evaluated in the middle of the event which led to the decision to speed up the process of the audience entering the stadium. The process of spectators entering the venue became faster because the crew only did a visual check. However, this then triggered a buildup of people because ticket scalpers could also enter. Harry then explained that the situation had become worse and not conducive. Several incidents, including physical violence, finally forced the promoter to close the gate about half an hour from the beginning of Coldplay's performance. We consulted with the management and also the authorities, and finally it was decided that around 21.20 or 21.25 WIB we finally closed the entrance gate.

The promoter also said it had conducted further investigations into the complaint. Not only that, Harry claims that the various protests and complaints have been resolved by both parties. These people have started to email us, giving chronologies, giving details. Although the appearance of Chris Martin's CS on stage successfully entertained tens of thousands of fans, the Coldplay concert titled Music of the Spheres World Tour 2023 also left several problems. Various problems were revealed by netizens via social media. They are busy exposing the obstacles faced long before the concert starts. Some of them, such as difficulty entering the venue even though they hold original tickets, entrances that break down in the middle of the show, to ticket fraud that is sticking out again. Skewed testimonials also came from wheelchair users who had difficulty finding special entrance access. This contrasts with Coldplay's concert commitment to be inclusive. As a result, this concert received attention from various parties regardless of Coldplay's stunning action on the SUGBK stage. The public to academics were busy criticizing the organization of the grand celebration.

Based on what happened above, some factors influence the occurrence of crimes during the pandemic from the criminology perspective, namely economic factors, the social environment of the perpetrator, possible crime scenes, and imitation of crimes in other areas (including the role of the media). As for the victimology perspective, these are factors of victim behavior, biological and psychological weaknesses of the victim, and the situation (Hukum & Millah, 2020). In terminology, victimology means a study of victims, the causes of victims, and the consequences of victims who are human problems as a social reality. Crime typology can be viewed from two dimensions, first: from the perspective of the level of victim involvement in the occurrence of crime, second: the factors that cause a person to become a victim of crime. The suffering experienced by victims includes violence to the body and life, loss of property, and psychological disruption due to the actions of the perpetrator of the crime (Huda, 2022).

Conclusion

With the explanation above, researchers can conclude that Article 28 paragraph (1) of the ITE Law, namely every person intentionally, and without the right to spread false and misleading news that results in consumer losses in electronic transactions, is sentenced to imprisonment for a maximum of 6 years and/or a maximum fine of Rp. 1 billion, is vague so that it must be linked/referred to Article 378 of the Criminal Code. Forms of Legal Protection to victims of online or digital fraud as a result of fraudulent acts of Article 378 of the Criminal Code CHAPTER XXV concerning fraudulent acts provided by the law, namely direct forms of protection such as victims getting procedural rights, for example, being involved in the trial as a witness, then being given restitution and compensation as contained in Law Number 8 of 1981 concerning the Criminal Procedure Code and Law Number 13 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection. The process of fraud in the Coldplay Concert, in the view of the researcher, is one of a series of criminal activities and actions, which provides the principle or principle of "pari passu pro rata parte" which has the right to claim compensation, basically regulated in Article 98 paragraph (1) of the Criminal Procedure Code.

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