

Research Article

**GOVERNMENT REGULATION NUMBER 92 OF 2015 FOR THE COMPENSATION FOR VICTIMS OF THE WRONGFUL CRIMINAL JUSTICE PROCESS IN INDONESIA: AN OVERVIEW OF IMPLEMENTATION (2015-2024)**

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**ABSTRACT**

The Wrongful Criminal Justice Process (WCJP) has been a persistent issue in Indonesia, with Government Regulation No. 92 of 2015 (PP RI 92/2015) enacted to enhance compensation mechanisms for its victims. This study critically examines the implementation of PP RI 92/2015 from its enactment in 2015 to 2024, aiming to provide a comprehensive overview of current victim compensation systems and, crucially, to identify the structural obstacles hindering its effective application. Adopting a qualitative approach, this research utilizes a structuralist historical methodology, analyzing data sourced from previous research, academic literature, and relevant legal regulations. The findings reveal a stark reality of limited implementation success: only one known case received compensation, and this was after a protracted six-year process. Significant structural impediments identified include a persistent lack of clarity in institutional responsibilities, the notable absence of technical implementation guidelines for PP 92/2015, issues stemming from the Ministry of Finance's role in payment procedures and budget allocation, and the stalled operationalization of the Ombudsman's potential role. This study offers a novel, in-depth historical analysis of PP RI 92/2015's decade-long implementation challenges, highlighting how underlying structural deficiencies, rather than mere technical flaws, contribute to the regulation's practical inefficacy in delivering timely and appropriate justice to WCJP victims.

**Keywords:** *Wrongful Criminal Justice Process, Compensation for victims, Ombudsman's potential role*

**Background**

Wrongful Criminal Justice Process (WCJP) happens in all parts of the world and numerous studies have been conducted on it [1]. Similarly

in Indonesia, WCJP has been an important issue since the case of Sengkon and Karta in 1974 who have not got compensation as yet [2]. The Law of the Republic of Indonesia Number 8 of

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1981 on the Code of Criminal Procedure (KUHAP) (Republik Indonesia, 1981) has been an attempt by the Indonesia government to provide compensation for the victim that includes compensation and rehabilitation through legal regulations and mechanism [3].

Following that, many others policies have been made to revise and complement it so that the victim can receive compensation easily, immediately and appropriately to the impact s/he has endured. For example the Government Regulation of the Republic of Indonesia Number 27 of 1983 on the Implementation of the code of Criminal Procedure Law that was enacted on August 1, 1983; and the Government Regulation of the Republic of Indonesia Number 92 of 2015 on the Second Amendment to the Government Regulation of the Republic of Indonesia Number 27 of 1983 on the Implementation of the code of Criminal Procedure Law (PP RI No. 92/2015) that was enacted on December 8, 2015 [4,5].

The compensation mechanism for victims of WCJP in Indonesia mainly is regulated in the Code of Criminal Procedure Law particularly in the parts of compensation and rehabilitation. Meanwhile, the Government Regulation Number 27 of 1983 and its amendment through the Government Regulation Number 92 of 2015 provide details on the implementation; and specifically on the amount of money for compensation and application procedure [3-5].

Such compensation and rehabilitation is the right of the victims of WCJP that can be applied to when they have been found not guilty. This is based on the state's responsibility and liability towards the mistakes committed by the law enforcement agents in and through the criminal justice system.

The compensation aims to compensate for the material and non-material losses experienced by the victims due to unfair justice process. The amount of money for the compensation is regulated in the Code of Criminal Procedure Law and the Government Regulation Number 27 of 1983 and the Government Regulation Number 92 of 2015 and has been changed to adapt to the present living condition. The compensation application can be filed through the pre-trial mechanism. If it is

granted, the judge will decide the amount of money that must be paid by the state. Additionally, the rehabilitation aims to restore the victims' good name and delete their relevant criminal records.

The Code of Criminal Procedure Law states that victims of WCJP have to apply for compensation within a certain time frame after the verdict stating their innocence. The application is filed through the pre-trial mechanism. Once granted, the Ministry of Finance is responsible for paying the compensation to the victims within a certain time frame [3].

In the recent time, the Government Regulation Number 92 of 2015 has made two important revisions in realization of compensation for the victims of WCJP. One, is the increase of amount of money for the compensation so that the victims can receive larger sum of money compared to the amount stated in previous regulations, particularly in cases causing major physical harms, disabilities or death. Two, is the acceleration of payment process; the time frame has been changed into 14 working days upon the application granted.

This study is to briefly describe the implementation of the regulation since its enactment in 2015. The research question is then "What has the implementation of The Government Regulation No.92 of 2015 been like since its enactment to the year 2024?"

## Methods

The main data of compensation for victims of WCJP in Indonesia was sourced through previous research, literature, regulations. Through structuralism the data then viewed to make sense of the world [6]. Gough (2010) has stated that structuralism assumes that all human social activities constitute languages and that their regularities can therefore be codified by abstract sets of underlying rules. Hence, this article intends to find the language and its rules [7].

The method of history is utilized through five stages: topics of choice, source gathering, verification: historical critics and source validation, interpretation: analysis and synthesis, and writing [8].

### **Structural Methodology**

The central claim of structuralism that there is a fundamental disconnect between the patterns that people construct and use and the belief that these constructs reflect some real pattern in nature. Yet it is only through the connection of patterns and experience that we can make sense of our world at all [6]. The enterprise of structuralism is to discover how people make sense of the world and not to discover what the world is.

Structuralism is a conceptual and methodological approach to describing and analyzing a variety of objects of inquiry including, for example, cultures, economics, language, literature, mythologies, politics, and societies [7]. A structuralist analysis assumes that these objects of inquiry can be characterized by underlying structures conceived as systems of inter-related parts and that they can be defined (at least in part) by relationships among these constitutive elements. Structuralist assumptions (concerning both the existence of underlying structures and the methods by which they should be analyzed) developed within what we now tend to label 'Continental' (that is, non-Anglophone European) philosophy – much of it French – during the early decades of the twentieth century, but the influence of structuralism on both Continental and Anglo-American scholarship became much more prominent after World War II.

Structuralism assumes that all human social activities – the clothes we choose to wear, the books we write, the cultural rituals we practice – constitute languages and that their regularities can therefore be codified by abstract sets of underlying rules.

### **Wrongful Criminal Justice Process**

Rahmawati and Dermawan (2023) introduce the term "wrongful criminal justice process" (WCJP) to describe the experience of factually innocent individuals within the Indonesian criminal justice system [1]. They define

WCJP as the series of events wherein an innocent person is drawn into and processed by the system, starting from the police and extending through various institutions. This process is characterized by procedural violations and human rights abuses, with institutions acting in concert to keep the individual within the system.

The authors emphasize the "vacuum effect" of the WCJP, wherein individuals are pulled into the system and their ability to exit is diminished until the process concludes. This concept highlights how the system itself can trap and weaken individuals. Furthermore, Rahmawati and Dermawan argue that the WCJP reveals structural victimization and state crime, indicating systemic issues within the justice framework.

### **Result**

The data has shown up in two main themes. Theme 1 is in regards to the implementation of the Government Regulation of the Republic of Indonesia Number 92 of 2015 since its enactment to October 2024. Theme 2 is in regards to the Obstacles in the Policy Implementation for Realizing the Recovery of Victims of the Wrongful Criminal Justice Process.

#### **Theme 1: Implementation of Government Regulation of the Republic of Indonesia Number 92 of 2015 - Current Forms and Systems of Victims' Compensation in Cases of Wrongful Criminal Justice Process**

It is important here to overview the compensation for victims of WCJP prior to the enactment of the Government Regulation No.92 of 2015. Rahmawati (2024) in presenting Wrongful Criminal Justice Process and the victims' recovery in Indonesia 2002-2021 [9] and Rahmawati (2019) in presenting Victimization of Wrongful Criminal Justice in Indonesia 2002-2014 have sketched the situation despite limited available data [10].

Table 1. Wrongful Criminal Justice Process and the Realization of Compensation for Victims in Indonesia After the Government Regulation No. 92 Year 2015 Was Ratified (2016-2024) [15-26]

No	Name	Age (YO)	Scene	Case	Get Compensation	Not Get Compensation	Legal Aid Agency	Problem
1	Meiliana	44	Medan	July 29, 2016		√		Because the verdict was guilty, he could not apply for compensation or restoration of his good name.
2	Heri Budiawan "Budi Pego"		Banyuwangi	April, 4 2017		√	<ul style="list-style-type: none"> <li>• HRLS Unair</li> <li>• WALHI Jatim</li> <li>• LBH Surabaya</li> <li>• Kontras Surabaya</li> </ul>	Due to the guilty verdict, no compensation was received.
3	Suharto	68	Surabaya	February 22, 2017		√		Died during arrest
4	Herianto	*	Bekasi	April 7, 2017		√	LBH Jakarta	The judge rejected the request for compensation because the case had been registered with the Bekasi District Court No name restoration and no compensation Difficulty in finding work, difficulty in getting SKCK
5	Aris Winata Saputra	*						
6	Bihin Charles	*						
7	Oman Abdurrochman "Mbah Oman"	54	Lampung Utara	August 22, 2017	√		YKLBH Fiat Yustisia	Suffered a disability in the leg due to a police gunshot wound Received compensation of Rp. 222 million Compensation received in 2024 (after 6 years of winning a pre-trial motion)
8	Muhammad Fikri	*	Bekasi	July, 28 2021		√	Tim Advokasi Anti-Penyiksaan	Not guilty verdict for Muhammad Fikry Muhammad Fikry's pretrial motion rejected on October 1, 2021 Resubmitting compensation request in 2023 Abdul Rohman remains in prison for 10 months, Muhammad
9	Abdul Rohman							
10	Muhammad Rizky							
11	Randi Apriyanto							

No	Name	Age (YO)	Scene	Case	Get Compensation	Not Get Compensation	Legal Aid Agency	Problem
12	Subur	45	Bogor	February 7, 2024	Data not found	Data not found		Rizky and Randi Apriyanto in prison for 9 months, guilty verdict Bogor Police Chief officially apologizes to Bogor residents Bogor Police Chief states that he is fully responsible for the error 9 (nine) police members were removed from their membership and dismissed No data was found on whether the victims received compensation or not
13	Titin	43						Judge dismisses charges on July 8, 2024 Files pretrial motion for damages on July 8, 2024 Data on pretrial motion for damages has not been obtained
14	Peggy Setiawan		Bandung	May 21, 2024		√		Mediation and peace agreement were made with the Mojokerto City Police Report withdrawn No data was found regarding the results of the agreement
15	Juariyanto		Mojokerto	July 13, 2024		√	LBH Ansor Mojokerto	

\* Data not found

In the present article in Table 1 shows cases of WCJP and the realization of compensation for the victim since 2016 to October 2024. The table also presents the forms and systems in current implementation of compensation for WCJP victims. These fifteen cases can be a reference for describing the trajectory of the forms and systems post the enactment of the Government Regulation No.92 of 2015.

- Case 1 of July 29, 2016 of Meiliana 44 years old in Medan who did not get compensation because the verdict was she was guilty

hence she could not apply for compensation or restoration of his good name [16, 29].

- Case 2 of April, 4 2017 of Heri Budiawan "Budi Pego" in Banyuwangi who did not get compensation because the verdict was that he was guilty. He did get legal aid through the justice system by HRLS Unair, WALHI Jatim, LBH Surabaya, Kontras Surabaya [18, 28].
- Case 3 of February 22, 2017 of Suharto 68 years old in Surabaya who did not get compensation and died during the arrest [15].

- Case 4, 5, 6 of April 7, 2017 of Herianto, Aris Winata Saputra and Bihin Charles in Bekasi who did not get compensation because the judge rejected the request for compensation on the base that the case had been registered in the Bekasi District Court. They did get legal aid by LBH Jakarta. Yet they did not receive good name restoration or compensation. Later they experienced difficulty in finding SKCK and work [19, 27].
- Case 7 of August 22, 2017 of Oman Abdurrochman “Mbah Oman” 54 years old in Lampung Utara who did get legal aid by YKLBH Fiat Yustisia. He suffered from a disability in the leg due to a police gunshot wound. He did get compensation of Rp. 222 million rightly according to the Government Regulation No.92 Of 2015 for the victim who suffered from permanent disability. It was received in 2024, 6 years after his winning the pretrial motion [20, 21, 26].
- Case 8, 9, 10, 11 of July, 28 2021 of Muhammad Fikri, Abdul Rohman, Muhammad Rizky, Randi Apriyanto in Bekasi who did get legal aid by Tim Advokasi Anti-Penyiksaan. Muhammad Fikri received verdict of “not guilty” yet his pretrial motion was rejected on October 1, 2021. He resubmitted compensation request in 2023. Abdul Rohman remained in prison for 10 months. Muhammad Rizky and Randi Apriyanto received guilty and remained in prison for 9 months [17].
- Case 12 and 13 of February 7, 2024 of Subur 45 years old and Titin 43 years old in Bogor. In this case the Bogor Police Chief officially apologized to Bogor residents and stated that he was fully responsible for the error. Following that 9 (nine) police officers were removed from their office positions and dismissed. There was no data on whether the victims received compensation [23-24].
- Case 14 of May 21, 2024 of Peggy Setiawan in Bandung who did not get compensation because the judge dismissed the charges on July 8, 2024. He submitted files for pretrial motion for damages on July 8, 2024. No data on pretrial motion for damages has been obtained [22].
- Case 15 of July 13, 2024 of Juariyanto in Mojokerto who did get legal aid by LBH Anzor Mojokerto. There had been mediation and peace agreement the Mojokerto City Police. The report was withdrawn following that. No further data was found regarding the results of the agreement [25].

## **Theme 2: Obstacles in the Policy Implementation for Compensation for the Recovery of Victims of the Wrongful Criminal Justice Process**

A study by Rahmawati (2024) has found obstacles in the recovery mechanism for WCJP victims such as lack of clarity of which institution bears which responsibility for the victims; lack of implementation guidelines and the victim's dissatisfaction with the received compensation value [9].

The Government Regulation No. 92 of 2015 which appoints the Ministry of Finance as the party responsible for victim compensation also causes problems, especially due to the lack of clear payment procedures and difficulties in allocating the budget. Hence, a disagreement between the Ministry of Finance and the judiciary of who should be responsible for the compensation. This is due to no technical guidelines to implement the Government Regulation No.92 of 2015 (PP RI 92/2015) yet. It has hampered the victims' recovery processes [9].

Rahmawati (2024) found that Law Number 25 of 2009 concerning Public Services [30] has given the Ombudsman authority to assist victims of WCJP. However, its implementation is stalled by the absence of a Presidential Regulation regulating the Ombudsman's special adjudication mechanism and its technical guideline. This has hampered the Ombudsman's efforts to assist the victims [9].

This shows that despite some regulations which have been made to complement one another, there has been very little positive or significant development since the Government Regulation No. 92 of 2015 (PP RI 92/2015) was passed.

The victims often felt that the recovery process was long and not commensurate with the losses experienced [9]. In addition to that, the focus of recovery is currently still limited to the

financial aspect, while the victims' psychological needs are often neglected.

### **Discussion**

#### **The State Crime of Raymond J. Michalowski**

A central theme in Michalowski's work is the dual role of the state. He identifies various threats to the state, such as terrorism and cybercrime, highlighting the state's role as a victim. However, Michalowski also delves into the darker side of state power, examining instances where the state itself engages in criminal activities.

Michalowski categorizes state crime into three primary perspectives: 1) legal perspective where state crime is defined as any action that violates domestic or international law.; 2) normative perspective where state crime is seen as a deviation from societal norms and values.; 3) social harm perspective where state crime is defined by the harm it causes to individuals or groups, regardless of its legality.

Moreover, to illustrate the complexity and severity of state crimes, Michalowski proposes a hierarchical model. This model highlights the interconnectedness of various forms of state crime, from individual acts of corruption to systemic violations of human rights. By visualizing state crime as a hierarchical structure, Michalowski emphasizes the broader power dynamics at play.

Michalowski explores the motivations behind state crime, including political, economic, and ideological factors. He argues that state crime is often rooted in imbalances of power and the desire of dominant groups to maintain control. The consequences of state crime are far-reaching, including erosion of trust in government, social unrest, and long-term harm to individuals and communities.

In Michalowski's study, there are two variants of the table. The first is the definitive variant of state crime. In it, the epistemological assumptions of the three variants are outlined, namely law, behavioral norms, and social injury. The second is the Wedding Cake State Crime table which can highlight the unequal treatment of different types of crimes. In this case, the most serious crimes, committed by the elite, are often the least likely to be prosecuted. This "wedding cake" model is a

conceptual framework that categorizes different types of state crimes based on their severity and the level of public attention they receive. This model is inspired by the traditional wedding cake, where the top layer represents the most serious crimes and the bottom layer represents the least serious crimes.

If we look at it from Michalowski's perspective, victims of WCJP who are not compensated by the state are actually victims of state crime [9,10]. This is because the state has violated national and international law by not providing compensation for the wrongs they have committed. In addition to violating the law, this state action also contradicts the norms of good behavior. The state should protect its citizens and provide compensation for the losses incurred, but in this case, the state actually ignores the interests of the victims and prioritizes its own interests. This certainly triggers negative reactions from the community.

If we look at it in the framework of the "wedding cake," this case falls into the category of structural violence [9,10]. The victims, who often come from marginalized groups, experience unfair and unequal treatment compared to other groups in society. In addition to structural violence, victims also experience what is called "juridogenic crimes." This means that the legal system that should protect them actually becomes a tool that harms them. The long and complicated judicial process, as well as unfair decisions, further exacerbate the suffering of the victims.

The case of WCJP victims who did not receive compensation is a clear example of state crimes. The state's actions in this case not only violate the law, but also violate the norms of justice and equality. The victims in this case experienced a form of systematic structural violence, where they were treated unfairly because most of them came from marginalized groups.

From the perspective of social norms, the state's actions in not providing compensation to WCJP victims constitute a violation of the principles of justice and equality. The state, which should protect the rights of its citizens, instead ignores the suffering experienced by the victims. In addition, this state action also violates the principle of compensation, where

victims have the right to receive restitution for the losses they have experienced.

WCJP victims, especially those from marginalized groups, experience a form of systematic structural violence. The hindrance in their receiving compensation shows the inequality in the Criminal Justice System. In addition, the criminal justice process itself, which should be a protection mechanism, can actually be a tool to perpetuate injustice. This can be called semi-tolerated violence, where violence occurs in a context that seems legal and legitimate.

### **The Government Regulation No. 92 of 2015 (PP RI 92/2015): its impact**

Table 1 showing the number of victims of WCJP and amount of compensation received after the enactment of PP RI 92/2015 since 2016 to 2025 has revealed its very limited impact on the victims' right for compensation. There was only one victim of WCJP who received IDR222 million after 6 years of a long and difficult process.

There has been other data gathered as yet due to the on-going intricate confusion of which institution is actually in charge and liable of paying the compensation and the right procedure of getting the compensation. The record of how many victims have applied for the compensation to which institution and whether being granted or denied and who and how many have actually received it is practically non-existent. In turn, the public has had difficulty in monitoring the state budget for compensation for victim of WCJP.

PP RI 92/2015 as a public policy has shown the state's favor to victims of WCP, however, it practically provides nothing to the victims. They still have to struggle and fight for their right of compensation through a long and complicated process; that sometimes ends with disappointment and resentment. Such resentment in the long term can create apathy and even antipathy towards criminal justice system, justice system, and the state. The public trust to the justice system – one of the state pillars – might be lost to the state's failure to fulfill its duty to its citizens: the law supremacy.

Another impact is the emergence of some studies related to the enactment of PP RI 92/2015 [11, 12, 14]. Despite they are not

evaluative studies, they have given some insights of the efficacy of PP RI 92/2015 post its enactment.

Indonesia has enacted the Law of the (new) Criminal Code that is in full implementation in January 2026 and following that, also been in the process of making the Bill of the (new) Code of Criminal Procedure. This requires an urgent action to legally define the institution in charge of the compensation for victims of WCJP to adapt to the legal changes of such a big scale; to ensure the victims' right is protected by the state.

Such a clarity of the institution in charge will also ensure data record for later evaluation study on PP RI 92/2015.

### **Conclusion**

The implementation of the Government Regulation No.92 of 2015 has been very limited in number of victims receiving compensation – only one person- and in the received amount of IDR 222 million upon six years of long process and waiting time.

There have been a lot of legal and practical impediments for the WCJP victims to be able to have their rights fulfilled through the Government Regulation No.92 of 2015 such as: lack of clarity of which institution is responsible for which part; lack of implementation regulation and technical guideline.

### **Recommendations**

Further academic and theoretic studies need to consider Rousseau's [31] and Michalowski' ideas in regards to compensation for victims of WCJP as follows.

Rousseau's concept of the social contract underlines the state's obligation to provide protection and justice to all its citizens, including those who are victims of WCJP. The principle of equality that underlies the social contract requires the state to act fairly and impartially. When the state fails to fulfill its obligations, this constitutes a violation of the social agreement that has been built.

The state's action in not providing compensation to WCJP victims is a form of state crime involving violations of the law and organizational deviations. As a result of this state action, victims experience semi-tolerated structural

violence, where the state indirectly legitimizes the violence through unfair policies and practices.

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