

## **Legal Rehabilitation For Victims Of Error In Persona: A Study Of Human Rights Protection In Indonesia's Criminal Justice System**

**Nabella Difa Sabrina**

**Universitas Negeri Semarang, Semarang, Indonesia**

**e-mail: difasabrina600@gmail.com**

### **Abstract**

*This article examines the problem of error in persona within the Indonesian criminal justice system, namely the wrongful arrest or conviction of individuals who are in fact innocent. Although the Constitution and statutory regulations guarantee the protection of human rights, legal provisions governing rehabilitation for victims of error in persona remain very limited and are dispersed across various, non-integrated legal instruments. While several studies have addressed the issue of error in persona, this research offers a normative legal analysis focusing on the adequacy and coherence of legal regulations concerning the rehabilitation of victims of error in persona. The findings indicate that the existing rehabilitation mechanisms have not been able to provide optimal restoration of victims' rights. This study employs a normative legal research method with a statutory approach by examining applicable laws and regulations. The results demonstrate the necessity of legal reform through the establishment of specific regulations that guarantee comprehensive recovery, including fair compensation, restoration of reputation, and psychosocial rehabilitation. Such reform is essential to strengthen the protection of citizens' constitutional rights and to enhance the accountability of the criminal justice system in Indonesia.*

**Keywords:** *Error In Persona; Rehabilitation; Criminal Justice System; Compensation.*

### **Abstrak**

Artikel ini membahas problematika *error in persona* dalam sistem peradilan pidana Indonesia, yaitu kesalahan penangkapan atau pemidanaan terhadap individu yang sebenarnya tidak bersalah. Meskipun konstitusi dan peraturan perundang-undangan telah menjamin perlindungan hak asasi manusia, regulasi mengenai rehabilitasi bagi korban *error in persona* masih sangat terbatas dan tersebar dalam berbagai ketentuan yang belum terintegrasi. Meskipun beberapa kajian telah membahas isu *error in persona*, penelitian ini menyajikan analisis normatif dengan menitikberatkan pada

## JSH

### Supremasi Hukum: Jurnal Penelitian Hukum

P-ISSN: 1693-766X ; E-ISSN: 2579-4663, Vol. 35, No 1, Januari 2026, 1-13

<https://ejournal.unib.ac.id/supremasihukum/index>

DOI: <https://doi.org/10.33369/jsh.35.01.1-13>

---

kecukupan dan koherensi pengaturan rehabilitasi hukum bagi korban *error in persona*. Penelitian ini menunjukkan bahwa mekanisme rehabilitasi yang berlaku belum mampu memberikan pemulihan hak korban secara optimal. Metode analisis dilakukan melalui studi normatif dengan pendekatan peraturan perundang-undangan yang berlaku. Hasil kajian menunjukkan bahwa perlu adanya reformasi hukum melalui pembentukan regulasi khusus yang menjamin pemulihan menyeluruh, termasuk kompensasi yang adil, pemulihan nama baik, dan rehabilitasi psikososial. Hal ini penting untuk memperkuat perlindungan terhadap hak konstitusional warga negara dan meningkatkan akuntabilitas sistem peradilan pidana di Indonesia.

**Kata Kunci:** *Error In Persona*; Rehabilitasi; Sistem Peradilan Pidana; Kompensasi.

### INTRODUCTION

Within the Indonesian criminal justice system, the principles of justice and legal certainty constitute fundamental pillars guaranteed by the Constitution and various statutory regulations. However, in practice, the system continues to face serious challenges, one of which is the phenomenon of error in persona. A prominent example that attracted widespread public attention is the designation of Pegi Setiawan as a suspect in the murder case of Vina in Cirebon, which subsequently sparked significant controversy due to emerging doubts regarding the accuracy of the perpetrator's identity and the law enforcement process applied. This case vividly illustrates the suffering experienced by individuals who must endure social stigma, psychological pressure, and reputational damage as a result of misidentification within the criminal justice process. Such phenomena not only erode public trust in law enforcement institutions but also indicate the existence of systemic gaps in the protection of human rights as guaranteed under Indonesian positive law.

Wrongful arrest or error in persona refers to individuals, whether individually or collectively, who suffer physical and psychological harm as a result of procedural errors or mistakes in investigative actions or detention carried out by authorized law enforcement officials or similar authorities.<sup>1</sup> Error in persona in the context of criminal law refers to mistakes in the process of identifying the perpetrator of a criminal offense by law enforcement authorities. Such errors may occur due to weaknesses in investigative procedures, insufficient utilization of forensic identification technologies, or the inadequate implementation of the presumption of innocence principle as stipulated in Article 8 of Law Number 48 of 2009 concerning Judicial Power. Unfortunately, despite constitutional and statutory guarantees for the protection of individual rights, violations in the form of wrongful arrests continue to occur and have not been accompanied by effective legal remedies or rehabilitation mechanisms.

---

<sup>1</sup> Hatlynsyanna Seroy, "PERLINDUNGAN HUKUM TERHADAP KORBAN SALAH TANGKAP DARI SUDUT PANDANG KUHAP," *Lex Crimen* V, no. 5 (2016): 134–42.

Cases of wrongful arrest involving alleged narcotics offenses, terrorism, and even ordinary theft demonstrate that error in persona may affect anyone, including citizens with no prior criminal record whatsoever. The frequent occurrence of wrongful arrests in Indonesia clearly causes significant harm to the victims of such errors.<sup>2</sup> This situation gives rise to highly complex consequences, including material losses, damage to reputation, psychological distress, social stigma, and loss of employment. Ironically, regulations that specifically govern rehabilitation and compensation for victims of law enforcement errors remain very limited and fragmented across various normative provisions, such as Article 95 of the Indonesian Criminal Procedure Code (KUHAP), which provides the right to claim compensation and rehabilitation but is often implemented ineffectively in practice. As a result, victims frequently suffer compounded harm, as they are, often unknowingly, treated merely as instruments for the attainment of legal certainty rather than as rights-bearing individuals entitled to justice and protection.<sup>3</sup> Most existing studies tend to focus on errors in law enforcement or on compensation mechanisms in general, without comprehensively examining the legal rehabilitation framework for victims of error in persona. This research seeks to fill that gap by providing a normative analysis of the adequacy and coherence of legal regulations governing the rehabilitation of victims of error in persona within the Indonesian legal system.

Protection for victims of error in persona should not be confined merely to formal legal aspects. Given that the current Indonesian legal system lacks a comprehensive legal instrument regulating the rights of victims of wrongful arrest along with recovery mechanisms encompassing social, psychological, and legal dimensions, adequate protection becomes critically important. For instance, the Draft Law on the Protection of Crime Victims as well as the proposed revision of the Criminal Procedure Code (KUHAP) have not yet clearly accommodated the urgency of protecting victims of procedural errors. Therefore, the State bears an obligation, through legislation and concrete policy measures, to ensure comprehensive recovery for such victims. This recovery should include the restoration of reputation through court decisions that are publicly announced, the provision of adequate compensation, and access to psychosocial rehabilitation services. These measures are consistent with the principle of the rule of law, which emphasizes substantive justice alongside the protection of human dignity. Legal reform is necessary not only to strengthen the repressive aspects of the criminal justice system but also to affirm the rights of individuals who become victims of systemic errors, including the right to rehabilitation as an integral part of citizens' constitutional

<sup>2</sup> I. D. G. D. JAYAWISASTRA, Komang Panji; SUGAMA, "Pengaturan Hukum Terhadap Korban Salah Tangkap Ditinjau Dari Perspektif Sistem Peradilan Pidana," *Jurnal Kertha Wicara* 9, no. 9 (n.d.).

<sup>3</sup> Dijan Widijowati, Rr, *Perlindungan Hukum Pada Korban Salah Tangkap* (Malang: PT. Literasi Nusantara Abadi, 2023).

# JSH

## Supremasi Hukum: Jurnal Penelitian Hukum

P-ISSN: 1693-766X ; E-ISSN: 2579-4663, Vol. 35, No 1, Januari 2026, 1-13

<https://ejournal.unib.ac.id/supremasihukum/index>

DOI: <https://doi.org/10.33369/jsh.35.01.1-13>

---

rights. By expanding the regulation of legal rehabilitation within national legislation, it is expected that errors such as error in persona can be minimized and that justice can be upheld comprehensively and without exception.

### RESEARCH METHODS

This research employs a normative legal research approach. This method is utilized to examine legal norms, legal principles, and statutory provisions concerning legal protection for victims of error in persona. Normative legal research is developed and conceptualized based on doctrines within the framework of norms, rules, principles, theories, philosophy, and legal regulations to identify solutions or answers to legal issues involving legal vacuums, conflicting norms, and/or legal ambiguity.<sup>4</sup> Normative legal research emphasizes literature studies, utilizing primary, secondary, and tertiary legal materials as the main sources. This research is conducted by examining library materials or secondary data, which include statutory regulations, court decisions, and legal doctrines. This approach was selected for its relevance to the research focus, namely analyzing legal frameworks and the concept of legal protection for victims of error in persona within the criminal justice system.

### RESULTS AND DISCUSSION

#### 1. The Concept of Error in Persona and the Problematics of Legal Rehabilitation within the Criminal Justice System

Error in persona within the context of Indonesian criminal law represents a serious fallacy in the criminal justice system, occurring when law enforcement officials misidentify an individual who should be subject to legal action. Victims of wrongful arrest are individuals or collectives who suffer physically or mentally due to procedural errors or flaws in the investigation or detention processes conducted by authorized law enforcement officials or similar authorities.<sup>5</sup> This error can emerge at any stage of the criminal process, ranging from investigation, prosecution, to court examination. Fundamentally, this phenomenon constitutes a violation of the principle of due process of law and the principle of equality before the law, as guaranteed in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which asserts that "Every citizen has the right to fair treatment and legal certainty." In practice, error in persona may take the form of arresting an individual based on physical resemblance to the actual perpetrator, administrative identity errors due to similarities in names or demographic data, or inaccurate information from witnesses, informants, or complainants used as a basis for legal action without adequate verification.

---

<sup>4</sup> Yati; Nurhayati, Ifrani; and M. Yasir Said, "Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum," *Jurnal Penegak Hukum Indonesia (JPHI)* 2, no. 1 (2021): 17.

<sup>5</sup> Andrian Uumbu Sunga, "TINJAUAN TERHADAP PEMULIHAN KORBAN SALAH TANGKAP YANG DILAKUKAN OLEH PENYIDIK KEPOLISIAN," 2016.

This issue is exacerbated by weaknesses in the national data system, the lack of integrated identification technologies—such as biometrics or digital forensics—and institutional pressure on officials to resolve cases swiftly without considering the principle of prudence. Furthermore, cases of wrongful arrest can also occur due to unprofessional conduct by the police in implementing criminalization principles, starting from crime detection to the identification of victims and suspects and their scientific correlation. When information from the Crime Scene (TKP), evidence, and the operational methods of officials do not support the truth, court decisions may ultimately fall upon innocent individuals.<sup>6</sup> Any statements obtained as evidence in such manners must be declared invalid, as they may contain fabricated confessions.<sup>7</sup> This indicates the existence of an unclear administrative oversight mechanism.

In the aspect of positive law (*ius constitutum*), error in persona is often not explicitly mentioned in statutory regulations; however, its consequences are accommodated through provisions concerning rehabilitation and compensation. The Indonesian Criminal Procedure Code (KUHAP), specifically in Article 1 point 23, defines rehabilitation as the restoration of a person's rights regarding their capacity, standing, dignity, and honor after undergoing unlawful legal action. Furthermore, Article 68 of the KUHAP stipulates that victims of unlawful arrest, detention, prosecution, or trial are entitled to file a petition for rehabilitation. The implementation mechanism is further detailed in Government Regulation Number 92 of 2015 concerning the Procedures for Implementation of Compensation and Rehabilitation. Nevertheless, the implementation of these provisions remains formalistic and limited to administrative rehabilitation, failing to address the psychological, social, and economic aspects impacted by such erroneous actions. This is further confirmed by the acquittal of Pegi Setiawan through a pretrial mechanism (*praperadilan*), which demonstrates that such legal instruments play a crucial role in guaranteeing the protection of a suspect's human rights.

The judge's decision to grant the pretrial petition and declare the suspect's designation invalid serves as a form of rights restoration for Pegi Setiawan and reflects the enforcement of justice principles within the criminal justice system. Nevertheless, such protective guarantees are not yet fully capable of providing comprehensive protection for the rights of suspects or defendants. This is due to the nature of the pretrial mechanism (*praperadilan*), which generally can only be initiated after a report is filed or legal proceedings are already underway. Consequently, before a pretrial decision is rendered, suspects often suffer prior psychological, social, and economic

<sup>6</sup> Fakhurrozi, "Pencemaran Nama Baik Akibat Salah Tangkap (Kajian Hukum Pidana Islam Dan Hukum Pidana Positif)," *Skripsi, Fakultas Syariah Dan Hukum, Universitas Islam Negeri Syarif Hidayatullah*, 2010, 44.

<sup>7</sup> Saparudin Efendi et al., "Perlindungan Hukum Terhadap Korban Salah Tangkap ( Error in Persona )," *Education and Development* 9, no. 3 (2021): 591.



losses. While the pretrial mechanism is a vital instrument for preventing arbitrary actions, its effectiveness remains limited in providing holistic protection to individuals suspected of committing criminal offenses. The essence of the pretrial institution (praperadilan) lies in its function as a form of oversight and a grievance mechanism against the law enforcement process, which is intrinsically linked to the guarantee of human rights protection.<sup>8</sup> The pretrial mechanism has not yet fully realized its objective of protecting the rights of suspects or defendants, as the passive nature of judges restricts their authority. Consequently, the handling of coercive measures that deviate from established procedures often persists and remains overlooked.<sup>9</sup> The restoration of reputation is often confined to a court ruling declaring the victim's innocence, lacking active measures by the state to restore the victim's honor and social standing within the community. In reality, the stigma and social repercussions experienced by the victim are frequently more severe and enduring than the legal proceedings themselves.

The State must manifest its presence through more progressive and comprehensive policies in providing legal rehabilitation for victims of error in persona, both juridically and sociologically. Rehabilitation must transcend mere administrative formalities; it should encompass official apologies from law enforcement institutions, psychosocial services, financial restitution, and social restoration efforts, such as the expungement of erroneous criminal records and the reinstatement of any revoked civil rights. Furthermore, the State is obligated to ensure that legal procedures are capable of preventing similar errors in the future by mandating the use of advanced identification technologies at every stage of case examination. There is also an urgent need to revise the Criminal Procedure Code (KUHAP) to explicitly include error in persona as a violation of a citizen's constitutional rights, while imposing sanctions on law enforcement officers proven to be negligent or arbitrary in their actions. In a broader framework, recognizing the rights of error in persona victims is part of the state's obligation to guarantee human rights protection as enshrined in various international instruments ratified by Indonesia, including the International Covenant on Civil and Political Rights (ICCPR). Consequently, strengthening national legislation oriented toward the holistic recovery of error in persona victims is not only urgent but is also a constitutional and moral mandate that can no longer be deferred.

## 2. The Legal Basis of Rehabilitation within the Indonesian Legal System

The regulation of rehabilitation for victims of error in persona within the Indonesian legal system has not been specifically or comprehensively codified in a standalone law.

<sup>8</sup> Darwin; Dahlan; Suhaimi, "Analisis Yuridis Putusan Praperadilan Dalam Perspektif Sistem Peradilan Pidana," *Jurnal Mercatoria* 12, no. 1 (2019): 74.

<sup>9</sup> A Y U Anjeli and Sandra Badeng, "EKSISTENSI PRAPERADILAN DALAM KASUS UPAYA PAKSA" 1, no. 1 (2024): 40–47.

Nevertheless, various existing legal instruments provide a normative foundation to guarantee the restoration of rights for victims harmed by law enforcement errors. Constitutionally, the 1945 Constitution of the Republic of Indonesia provides robust guarantees for human rights, which implicitly protect the rights of error in persona victims. Article 28D paragraph (1) of the 1945 Constitution asserts that everyone has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law. Protection of these rights is highly relevant when an individual becomes a victim of wrongful arrest, false accusation, or other identity errors within the criminal justice process. Furthermore, Article 28G paragraph (1) guarantees the right to protection of one's self, honor, and dignity. In the context of error in persona, the state is obligated to provide restoration for the psychological damage, reputational harm, and social impact arising from the wrongful actions committed by law enforcement officials.

the reinforcement of these constitutional guarantees is reflected in the provisions of Law No. 39 of 1999 on Human Rights. This law stipulates that every individual has the right to live in safety, peace, and dignity, and is entitled to fair treatment within the legal process. In this regard, errors in determining the identity of a suspect or defendant constitute a violation of human rights that must be addressed through effective and measurable recovery mechanisms. As enshrined in Article 17 of the Human Rights Law, the right to justice demands corrective mechanisms from the state in the form of rehabilitation—administratively, legally, and socially.

The Criminal Procedure Code (KUHP) also contains explicit provisions regarding rehabilitation in Article 68, which states that a suspect or defendant has the right to demand rehabilitation if their case is terminated at the investigation or prosecution stage, or if they are acquitted (*bebas*) or discharged (*lepas*) from all legal charges by the court. Nevertheless, the application of this article in the context of error in persona still faces various technical and implementation challenges, particularly regarding the procedures for filing rehabilitation, standards of proof, and the certainty of fulfillment of victims' rights by law enforcement officials. These challenges are inseparable from several structural factors, including weak coordination among law enforcement agencies, a low level of awareness regarding victims' rights, convoluted bureaucracy, and the absence of strict sanctions for officials who are negligent or abuse their authority. This condition results in a slow recovery process and sub-optimal implementation of rehabilitation for victims of error in persona. In practice, the procedures for claiming compensation and rehabilitation often require complex administrative stages, suffer from a lack of socialization, and impose additional evidentiary demands that further burden the victim's position in obtaining their right to recovery. This underscores the necessity for the Indonesian criminal justice system to undergo further improvements

## JSH

### Supremasi Hukum: Jurnal Penelitian Hukum

P-ISSN: 1693-766X ; E-ISSN: 2579-4663, Vol. 35, No 1, Januari 2026, 1-13

<https://ejournal.unib.ac.id/supremasihukum/index>

DOI: <https://doi.org/10.33369/jsh.35.01.1-13>

---

in terms of transparency, accountability, and the professional quality of law enforcement officials.<sup>10</sup>

Rehabilitation provisions can also be found in Law No. 31 of 2014 concerning the Protection of Witnesses and Victims, which amended Law No. 13 of 2006. Although the primary focus of this law is the protection of witnesses and victims of criminal offenses, the definition of a "victim" therein is broad enough to encompass victims of error in persona. Under this regulation, the Witness and Victim Protection Agency (LPSK) is authorized to provide protection, medical and psychological assistance, and social rehabilitation to victims who suffer losses due to criminal acts or erroneous legal processes. The rights to compensation, restitution, and assistance, as stipulated in Article 6 of this Law, can serve as a basis for rehabilitation petitions by victims of wrongful arrest, particularly when the losses incurred involve physical, mental, and economic suffering. However, to date, there are no specific technical regulations outlining how such protection and recovery mechanisms should be implemented in cases of legal mishandling. In principle, while the LPSK holds a mandate to ensure the recovery and protection of victims' rights proportionally—while ensuring its duties do not exceed the jurisdictional boundaries of the criminal justice system—the agency faces significant structural hurdles, especially regarding the granting of compensation. The role of the LPSK remains more focused on advocacy and support, such as providing legal aid, psychological protection, and support during judicial proceedings, while the recovery of material losses cannot be handled optimally. The LPSK must be provided with adequate resources and effective authority to ensure the comprehensive protection of witnesses and victims.<sup>11</sup>

Legal reform efforts regarding rehabilitation are also evident in the issuance of Supreme Court Regulation (PERMA) No. 1 of 2022 concerning the Procedures for the Implementation of Rehabilitation and Compensation Rights for Eligible Suspects or Defendants. This regulation establishes more technical procedures for suspects or defendants who have been acquitted or discharged from legal charges to obtain rehabilitation and compensation. Although this PERMA does not explicitly mention victims of error in persona, its regulatory substance provides an avenue for victims of wrongful arrest to file for rehabilitation, including the restoration of their reputation and other civil rights. The primary weakness of the current regulatory framework lies in the absence of a single umbrella regulation that integrates the entire protection and recovery

---

<sup>10</sup> Hasan Khotimah, Khosnol; Rahman, Arif; Safitri, Dita Amalia Nur; Fitriyah; Yafiie, "Tinjauan Hak Asasi Manusia Terhadap Error in Persona Dalam Praktik Peradilan Pidana Di Indonesia Human," *Unizar Law Review* 7, no. 2 (2024): 200.

<sup>11</sup> Jaminuddinn Halawa, Notarius; Gultom, Alberton; Hamonagan, Alusianto; Marbun, "PERAN LEMBAGA PERLINDUNGAN SAKSI DAN KORBAN (LPSK) DALAM SISTEM PERADILAN PIDANA DI INDONESIA," *Jurnal Retentum* 6, no. 1 (2024): 127–36.



mechanism for victims of error in persona. Consequently, many victims remain unaware of their rights or experience significant difficulties in accessing justice effectively.

The practice of rehabilitating victims of judicial error has also evolved in several other countries and can serve as a benchmark for legal reform in Indonesia. In the United States, for instance, a number of states have enacted specific statutes governing compensation and rehabilitation for victims of error in persona, including the provision of financial restitution based on the duration of the wrongful imprisonment. A case that garnered widespread attention is the exoneration of a man named Lawrence McKinney, who served over three decades in prison due to a judicial error and subsequently received state compensation as a form of recognition for the losses he endured. Such practices demonstrate state acknowledgment of the suffering experienced by victims of error in persona and an institutional responsibility to provide more substantive recovery. This model illustrates that rehabilitation should be understood not merely as administrative restoration, but as an effort to restore the victim's dignity, welfare, and social standing—elements that should be considered in the reform of rehabilitation laws for error in persona victims in Indonesia.

While the legislative framework in Indonesia provides a normative foundation for the rehabilitation of error in persona victims, the current regulations remain fragmented and lack systematic organization. Consequently, it is imperative to establish specific regulations—either through the enactment of a new law or the refinement of existing statutes—that explicitly govern the rights of error in persona victims, the procedures for filing rehabilitation, the authorized institutions, standards of proof, and appropriate forms of compensation and rehabilitation. This codification is essential to affirm the state's position in guaranteeing substantive justice and providing legal certainty for every citizen who falls victim to errors within the criminal justice system.

### 3. Weaknesses in the Existing Legal Framework

Although the Indonesian legal system provides several legal foundations for the implementation of rehabilitation, the regulations concerning error in persona victims—individuals who are wrongfully arrested or detained—still face significant fundamental weaknesses at the statutory level. The most prominent issue is the absence of explicit and specific regulations that categorize error in persona as a distinct type of violation. Within Indonesia's positive legal system, neither the Criminal Procedure Code (KUHP) nor its derivative regulations clearly differentiate between a victim of wrongful arrest and a suspect who is acquitted due to insufficient evidence or failure to prove a crime. In reality, error in persona involves a systemic error that causes not only legal harm but also social, psychological, and even political repercussions. When there is no normative differentiation, the handling approach remains uniform and fails to accommodate the specific needs of the victim. Furthermore, the existing rehabilitation mechanisms in the Indonesian legal system are not automatic. In practice, a victim of

wrongful arrest must file a formal petition to the court to obtain rehabilitation and the restoration of their reputation. This procedure is not only bureaucratic and time-consuming but also places the burden of proof entirely on the victim—someone who should, by right, be protected by the State. The absence of an automatic rehabilitation mechanism following the identification of an error reinforces the impression that the State lacks a full commitment to the recovery of those victimized by judicial errors. While Articles 9 dan 95 of the KUHAP provide opportunities to seek rehabilitation and compensation, they do not specifically address error in persona, thus failing to provide a comprehensive remedy for the victims.

The next issue arises in the form of administrative barriers and a high threshold for the burden of proof within the rehabilitation process. The procedures for filing a rehabilitation petition require the victim not only to prove their innocence but also to demonstrate that a procedural or substantial error occurred during their arrest and detention. Proving such errors is exceptionally difficult, particularly when dealing with immaterial damages, such as the destruction of reputation, social pressure, or psychological distress suffered by the victim due to the judiciary's erroneous treatment. Consequently, many victims choose not to pursue the rehabilitation process, perceiving it as overly complicated and lacking any guarantee of success. This situation illustrates a disparity in legal protection and an inequality in access to justice, both of which are ostensibly guaranteed by the constitution and the principles of human rights.

Furthermore, the aspect of compensation provided to victims is deemed disproportionate and fails to reflect substantial justice. In practice, the amount of restitution granted by the State, whether through court decisions or administrative mechanisms, is often inadequate compared to the actual impact of the losses endured by the victim. While the Criminal Procedure Code (KUHAP) regulates compensation in Article 95, it does not provide detailed standards for loss valuation or indicators for assessing immaterial damages. This lack of clarity leads to inconsistency and legal uncertainty in the practice of awarding compensation. In the international context, the International Covenant on Civil and Political Rights (ICCPR)—which Indonesia ratified through Law No. 12 of 2005—obligates the State to provide effective remedies. These remedies include restitution, compensation, and guarantees of non-repetition for victims of human rights violations.

Based on the preceding discussion, the complexity of rehabilitation for victims of error in persona stems from incomplete and ambiguous norms within national legislation, weak mechanisms for the protection and restoration of victims' rights, and the absence of a progressive and responsive legal framework to guarantee substantive justice. Consequently, a comprehensive legal reform is required through the establishment of specific regulations that govern the rehabilitation of wrongful arrest victims holistically—encompassing identification procedures, automatic recovery mechanisms, guarantees for fair compensation, and protection against immaterial

## JSH

### Supremasi Hukum: Jurnal Penelitian Hukum

P-ISSN: 1693-766X ; E-ISSN: 2579-4663, Vol. 35, No 1, Januari 2026, 1-13

<https://ejournal.unib.ac.id/supremasihukum/index>

DOI: <https://doi.org/10.33369/jsh.35.01.1-13>

---

damages. This approach aligns with the principles of human rights protection, which emphasize that the state is obligated to provide effective remedy mechanisms for victims of law enforcement errors. Such efforts are essential not only to strengthen the legitimacy of the legal system but also to restore public trust in law enforcement agencies and the criminal justice institutions.

### CONCLUSION

Based on the preceding discussion, it can be concluded that the legal framework for the rehabilitation of error in persona victims in the Indonesian legislative system remains highly inadequate. Although several applicable legal foundations exist—such as Article 68 of the Criminal Procedure Code (KUHAP), the Human Rights Law, and the Witness and Victim Protection Law—field implementation remains weak and inconsistent. The fundamental weaknesses within the rehabilitation system include the absence of specific regulations for error in persona, non-automatic rehabilitation mechanisms, significant administrative and evidentiary hurdles, and inadequate compensation.

Victims of error in persona encounter multifaceted barriers in accessing their rights, ranging from economic and administrative hurdles to psychological distress. The inadequate response from law enforcement officials and the absence of an active mechanism for the restoration of reputation further exacerbate the victim's condition. The long-term impact of error in persona is not only felt by the victim individually but also undermines public trust in the Indonesian criminal justice system. The current rehabilitation system is predominantly reactive and passive, requiring victims to actively fight for their rights through a convoluted and time-consuming process. This inherently contradicts the principle of state responsibility to protect the rights of its citizens. The findings of this research are expected to serve as a normative foundation for legislators and policymakers in formulating or refining legal regulations concerning the rehabilitation of error in persona victims. Furthermore, this study aims to encourage advanced legal research focused on the formulation of norms, mechanisms, and guarantees of legal certainty within the Indonesian criminal justice system.

### REFERENCES

- Anjeli, A Y U, and Sandra Badeng. "EKSISTENSI PRAPERADILAN DALAM KASUS UPAYA PAKSA" 1, no. 1 (2024): 40–47.
- Atmasasmita, R. (1996). *Sistem Peradilan Pidana (Criminal Justice System) Perspektif Eksistensialisme Dan Abolisionalisme*. Jakarta: Bina Cipta.
- Bawole, H. (2021). *Perlindungan Hukum Bagi Korban Dalam Sistem Peradilan*. *Lex et Societatis*, 9(3); , 20.

## JSH

### Supremasi Hukum: Jurnal Penelitian Hukum

P-ISSN: 1693-766X ; E-ISSN: 2579-4663, Vol. 35, No 1, Januari 2026, 1-13

<https://ejournal.unib.ac.id/supremasihukum/index>

DOI: <https://doi.org/10.33369/jsh.35.01.1-13>

---

Darwin; Dahlan; Suhaimi. “Analisis Yuridis Putusan Praperadilan Dalam Perspektif Sistem Peradilan Pidana.” *Jurnal Mercatoria* 12, no. 1 (2019): 74.

Dirdjosisworo, S. (2001). Pengantar Ilmu Hukum. Jakarta: PT. Raja Grafindo Persada.

DM, M. Y., Saragih, G. M., Setiawan, F., Sitompul, H. I., & Berson, H. (2025). ANALISIS FAKTOR PENGHAMBAT PENEKAKAN HUKUM PIDANA DI INDONESIA. *Jurnal Ilmiah “Advokasi”*, 718.

Efendi, Saparudin, Rina Khairani Pancaningrum, Magister Hukum, Universitas Mataram, Fakultas Hukum, Universitas Mataram, and Salah Tangkap. “Perlindungan Hukum Terhadap Korban Salah Tangkap ( Error in Persona ).” *Education and Development* 9, no. 3 (2021): 591.

Fakhrurrozi. “Pencemaran Nama Baik Akibat Salah Tangkap (Kajian Hukum Pidana Islam Dan Hukum Pidana Positif).” *Skripsi, Fakultas Syariah Dan Hukum, Universitas Islam Negeri Syarif Hidayatullah*, 2010, 44.

Friedman, L. M. (2001). *American Law an Introduction. Second Edition. Hukum Amerika sebuah pengantar.* (W. Basuki, Trans.) Jakarta: PT Tata Nusa

Halawa, Notarius; Gultom, Alberton; Hamonagan, Alusianto; Marbun, Jaminuddinn. “PERAN LEMBAGA PERLINDUNGAN SAKSI DAN KORBAN (LPSK) DALAM SISTEM PERADILAN PIDANA DI INDONESIA.” *Jurnal Retentum* 6, no. 1 (2024): 127–36.

JAYAWISASTRA, Komang Panji; SUGAMA, I. D. G. D. “Pengaturan Hukum Terhadap Korban Salah Tangkap Ditinjau Dari Perspektif Sistem Peradilan Pidana.” *Jurnal Kertha Wicara* 9, no. 9 (n.d.).

Khotimah, Khosnol; Rahman, Arif; Safitri, Dita Amalia Nur; Fitriyah; Yafiie, Hasan. “Tinjauan Hak Asasi Manusia Terhadap Error in Persona Dalam Praktik Peradilan Pidana Di Indonesia Human.” *Unizar Law Review* 7, no. 2 (2024): 200.

Nurhayati, Yati;, Ifrani;, and M. Yasir Said. “Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum.” *Jurnal Penegak Hukum Indonesia (JPHI)* 2, no. 1 (2021): 17.

Seroy, Hatlyinsyanna. “PERLINDUNGAN HUKUM TERHADAP KORBAN SALAH TANGKAP DARI SUDUT PANDANG KUHAP.” *Lex Crimen* V, no. 5 (2016): 134–42.

## JSH

### Supremasi Hukum: Jurnal Penelitian Hukum

P-ISSN: 1693-766X ; E-ISSN: 2579-4663, Vol. 35, No 1, Januari 2026, 1-13

<https://ejournal.unib.ac.id/supremasihukum/index>

DOI: <https://doi.org/10.33369/jsh.35.01.1-13>

---

Sunga, Andrian Umbu. "TINJAUAN TERHADAP PEMULIHAN KORBAN SALAH TANGKAP YANG DILAKUKAN OLEH PENYIDIK KEPOLISIAN," 2016.

Widijowati, Rr, Dijan. *Perlindungan Hukum Pada Korban Salah Tangkap*. Malang: PT. Literasi Nusantara Abadi, 2023.