

ADOPTING OSMAN WARNING IN INDONESIA: AN EFFORT TO PROTECT POTENTIAL VICTIMS OF CRIME TARGET

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Abstract

In the development of criminal law globally, experts believe that preventing crime is much better than taking action. This article exemplifies several criminal cases, especially serial murder cases in Indonesia, which show the lack of quality in the crime prevention system in Indonesia. In line with these consequences, this article considers that Indonesia needs a kind of “warning” system to increase efforts to prevent crimes. Furthermore, this article refers to the experience of implementing the Osman Warning in the UK, improving the quality of crime prevention. This article concludes that there are many problems in the crime prevention system in Indonesia. In responding to these problems, this article aims to answer three concerns. First, what are the difficulties in preventing crime in Indonesia? Second, what is the extent of the obligations of law enforcement in preventing crimes? Third, what is the probability of adopting the Osman Warning concept in Indonesia? Furthermore, this article claims that the probability of implementing the Osman Warning in Indonesia is relatively high and is suitable for implementation. Finally, this article provides a view that special regulations are needed in the laws and rules to accommodate the Osman Warning in the criminal law system in Indonesia.

Keywords: Crime Prevention, Osman Warning, Indonesian Criminal Law

Introduction

An ounce of prevention is worth a pound of cure. The phrase is a universal adage to all problems in the world, including in criminal law. In line with the development of criminal law globally, experts admit that crime prevention is better than taking action. That is because the countermeasure system will be easier to implement, with low risk, than taking action. In several serial murder cases in Indonesia, such as those carried out by MRI, known as (a.k.a) Rian, RAB a.k.a Rio Martil, and Ryan, a.k.a Ryan Jombang, It should be a critical problem in the crime prevention system in Indonesia. The reason is, in these cases, the murder victim always gets death threats first before becoming the victim of serial murder.

Similar cases, long before the possibilities of Rian, Ryan, and Rio, there were cases of murder committed by several traditional healers in Indonesia. These include shaman AS, who killed 42 women during 1984-1994 in Deli Serdang, North Sumatra, and the case of the shaman TYM a.k.a Asep. He carried out serial killings in 2007. Such serial killings should have been prevented if warnings about the dangers. Alternatively, the risks may arise due to the person's actions being sought by the police for murder. However, ironically, law enforcers such as the police, prosecutors, and intelligence failed to take precautions.

Het recht hink achter de feiten aan, a classical legal postulate that, in truth, the law will always lag with the times. Seeing the ineffectiveness of the crime prevention system in Indonesia, reforming the crime prevention protocol is necessary. In the UK, this warning system is known as the Osman Warning, which requires warnings about the dangers and risks of further crimes that may arise. Adopting the Osman Warning concept at least it can be a response protocol for preventing crimes in Indonesia.

In criminal law doctrine, crime prevention has a vital role in efforts to criminal law enforcement. Crime prevention is an effort to make negative relationships into positive ones. Various parties' crime prevention efforts play an essential role in achieving the expected results and objectives. Furthermore, crime prevention has a direct or indirect role and is also responsible for achieving legal goals in society. That is intended so businesses and the potential for crime are no longer a nuisance.

Discourse on this issue presents several questions that this article will answer. First, what are the problems in preventing crime in Indonesia? Second, what is the extent of the obligations of law enforcement in preventing crimes? Third, what is the probability of adopting the Osman Warning concept in Indonesia? Several studies analyze the Osman Warning concept in the world, such as Osman Warning's relationship with the law of torts, the history of the emergence of the Osman Warning concept, the effectiveness of Osman Warning in targeting potential criminals, the use of Osman Warning in assisting criminal investigations, and about the relationship between Osman Warning and Human Rights. However, research has yet to describe the probability of adopting the Osman Warning concept in Indonesia in substantive detail. In particular, no study has discussed and analyzed how the Osman Warning concept can responsively improve the quality of crime prevention in Indonesia.

In answering these questions, this article was compiled using legal research methods through a statutory, conceptual, and case approach combined with reform-oriented research methods. This article is organized into several sections. After the introduction, the second section of this article will discuss the problems preventing crime in Indonesia. The third section will reflect on the extent to which law enforcement is obliged to avoid crime. The fourth section will examine the probability of adopting the Osman Warning concept in Indonesia. This section will describe the experience of implementing the Osman Warning in the UK and how the Indonesian context responded to it. In the end, some conclusions and recommendations will be described.

Problems in the Crime Prevention System in Indonesia

Ad Recte docendum oportet primum inquirere nomina, quia rerum cognitio a nominibus rerum dependet. A classical legal postulate has a deep meaning to understand a legal concept and must begin with a definition. The definition of prevention is a process of approaches, procedures, and methods designed to improve a person's interpersonal competence and function as an individual, partner, parent, or in involvement in a group, community, or institution. Another definition of preventive/preventive efforts is to prevent something unwanted from happening. Preventative etymologically comes from the

Latin “*pravenire*,” which means to go before/anticipate/prevent something from happening. In a broad sense, prevention is a deliberate effort to avoid disturbance, damage, or loss to someone. Thus, preventive efforts are actions taken before something happens. That is because something is something that can damage or harm.

According to the legal point of view, prevention is a process, method, or act of preventing or holding back so that something does not happen. It can also be said that an attempt was made before the violation occurred. Crime prevention efforts are the initial effort in tackling crime.

Crime prevention efforts can generally be carried through "penal" and "non-penal" means. Efforts to overcome criminal law through penal means in regulating society through legislation essentially manifest a policy step. Non-penal related to crime prevention are preventive before a crime to deal with and eliminate conducive factors that can cause a crime. The conducive factors, among others, are centered on social problems or conditions that can directly or indirectly lead to a crime.

The serial murder case carried out by MRI, a.k.a Rian, should not only be completed at the judicial stage. More broadly than that, the case must be seen as a form of evaluation of Indonesia's crimes prevention system. In that case, MRI, a.k.a Rian, committed the first murder of OS (18 years). The victim's body was found on February 25, 2021. The victim's body was put in a garbage bag with his feet tied. Two weeks later, Rian's actions took another victim. He killed another woman, EL (23 years old), whose body was found in Megamendung, Bogor, on March 10, 2021. In that case, the Cibinong District Court, West Java, sentenced this 21-year-old man to 13 years. This sentence is even less than a year's demand by prosecutors. The panel of judges believed that they were only found guilty of premeditated murder, resulting in two victims' death.

Rian's continued crimes should have been prevented. If the police had been quick to investigate and arrest the perpetrators, or at least give Rian's closest people warnings so that crimes could be prevented. However, MRI, a.k.a Rian, is not the only perpetrator of 'serial' murder crimes in Indonesia. There is a name Ryan Jombang. Based on the facts revealed at the trial, Ryan has killed several people for economic reasons. After killing a friend in Depok, his brutal action

ended and brought him to justice. The death penalty verdict against Ryan has permanent legal force.

Another name recorded in law enforcement in Indonesia is RAB, a.k.a Rio Martil, who was executed in 2008. Rio's crimes began with JS, an advocate who is also a car rental entrepreneur in Purwokerto. During 1997-2001, Rio allegedly killed at least four people. Rio again killed another inmate while serving his sentence at the Nusakambangan Prison. In addition, there is also the story of the shaman AS. He killed 42 women during 1984-1994 in Deli Serdang, North Sumatra, and the case of the shaman YTM, a.k.a Asep, who carried out serial murders in 2007. The court handed down death sentences to the shaman AS and shaman TYM, a.k.a Asep.

These phenomena become problems in the crimes prevention system in Indonesia. Such serial killings should have been prevented if there was a "warning" about the dangers. The police seek the risks that might arise from the person's actions for a criminal case. Crime prevention, in its development, is no longer relevant if it emphasizes socialization and public education efforts. Prevention efforts in the "warning" system need to be carried out using semi-repressive means by emphasizing more measures to avoid crime.

Indeed, experts admit that crime has been a social problem faced by people in all countries since ancient times and is essentially a product of society itself. However, because crime directly disrupts public security and order, it is only natural that all parties pay attention to this issue. According to general assumptions and several observations and research from various parties, there is a tendency to increase the development of certain forms and types of crimes, both quality and quantity. Recognizing the high level of seriousness of the crime directly or indirectly encourages responding to crime and perpetrators of crime. In essence, this is related to the aims and objectives of preventing and controlling these crimes.

As one aspect of the study of criminology, public reaction to crime can be realized formally as a criminal justice system. However, it can also be discovered informally, among others, as crime prevention efforts. The two forms of reaction, both formal and informal, manifest community security efforts. Although crime prevention has long been considered one of the main goals of criminal politics, it remains an unclear conceptual boundary. The purpose of the criminal justice

system and its elements, such as individual and general deterrence, security, and rehabilitation, are primary repressive measures and are closely related to preventing violations or crimes after the offense or crime has occurred.

Different concepts of crime prevention mean that, after all, crime prevention efforts must also include considerations aimed to preventing crime before an offense or crime occurs. Based on the description above, it is necessary to have a particular crime prevention strategy to provide community protection.

Obligations of Law Enforcers in Preventing Crime

In criminal law, prevention efforts are carried out by emphasizing crime prevention efforts to minimize the causes and opportunities for crime to be committed. According to Bassiouni, as quoted by Barda Nawawi, the goals to be achieved by criminals are generally manifested in social interests that contain specific values that need to be protected. These social interests include: maintaining public order, protecting citizens from crime, re-socialize (rationalizing) the perpetrators of crimes or lawbreakers, maintaining and maintaining the integrity of particular views regarding social justice, human dignity, and individual justice. So, it was evident that criminal law must be matched with the need to protect and defend the interests of society. So, it is very appropriate that a policy approach must carry out the reform of the crime prevention system in Indonesia. It is because, essentially, legal reform is a policy step that is part of law enforcement, criminal politics, and social politics.

In the old Indonesian Criminal Procedure Code (in HIR), there are terms called preventive police and repressive police. Since the term preventive policing in English has the word preventive. In contrast, in terms of crime prevention (in English), the word prevention seems necessary to explain the relationship between terms. There is a close relationship between preventive policing and crime prevention. Preventive policing is indeed part of the crime prevention section, but crime prevention is broader than preventive policing.

Preventive policing is the duty of the police to prevent crime, as regulated in Chapter I of HIR. In contrast, the task of the repressive policy is the task of the judicial police, who take action against every crime if a crime has occurred (regulated in Chapter II of the HIR). The

articles on preventive policing in HIR prevent crime by taking specific actions.

Preventive police duties, according to P.H. Fromberg, cannot be separated from repressive policing. Both aim to enforce the law, the first to prevent crime and the second to prosecute and punish injustices that occur. According to Van Vollenhoven, the duties of the police are also divided into two groups, namely preventive and repressive tasks. This last task is called “Justisiel Uustiele Politie”, or the judicial police (*rechtspolitie*). The example most often used by scholars in presenting the functions of preventive police is the duty of guarding by the traffic police, the night patrols carried out by village guards in rotation and other tasks commonly referred to as “zorg voor de openbare rust en veiligheid, en de handhaving van de goede orde.”

Although the provisions of the criminal procedure law in the HIR have been abolished by the existence of the Criminal Procedure Code (Law Number 8 of 1981 concerning the Criminal Procedure Code), in essence, the function of law enforcement, especially the police, is also inseparable from the role of crime prevention. As the opinion of the experts stated above, philosophically, law enforcers have an enormous responsibility in preventing crime and the potential for crime to occur.

Policies or efforts to combat crime are integral to protecting society (social defense) and achieving social welfare. Therefore, it can be said that the ultimate goal or primary goal of criminal politics is the protection of society to attain public interest.

Crime prevention efforts need to be taken with a policy approach because there is an integration between criminal politics and social politics. In addition, there must also be an integration between efforts to overcome crime with penal and non-penal. Considering that prevention efforts through non-penal channels are more of a preventive measure for crime, the main target is to address the conducive factors that cause crime. These conducive factors, among others, are centered on social problems or conditions that can directly or indirectly lead to or foster crime. Thus, from a macro and global perspective of criminal politics, non-penal efforts occupy a key and strategic position in all criminal political actions.

The key and strategic position in tackling the causes and conditions that give rise to crime has also been affirmed in various

United Nations congresses on “The Prevention of Crime and the Treatment of Offenders.” First, at the 6th United Nations Congress in 1980 in Caracas, regarding “Crime trends and crime prevention strategies.” It was stated: that the problem of crime hinders progress towards achieving an adequate quality of life for all. Furthermore, crime prevention strategies should eliminate the causes and conditions that give rise to crime. Second, at the 7th UN Congress in 1985, in Milan, on “Crime prevention in the context of development.” It was stated that efforts to eliminate the causes and conditions of crime must be a basic crime prevention strategy.

Starting from the general goal of criminal politics, which is to protect society from achieving public welfare, criminal law scientists in Indonesia agreed at the third Criminology Seminar in 1976. crime by repairing or restoring (rehabilitating) the maker without reducing the balance of the interests of the individual (maker) and society.

Another aspect of community protection is maintaining a balance or harmony of various interests and values disturbed by crime. So, the purpose of the crime is to maintain or restore the balance of society. Starting from the four protection objectives above, the purpose of sentencing contains two main aspects. First, The element of community protection against crime. This aspect includes the objectives of preventing, reducing, or controlling crime, restoring the balance of society whose manifestations. It includes resolving conflicts, bringing a sense of security, repairing the loss or damage incurred, removing the resulting stains, and reinforcing the values of life in society. Second is the aspect of protection against individuals or criminals. This aspect aims to improve the perpetrators by rehabilitating and re-socializing the perpetrators. It also releases the perpetrator, influencing the perpetrator’s behavior to be orderly or comply with the law and protecting the perpetrator from the imposition of arbitrary sanctions or retaliation against the law.

From the point of view of criminal law policy, the central problem or main problem lies in how far the authority/power to regulate and limit human behavior with criminal law. That means that basically, the problem of crime lies outside the field of criminal law itself. Namely, on the issue of the relationship of power/rights between the state and citizens. So that these things are related to the socio-

philosophical, socio-political, and socio-cultural concepts (ideological views) of a society, nation/state.

In the end, this section concludes that, in any literature and any expert opinion, all agree that crime prevention is the most crucial part of criminal law enforcement. So that an effective and adequate prevention strategy is needed to prevent crime. In the next section, this article will discuss the adoption of the Osman Warning concept as a form of improvement to the crime prevention system in Indonesia.

Probability of Adopting Osman Warning in Indonesia

The History of Osman Warning

The warning about the danger or risk of further crime in England is called the Osman Warning. Serial murder cases, as described in the previous section, should have been prevented if there was an ‘Osman Warning’ about the dangers or risks that might arise from the person’s actions being sought by the police for the murder case. Osman Warning is not a familiar term in Indonesia. Osman Warning is not found in criminal law, procedural law, or criminology textbooks. This term has only been used since 1998, referring to the Ali Osman murder case in England on March 7, 1988.¹

Osman warning is “a warning of a death threat or risk of murder, issued by the British police or authorities to the prospective victim.” So, Osman Warning is a threat to life warning, a mechanism to warn other people, especially people who are the most potential victims of crime, to be careful. In short, Osman Warning is a warning mechanism delivered by the police to people who are potential victims or targets of perpetrators.² That is useful in preventing further crimes from occurring.

Osman Warning begins with a legal case: Osman against the British government (Osman vs. the United Kingdom). After Ali Osman, a London businessman was shot by Paul PagetLewis, a son’s

¹ David Tow, “Just Violence: Torture and Human Rights in the Eyes of the Police by Rachel Wahl” (2020) 4:1 International Journal of Human Rights Education 10 p. 24.

² Naomi E Sevin Goldstein et al, “Juvenile offenders’ Miranda rights comprehension and self-reported likelihood of offering false confessions” (2003) 10:4 Assessment 359–369 p. 360.

school teacher. The lawsuit was filed by the victim's wife and children, Mulkiye and Ahmet Osman, in court. The plaintiffs claim the murder should not have happened if law enforcement officers had been alert.³ The plaintiff considered that the British government, especially the police, had failed to act on a series of signs of threats that the perpetrator had shown before the victim's shooting occurred. As before, the perpetrators have shown signs of committing criminal acts against the victim and her family. According to the plaintiff, the police had been given sufficient information explaining that the alleged perpetrator would pose a danger to others.⁴ The attitude of the British police officers who did not follow up on the information provided was a violation of human rights, especially the right to life.

Article 2 Schedule 1 of the UK Human Rights Act (1998) affirms that the right to life of every person is protected by law. In total, it is stated: "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law."

Initially, the British court stated that the police had no obligation to protect the applicant (no duty of care), as was decided in the previous case (the case of Hill vs. Chief Constable of West Yorkshire Police). Indeed, Osman Warning helps prevent the occurrence or recurrence of crimes against a potential person. At the same time, the police do not have enough evidence to detain the person concerned. Mulkiye and his son appealed to the European Court of Human Rights (EHCR) in Strasbourg.⁵ The EHCR ruled that the defendant's argument that the police had no obligation to treat the plaintiffs violated Article 6 of the European Convention on Human Rights. The trial judge acknowledged the difficulties experienced by the police in modern society. Human behavior is difficult to predict, and the police face difficult choices regarding taking action, resource capacity, and workload. However, preventive measures should be taken

³ Paula Giliker, "Osman and police immunity in the English law of torts" (2000) 20:3 *Legal Studies* 372–392 p. 380.

⁴ Marcus Tregilgas-Davey, "Osman v Metropolitan Police Commissioner: The Cost of Police Protectionism" (1993) 56:5 *The Modern Law Review* 732–738 p. 19.

⁵ Nehal Bhuta, "Police Liability after Ancell: A Law Unto Themselves?" (1994) 19 *Melbourne University Law Review* 1094 p. 21.

when the apparatus knows a natural or immediate risk to a person due to a third-party crime. That is intended to avoid the occurrence of these risks.⁶

An important lesson from the case of *Osman vs. the United Kingdom* is to remind authorized officers or officials to carry out their obligations in protecting the human rights of citizens. However, not every neglect of the apparatus is considered a violation of human rights. The responsibility can be breached only if the authorities knew and should have known. If law enforcement, in this case, the police know there has been a genuine and direct threat to a person's life or persons.

After the decision of *Osman vs. the United Kingdom*, the term *Osman Warning* was born and is used by the police in Great Britain. The BBC reports that during October 2012, nearly 2000 *Osman Warnings* (threat to life notices) were issued by the British police. During 2012-2014 warnings were issued by the Nottinghamshire (248), Metropolitan (207), Kent (117), and South Wales (97) police. Other reports indicate that in 2017, police stations in England and Wales issued more than 776 *Osman Warnings*; The Metropolitan Police issued 24 notices in 2013, even up to 425 in 2017.⁷ The judge's consideration in the *Osman v United Kingdom* case has set a precedent in the UK and used several cases. For example, in the case of the Chief Constable of the Hertfordshire Police v *van Colle* (2008).⁸

That is a consideration to apply and adopt the *Osman Warning* in Indonesia. *Osman Warning* can be a form of application of the social defense doctrine. According to Marc Ancel, two main conceptions or interpretations of social defense are fundamentally related. First, the ancient or traditional arrangement limits the understanding of community protection in terms of suppressing crime.⁹ Social defense is

⁶ Ralf Alleweldt & Guido Fickenscher, eds, *The Police and International Human Rights Law* (Cham: Springer International Publishing, 2018) p. 289.

⁷ Jim Murdoch, "Police Powers and Criminal Investigations" in *The Police and International Human Rights Law* (Springer, 2018) 125 p. 67.

⁸ Dimitris Xenos, "The Protection Against Crime as a Human Right: Positive Obligations of the Police" in *The Police and International Human Rights Law* (Springer, 2018) 181 p. 14.

⁹ Tamar Shavgulidze & Mariam Kutaladze, "The Importance of Reduction of Discretionary Power to Zero in the Preventive Activity of the Police" Nino Lobjanidze Practical Aspects of the Hierarchy of Constitutional Rights 3 Givi

defined as the protection of society against crime—the modern conception, which interprets the protection of society in terms of preventing crime and educating offenders. Looking at the purpose of criminal law in community protection to achieve public welfare is a comprehensive goal.¹⁰ Based on these objectives, it is possible to provide details or identify several aspects or forms of community protection to achieve legal goals in society.

Osman Warning in Relation to the Protection of Human Rights

In practice, an Osman Warning or threat to life notice can be sent to people who, according to the police, are the target of crime or are in danger. This also applies in cases where the police immediately notify the house of a person who is a potential target for murder. Osman's warning is considered a police response to fulfilling citizens' human rights, especially the right to life.¹¹

When it comes to safeguarding human rights, the police are critical. Government authorities, including police forces, are created to provide security and protect the rights of citizens. Police officers must often act quickly and decisively to ensure that individual rights and the rule of law are respected. In many cases, they successfully protect citizens against criminal acts; they help the weak against the strong.¹² Each time the police interfere lawfully to protect citizens' lives and physical integrity, each time the police secure a criminal conviction of persons guilty of murder, assault, robbery or even theft, they contribute to citizens' well-being and security and the protection of their human rights.¹³ To fulfill this task, police forces have special powers, including using force and coercion if necessary.

Human rights law plays a fundamental part in helping each society address this conundrum. Human rights directly concern the

Luashvili The Standard of Suspension of the Normative Act (According to the practice of the Constitutional Court of Georgia) 13 63 p. 19.

¹⁰ Bindler & Hjalmarsson, *supra* note 38 p. 12.

¹¹ Rachel Wahl, "7. Police Respond to Human Rights Activists" in *Just Violence* (Stanford University Press, 2020) 161 p. 19.

¹² Michelle D Bonner & Lucia Dammert, "Constructing police legitimacy during protests: frames and consequences for human rights" (2021) *Policing and Society* 1–17 p. 19.

¹³ Giliker, *supra* note 46 p. 21.

interface between citizen and citizen in police uniform. Nevertheless, there is a strangely minimal direct reference to the police in international human rights laws. Instead, there is a need to extract implications from these international human rights standards. The drafters of various human rights treaties appear to have largely ignored the police officer. However, the police officer was very much at the forefront of their minds, for the state's power is at its most naked and direct as far as most citizens are concerned in the presence of the police officer, charged with extraordinary and ultimately largely discretionary legal authority.¹⁴

The preventive nature of policing 'to guard, patrol and watch' to protect individuals (and their property) from the criminal acts of others has lain at the heart of contemporary notions of policing in a democratic society. Policing is human rights on duty. Police officers are, in a real sense, the first line of defense of the human rights of individuals.¹⁵ Outside Osman cases, the responsibility to protect life also has particular relevance for persons who are deprived of their liberty.¹⁶ An individual is at their most vulnerable at the point of loss of freedom (hence the emphasis upon procedural rights to protect a suspect from physical or psychological harm during interrogation). However, this vulnerability extends to other risks to health. Several cases have established severe shortcomings on the part of police officers.

Policing functions are traditionally seen as having two aspects: preventive and investigative. Both may be seen as two sides of the same coin: to address criminal wrongdoing. However, proactively preventing crime can give rise to the question of how far a society is prepared to pay in terms of interferences with human rights to allow its police 'to guard, patrol and watch.' Surveillance of those suspected of involvement in serious crime is desirable and necessary.¹⁷ However, the need for adequate controls on discretionary powers is also self-evident. This is one such issue in modern policing and is considered below.

¹⁴ Bhuta, "Police Liability after Ancell", *supra* note 48 p. 21.

¹⁵ Habeeb Abdulrauf Salihu & Olufemi Adeniyi Fawole, "Police Crackdowns, Human Rights Abuses, and Sex Work Industry in Nigeria: Evidence From an Empirical Investigation" (2021) 31:1 *International Criminal Justice Review* 40–58 p. 44.

¹⁶ Alleweldt & Fickenscher, *supra* note 49 p. 56.

¹⁷ Murdoch, *supra* note 50 p. 17.

The theoretical and conceptual framework above has concluded that Osman Warning has a close relationship with the protection of human rights. The location of the connection is the probability that the authority and obligation of Osman Warning will only be given to the police. With the concept as explained above that the police are the front line in ensuring the protection of human rights, Osman Warning has become a new key in efforts to protect human rights.

Osman Warning in the Context of Indonesia

Indonesia also has a legal instrument that guarantees the right of everyone to live. Article 28A of the 1945 Constitution of the Republic of Indonesia states that everyone has the right to live and has the right to defend his life and livelihood. The right to life is reaffirmed in Article 28I. Together with the right not to be tortured, the right to freedom of thought and conscience. The guarantee and protection of the right to life are also stated in Law Number 39 of 1999 concerning Human Rights.

Associated with the Osman Warning concept, the right to life is realized, among others, by providing legal protection for witnesses or victims. The state has a responsibility to protect witnesses or victims of crimes. The consideration of Law no. 13 of 2006 concerning the Protection of Witnesses and Victims mentions that law enforcers often experience difficulties because they cannot present witnesses or victims due to threats from certain parties, both physical and psychological threats. Article 5 paragraph (1) also states that a witness and a victim have the right to obtain protection for their personal, family, and property security. They also are free from threats related to the testimony they will, are currently, or have given.¹⁸

The concept of human rights guaranteed in the Indonesian constitution aligns with the Osman Warning concept as crime prevention. Osman Warning extended to anyone who has the potential to become a victim of a crime. Thus, from the point of view of criminal politics, all non-penal preventive activities have a strategic position in crime prevention. Therefore, a criminal policy must integrate all

¹⁸ Goldstein et al, *supra* note 45 p. 29.

preventive activities into an orderly system of state activities.¹⁹ Efforts to overcome non-penal crimes can be in the form of prevention without punishment, influencing the public's view of crime, and influencing society's views on crime and punishment in mass media. Considering that crime prevention efforts through non-penal channels are more of a preventive measure, the main target is to address the conducive factors that cause crime.²⁰ These factors are centered on social problems or conditions that can directly or indirectly foster crime.

The Criminal Procedure Code has regulated the obligations and powers of investigators and investigators from the police if there are allegations of crime. Investigators receive reports and carry out investigations, arrests, or detentions. However, sometimes investigators do not have sufficient evidence to detain a person so that the person concerned can go free.²¹ Police Chief Regulation No. 6 of 2019 concerning Crime Investigation has also regulated what investigators must do when a crime is suspected. Although not as similar and effective as the Osman Warning, the system in the form of patrol activities for the police in Indonesia can be categorized as a small part of the implementation of Osman's warning.

Nevertheless, there is absolutely nothing regulated about the obligation to give a "warning" to people who are potential targets of criminals. If based on police intelligence data, someone becomes the target of murder, then a warning like the Osman Warning is essential. The police monitor the movements of the perpetrators and alert people who are potential victims. It was stated that Osman Warnings or threats to life warnings "are issued if police have the intelligence of a real and immediate threat to the life of an individual." It is significant if the threat is real before our eyes, especially since the alleged perpetrator has not been caught. A warning to the people around him becomes very urgent. In the case of serial killers, such signs are even more critical.²²

¹⁹ Peter Fussey & Daragh Murray, "Independent report on the London Metropolitan Police Service's trial of live facial recognition technology" (2019) p. 11.

²⁰ Bhuta, "Police Liability after Ancell", *supra* note 48 p. 24.

²¹ Judith Thorn, "United Nations Police Missions and Human Rights" in *The Police and International Human Rights Law* (Springer, 2018) 245 p. 19.

²² Bruno Sousa & Daniela Soares, "Combat to abandonment and mistreatment of animals: a case study applied to the Public Security Police (Portugal)" in *Case studies on social marketing* (Springer, 2019) 245 p. 44.

Adopting Osman Warning in Indonesia

In the Indonesian context, police actions such as the Osman Warning are essential to prevent essential witnesses from being threatened by criminals. Suppose the threat is real in sight, especially since the alleged perpetrator has not been caught. In that case, warning the people around him becomes urgent. Thus, adopting the Osman Warning in Indonesia is very relevant to be implemented.

From the Osman case and other cases that occurred, several points or standards can be learned as lessons for Indonesia. Especially when Indonesia commits to adopt and implement the Osman Warning in Indonesian criminal law regulations, these critical points include: First, the police do not silence reports of threats submitted by residents because they do not have an obligation to protect individual citizens. The police have a duty to examine and examine reports carefully and objectively. Second, the threat is real and urgent action needs to be taken (real and immediate). However, the police cannot break the law to arrest or detain someone without sufficient evidence. Third, suppose based on the information obtained, the threat of the perpetrator is real and immediate. In that case, the police must immediately convey a “warning” to potential victims (intended victims) to be careful, for example, by changing the schedule or asking for protection from law enforcement officials. Fourth, suppose a warning must be given. In that case, the police must provide adequate information to potential criminal targets to carry out maximum prevention. But still, keep the techniques and methods and technical protection that is being carried out by the police.

In discussing the effectiveness of the Osman Warning, the question arises, if the police have received sufficient information regarding threats against victims, why are not the police directly providing protection? Another question that may also occur is, what if the police take real action? Does it guarantee that the activities of the police do not become overreaching? Furthermore, if the police only give warnings without actually acting in providing protection, isn't that an omission by the police of their obligations? Osman Warning puts itself in the middle. Osman Warning gives a warning before taking action. That is due to the necessity to acknowledge the existence of the principle of presumption of innocence.

Moreover, in carrying out prosecutions and arrests, specific evidence is needed. Meanwhile, Osman's Warning is based only on certain intrigues that indicate a criminal threat to potential victims, such as clues. Fear of police action that may be excessive can also be dispelled. Osman Warning is also subject to criminal procedure law so that Osman Warning can guarantee he remains in line with the enforcement of human rights. Moreover, implementing the Osman Warning departs from an effort to balance the enforcement of criminal law and human rights.

New laws and regulations are needed to adopt and implement the Osman Warning in Indonesia or revisions to related laws and regulations. First, two options can be made by making special laws and regulations governing the Osman Warning. This breakthrough has advantages and disadvantages. The advantage of this method is that the Osman Warning regulation can be better covered. The whole setting of Osman Warning will be precise with this method. The options are available in making a new law that regulates the Osman Warning can be in the form of a particular law, the Indonesian National Police Regulation, or regulation from the Ministry of Law. The disadvantage of implementing this method is that it takes more time. In addition, this method must be faced with the convoluted Indonesian political bureaucracy.

The second breakthrough that can be made in adopting the Osman Warning in Indonesia is revising the laws that have regulated criminal law and criminal procedural law. The Indonesian Criminal Code is fixed by adding the Osman Warning to Book I or general provisions. Meanwhile, the Indonesian Criminal Procedure Code revision was carried out by adding the Osman Warning as a criminal procedure law in Indonesia. The advantage of adopting this method is that the Osman Warning procedure will be more concisely regulated in the legislation. Meanwhile, this method will also face the same problem, namely a complicated political bureaucracy. However, this article suggests that the adoption of the Osman Warning be carried out by setting it up in the Indonesian National Police Regulation. Besides precisely and completely regulating in regulation, this method will also reduce the risk of complicated bureaucracy.

Conclusion

Criminal law experts have agreed that crime prevention is far better than taking action. Several crime cases, especially serial murder cases in Indonesia, show the lack of quality of the crime prevention system in Indonesia. Indonesia needs a “warning” system to improve crime prevention efforts. Reflecting on the experience of implementing the Osman Warning in the UK, which has succeeded in improving the quality of crime prevention, Indonesia has the opportunity to adopt the same thing to improve the quality of its crime prevention system.

Two options can be adopted and implemented the Osman Warning in Indonesia. First, by making special laws and regulations governing the Osman Warning. The options are available in creating a new law that regulates the Osman Warning can be in the form of a particular law, the Indonesian National Police Regulation, or regulation from the Ministry of Law. The second breakthrough that can be made in adopting the Osman Warning in Indonesia is revising the laws that have regulated criminal law and criminal procedural law.

This article provides suggestions for adopting the Osman Warning by stipulating it in the Indonesian Police Regulations. Besides precisely and completely regulating in regulation, this method will also reduce the risk of complicated bureaucracy.

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