

## **The Criminalization of Siti Aisyah Case: The Suspect in the Murder of Kim Jong Nam (Legal and Justice Approach)**

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### **Abstract**

This article will analyze the role of the victim in the murder based on the true story of a migrant worker named Siti Aisyah, a domestic worker in Malaysia. This article will explain the unequal position of domestic workers in relation to employers, gender inequality, victim status, minority status and so on, even victim analysis is a problem today. Because this article really needs to be discussed with the key TKW working abroad to know that their situation is really very vulnerable with various inherent aspects. Moreover, cases like this are not new, we hear that there are many helpless victims who are forced or used to help criminals. Moreover, cases like this are not new, we hear that there are many helpless victims who are forced or used to help criminals. Therefore, we hope that this article can help broaden our views and thoughts, especially for TKI who want to work abroad in the

country, who are aware of the law and must also be aware of the law, add insight and last but not least, improve self-awareness. . Therefore, we hope that this article can help broaden our views and thoughts, especially for TKI who want to work abroad in the country, who are aware of the law and must also be aware of the law, add insight and last but not least, improve self-awareness.

## Keywords

*Murder, Kim Jong Nam, Siti Aisyah Case, Law Enforcement, Victim Protection*

## I. Introduction

Victims of crime and wrongdoers, despite sharing the term "*victims*," exist in distinct realms with divergent meanings and implications. Victims of crime find themselves unwittingly caught in circumstances where their understanding is limited, potentially leading them to commit crimes due to a sense of helplessness. These individuals engage in actions that, for them, fall outside the realm of criminal activity. On the contrary, wrongdoers consciously perpetrate acts of harm, fully aware that their conduct is morally and legally reprehensible. It is crucial to recognize this fundamental difference, as victims of crime operate from a standpoint of inadvertence, while wrongdoers possess a level of awareness about the implications of their actions.<sup>1</sup>

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<sup>1</sup> Schafer, Stephen. *Compensation and restitution to victims of crime*. (Montclair, NJ: Patterson Smith, 1970); Whiteley, Diane. "The victim and

This dichotomy becomes evident when considering the vulnerability of certain groups, such as migrant workers. For instance, women facing economic challenges may be enticed by seemingly lucrative opportunities abroad. The prospect of low-paying jobs for migrant workers, however, comes at the cost of leaving their families behind, often without considering the potential risks they may encounter. Crime, lurking inconspicuously, can strike at any time and place, unbeknownst to individuals who may find themselves inadvertently involved in criminal activities.<sup>2</sup> Therefore, this analysis aims to shed light on the primary factors rendering migrant workers highly vulnerable to crime, using the case of Siti Aisyah as an illustration. Her innocence, presumed by the author, is juxtaposed with the accusation of her involvement in a crime resulting in a person's death.

By delving into the circumstances surrounding individuals like Siti Aisyah, the author seeks to uncover insights that transcend the immediate case. This analysis serves as a valuable resource for all stakeholders, including potential victims of crime, by offering a deeper understanding of the risks they may face—whether consciously or inadvertently. The narrative woven here is a call to action, urging a comprehensive awareness of the nuanced distinctions between victims of crime and those who perpetrate

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the justification of punishment." *Criminal Justice Ethics* 17, no. 2 (1998): 42-54; Wijaya, Enggal Prayoga. "Knowing Victims to Protect Them, A Book Review "Viktimologi: Perlindungan Korban dan Saksi" Bambang Waluyo, SH, MH, Sinar Grafika Jakarta, 2011, 320 pages, ISBN 978979074378." *Journal of Indonesian Legal Studies* 6, no. 2 (2021): 483-490.

<sup>2</sup> Waluyo, Bambang. *Vitkimologi: Perlindungan Korban dan Saksi*. (Jakarta: Sinar Grafika, 2022).

wrongdoing, thereby fostering a more informed and vigilant society.<sup>3</sup>

In the context of case—Siti Aisyah case—Siti Aisyah was one of two women accused of murdering Kim Jong Nam, the estranged half-brother of North Korean leader Kim Jong Un, in a high-profile case that took place on February 13, 2017, at Kuala Lumpur International Airport in Malaysia.

On that day, Kim Jong Nam was at the airport preparing to board a flight to Macau when he was approached by Siti Aisyah and another woman, Đoàn Thị Hương, who allegedly smeared a toxic nerve agent, VX, on his face. Kim Jong Nam quickly fell ill and died on the way to the hospital. The use of VX, a highly potent chemical weapon, raised international alarm and drew attention to the brazenness of the attack.

Siti Aisyah and Đoàn Thị Hương were arrested and charged with murder. The prosecution argued that the two women were recruited and trained by North Korean agents to carry out the assassination. The defense, however, contended that the women believed they were participating in a prank for a television show and were unaware of the deadly consequences of their actions. In March 2019, the charges against Siti Aisyah were unexpectedly dropped. The Indonesian government had lobbied for her release, maintaining that she was a naive and unknowing participant in the plot. Siti Aisyah was released and returned to Indonesia.

The case highlighted the complex geopolitical dynamics involving North Korea and Malaysia, as well as the apparent use

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<sup>3</sup> Septiadi, Harry. *Perlindungan Warga Negara Indonesia oleh Kedutaan Besar Republik Indonesia dalam Kasus Pembunuhan Kim Jong Nam di Malaysia*. Diss. Universitas Sumatera Utara, 2018.

of a banned chemical weapon in a public place. It also raised questions about the roles of the two women and whether they were coerced or manipulated into participating in the assassination. The Kim Jong Nam assassination remains a notable and controversial international incident.

The infamous case involving Siti Aisyah and the murder of Kim Jong Nam, the estranged half-brother of North Korean leader Kim Jong Un, stands as a compelling intersection of international intrigue, chemical warfare, and the complexities of criminal justice. This incident, which unfolded on February 13, 2017, at Kuala Lumpur International Airport, not only captivated global attention but also raised intricate questions about the legal and justice dimensions surrounding the accused, Siti Aisyah.

In this study, we delve into the criminalization of the Siti Aisyah case, adopting a legal and justice approach to unravel the intricacies of the allegations against her. The accused, initially charged with the murder of Kim Jong Nam using the highly toxic nerve agent VX, became a focal point in the strained relations between North Korea and Malaysia. As we navigate the legal landscape, we will scrutinize the prosecution's claims, defense arguments, and the subsequent release of Siti Aisyah, shedding light on the challenges faced by the criminal justice system in addressing such high-profile and geopolitically charged cases.<sup>4</sup>

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<sup>4</sup> Dethan, Larissa Doraltina. "The Role of Diplomatic and Consular Relations in Handling the Siti Aisyah Case." *Journal of ASEAN Dynamics and Beyond* 4, no. 1 (2023): 16-23. See also Sovianti, Rina. "Framing Analysis: Release of Siti Aisyah by Malaysian courts in online media." *First International Conference on Administration Science (ICAS 2019)*. Atlantis Press, 2019; Irianto, Yanto. "Analisis Politik Hukum Ketenagakerjaan Terhadap Undang-Undang Perlindungan Tenaga Kerja di Luar Negeri

This study goes beyond the surface of the case, aiming to dissect the legal intricacies, ethical considerations, and the broader implications of criminalizing individuals in cases that transcend national borders. By adopting a legal and justice lens, we seek to unveil the layers of complexity surrounding the Siti Aisyah case, ultimately contributing to a nuanced understanding of the challenges inherent in addressing international criminal allegations within the realm of law and justice.<sup>5</sup>

## II. Method

The research methodology employed for the paper titled "*The Criminalization of Siti Aisyah Case: The Suspect in the Murder of Kim Jong Nam (Legal and Justice Approach)*" integrates a multifaceted approach to thoroughly dissect the legal intricacies and justice dynamics surrounding the case. Firstly, a

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Pada Penerapan Fair Trial Kasus Pembebasan Siti Aisyah." *Jurnal De Jure Muhammadiyah Cirebon* 6, no. 2 (2022): 41-50.

- <sup>5</sup> Wijayanti, Cindy Fitri. "Yurisdiksi Korea Utara Dalam Mengadili Siti Aisyah Sebagai Pelaku Pembunuhan Kim Jong Nam Ditinjau dari Hukum Internasional." *Jurnal Education and Development* 8, no. 2 (2020): 181-181. See also Septiadi, Harry. *Perlindungan Warga Negara Indonesia oleh Kedutaan Besar Republik Indonesia dalam Kasus Pembunuhan Kim Jong Nam di Malaysia*. Diss. Universitas Sumatera Utara, 2018; YUDHISTIRA, Arie Mohammad Fajar Triagus T. *Analisis Yuridis Tentang Kasus Pembunuhan Kim Jong-Nam di Malaysia Tahun 2017 Oleh Warga Negara Indonesia*. Diss. Universitas Jenderal Soedirman, 2018; Alvi, Roicha Tissuvia. *Perlindungan Pemerintah Indonesia Terhadap WNI di Luar Negeri (Studi Kasus: Siti Aisyah, Terdakwa Kasus Pembunuhan Kim Jong-Nam)*. Diss. Universitas Wahid Hasyim Semarang, 2018; Alanudin, Rifki. *Narasi Pemberitaan Investigasi Pembunuhan Kim Jong-Nam Analisis Naratif Laporan Utama Majalah Tempo Edisi 10-16 April 2017*. Diss. UIN Sunan Gunung Djati Bandung, 2017.

comprehensive legal analysis is undertaken, scrutinizing relevant national and international laws governing murder, chemical weapons, and extradition. This includes an examination of legal precedents and a comparative analysis of legal frameworks in Malaysia and North Korea. The goal is to establish a robust understanding of the legal context in which Siti Aisyah's case unfolds and to identify any potential disparities or complexities within the legal frameworks of the involved jurisdictions.

Simultaneously, the research adopts a case study approach to construct a chronological timeline of events, highlighting key legal milestones, diplomatic actions, and public reactions. The case study delves into stakeholder analysis, identifying and examining the roles and perspectives of key entities involved, such as legal authorities, diplomatic bodies, and human rights organizations. This approach allows for an in-depth exploration of the legal procedures followed during the investigation and trial, uncovering any challenges faced by the legal system in handling an international case with geopolitical implications.

Furthermore, a narrative analysis is incorporated to scrutinize how the case was portrayed in the media and public discourse. By analyzing news articles, editorials, and public sentiments, the study aims to understand the narratives constructed around Siti Aisyah and how these narratives may have influenced public perception and, consequently, legal proceedings. Additionally, interviews with legal experts and diplomatic voices are conducted to gain insights into the legal complexities of the case and the broader implications for future international criminal cases. This integrated methodology ensures a nuanced exploration of the legal and justice aspects surrounding Siti Aisyah's criminalization in the murder of Kim Jong Nam.

### III. Siti Aisyah: Assessing Roles in the Kim Jong Nam Case—Victim or Perpetrator?

The surge in globalization and the subsequent implementation of an open economy policy have enticed foreign workers to contribute their diverse knowledge and specialized skills in Indonesia as a means of livelihood. Unfortunately, due to the lack of accessible educational opportunities, many young individuals are compelled to abandon their schooling, resulting in a weakened human resource pool in the country. This scenario has led to increased difficulty in securing employment, especially for those, particularly women, who opt for the relatively risky path of working as migrant workers.<sup>6</sup>

The vulnerable position of migrant workers, often operating in isolation without adequate support, makes them susceptible to victimization, especially as a minority group residing in foreign nations. The compounded vulnerabilities of these migrant workers, exemplified in cases such as that of Siti Aisyah, make them prone to exploitation and criminal victimization. Siti Aisyah, recognized as a diligent and obedient worker in Malaysia, found

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<sup>6</sup> Widyawati, Anis. "Legal Protection Model for Indonesian Migrant Workers." *Journal of Indonesian Legal Studies* 3, no. 2 (2018): 291-304; Solekhah, Ragil Putri Amalia, and Novita Intan Aina Salsabila. "Protecting Our Migrant Workers from Violence: How the Legal Protection System Works?." *Law Research Review Quarterly* 9, no. 1 (2023): 89-106. *See also* Sulistiyono, Tri, et al. "Perlindungan Buruh Migran Indonesia di Korea Selatan di Masa Pandemi Covid-19: Protection of Indonesian Migrant Workers in South Korea during the Covid-19 Pandemic." *Seminar Nasional Hukum Universitas Negeri Semarang* 7, no. 1 (2021); Putra, Septeryan Dwi Purnomo. "Protection against Indonesian Women Workers." *Lex Scientia Law Review* 3, no. 1 (2019): 79-86.



herself thrust into the public eye on February 13, 2017, when she was apprehended by Malaysian authorities. She has since remained in custody under a rather bleak status, implicated as a suspect in the disappearance of Kim Jong Nam, the brother of North Korean leader Kim Jong Un. Siti Aisyah's plight highlights the harsh realities faced by individuals like her, illustrating the broader challenges experienced by vulnerable migrant workers in unfamiliar environments.

Th In the spotlight of Malaysian media, the narrative surrounding 25-year-old Siti Aisyah from Serang gained prominence as she confessed to Indonesian agents in Malaysia about her alleged involvement in splashing liquid on Kim Jong Nam's face, an incident that also involved Vietnamese woman Doan Thi Hoang embracing Kim from behind. Aisyah claimed that she believed she was participating in a reality show, a supposed prank orchestrated by a Japanese TV channel. For her role, she received a salary of 400 Malaysian ringgit. The authenticity of Aisyah's words remains uncertain, and the ongoing investigation has yet to confirm her statements. The four suspected North Korean perpetrators are still at large, adding complexity to the case, compounded by the absence of clarification from the alleged perpetrators.

With only one hearing held on March 1, 2017, and another on April 13, 2017, the principle of presumption of innocence<sup>7</sup> is

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<sup>7</sup> The *presumption of innocence* is a foundational legal principle that serves as a cornerstone in criminal law, ensuring fairness and justice in legal proceedings. Central to this principle is the idea that every person accused of committing a crime is considered innocent until proven guilty in a court of law. This concept places the responsibility of proving guilt squarely on the prosecution or the party bringing forth the allegations. The burden of proof is a critical element of the presumption of innocence. It stipulates

crucial in Aisyah's legal standing. While it appears that she may have committed an act deserving reprimand, the formal indictment and subsequent court decision will determine the appropriate punishment, adhering to the legal process. The central

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that, during a legal proceeding, the prosecution must present compelling evidence to convince the court beyond a reasonable doubt that the accused is indeed guilty of the alleged crime. Importantly, the accused is not required to prove their innocence; instead, they are treated as innocent until proven otherwise. This principle ensures a neutral stance towards the accused until guilt is established. Until proven guilty, individuals facing criminal charges retain their legal rights, and they should not suffer punitive measures or adverse consequences solely based on the accusations made against them. The presumption of innocence is integral to the concept of a fair trial. It ensures that judges, jurors, and all participants in the legal process approach the case with an open mind, free from preconceived notions about the guilt of the accused. This contributes to upholding the right to a fair and impartial trial, essential for the integrity of the justice system. Legal systems worldwide incorporate various safeguards to protect the rights of the accused, including the right to legal representation, the right to remain silent, and the right to confront and cross-examine witnesses. The standard for conviction often rests on proof "beyond a reasonable doubt," emphasizing that any lingering doubt about the guilt of the accused should result in acquittal. In essence, the presumption of innocence is a fundamental component of justice systems, serving as a safeguard against arbitrary arrests, unfair trials, and wrongful convictions. It underscores the principle that individuals are entitled to a fair and unbiased legal process before being declared guilty of a crime. See Baughman, Shima Baradaran. "Restoring the Presumption of Innocence." *Ohio State Law Journal* 72, no. 4 (2011); Tadros, Victor, and Stephen Tierney. "The presumption of innocence and the human rights act." *The Modern Law Review* 67, no. 3 (2004): 402-434; Ferguson, Pamela R. "The presumption of innocence and its role in the criminal process." *Criminal Law Forum* 27, no. 2 (2016); Tadros, Victor. "Rethinking the presumption of innocence." *Criminal Law and Philosophy* 1 (2007): 193-213; Haryanto, M. "The Principle of Presumption of Innocence and Prosecution Policy." *Yustisia* 5, no. 3 (2016): 679-701.

question revolves around Aisyah's role in this murder case—can she be considered both a perpetrator and a victim? This dilemma becomes more intricate considering the potential implications of the CCTV footage obtained by Malaysian police. As the legal proceedings unfold, the critical examination of whether Aisyah is genuinely a victim or an assailant becomes paramount. It is noteworthy that the Prosecutor of Selangor State, Malaysia, has charged both Siti Aisyah and Doan Thi Hoang, Vietnamese nationals, with murder under Section 302 of the Malaysian Penal Code, carrying the maximum penalty of death.

Based on the findings of the police investigation, it has been revealed that Siti Aisyah administered a liquid recognized as the highly lethal neurotoxin VX—a substance classified as a weapon of mass destruction and included in the UN Banned List. Despite its potentially fatal nature, VX has been proven to be completely safe when utilized as a harmless substance such as baby oil. Aisyah's actions, allegedly part of a reality show prank for a renowned TV channel, seemingly clash with the gravity of using a deadly neurotoxic agent. The incident occurred in a public setting at the airport, a bustling and logically crowded area. Aisyah, under the impression that she was participating in a scenario or a spoof reality program for a Japanese TV station, complied with the request to splash water in exchange for a payment of 400 Malaysian ringgit. This raises questions about her awareness of the potentially harmful consequences, considering the stark contrast between her perceived participation in a harmless prank and the actual use of a toxic substance deemed a weapon for mass murder in the United States.

Consideration of Siti Aisyah's culpability in the alleged crime involving the application of a lethal neurotoxin VX reveals

nuanced layers that demand careful examination. While her purported compliance with the TV station's instructions raises questions about her awareness of potential repercussions, it is essential to acknowledge the broader context of her circumstances. As a woman, the apprehension associated with causing harm or loss of life, regardless of the promised financial reward, introduces a complex interplay of fear and responsibility. Operating in a foreign country, where legal consequences can be severe, Aisyah's decision-making is inherently influenced by the imperative to avoid engaging in criminal activities, particularly acts as serious as murder.

The exploration of Aisyah's potential victimhood hinges on multifaceted vulnerabilities she faces. Her economic struggles, coupled with the status of being a migrant worker in a foreign land and limited education, underscore her precarious position. Aisyah's widowhood and association with a foreign boyfriend further compound her vulnerability. In the intricate web of her circumstances, these factors place her at a disadvantage, rendering her a susceptible target in a society that may exploit such vulnerabilities. Her participation in various social activities magnifies her exposure to potential victimization, highlighting the intersectionality of her identity as a woman, an economic struggler, a migrant worker, and a person with limited educational resources.

A closer examination of Aisyah's demeanor and actions suggests a degree of naivety and shortsightedness. This simplicity could have been exploited by external forces, as suggested by intelligence agencies, leading her to become unwittingly involved in what authorities claim to be organized crime or even terrorism. In this light, it prompts a reevaluation of her role from that of an

assailant to a potentially manipulated participant, raising ethical and legal questions about her true agency in the unfolding events. This complexity emphasizes the importance of a comprehensive and empathetic understanding of her circumstances, considering the intersecting vulnerabilities that may have shaped her choices and actions in this perplexing case.

The apparent innocence exhibited by Siti Aisyah when she sprayed a lethal substance directly on Kim Jong Nam's face in a public space, particularly within an airport teeming with CCTV cameras and bustling with activity, has contributed to the prevailing perception that she may not be capable of committing such a crime. The audacity of the act during daylight hours and in plain view of the public suggests an unconventional method, as experts are unlikely to undertake such actions openly. This raises the possibility that Siti Aisyah, far from being solely a perpetrator, may also be a victim in this complex scenario. Organized crime exploited her perceived innocence and vulnerability to carry out the crime of dousing Kim Jong Nam with a deadly liquid.

From the perspective of victimology, understanding the nuances of victimhood involves considering the type and degree of vulnerability the victim possesses, the nature of the relationship with the perpetrator, the circumstances leading to the crime (including the victim's haste and guilt), and the level of guilt shared between the victim and the perpetrator. The spectrum ranges from cases where the victim is less guilty than the attacker to situations where the victim becomes the sole offender, especially in instances where the perpetrator subsequently takes their own life. Additionally, there exists the concept of the imaginary victim, where an individual feigns victimhood despite not experiencing genuine suffering. Examining the relationship between victims

and perpetrators involves evaluating victimization levels (Victim Vulnerability) and the extent to which victims are aware of the crime that has befallen them (Victim Guilt).

From a victimology perspective, the susceptibility of individuals to crime is often influenced by their inherent characteristics or social positions, exposing them to situations where they lack the power to control or avert criminal acts. Siti Aisyah's experience as a migrant worker in Malaysia exemplifies how social status can be a pivotal factor. Women, in particular, face unique challenges due to physical differences and societal expectations, making them more prone to victimization, especially in the realm of sexual violence.

Sexual violence, whether in the form of physical assault or verbal abuse, leaves lasting scars on victims, often affecting women, minors, and parents. The vulnerability of elderly individuals also stems from physical frailty and psychological factors, as they may be more compliant due to their age. Parents, despite their roles as caregivers, become easy targets for criminals seeking to exploit their material and emotional vulnerabilities. This powerlessness makes them susceptible to crime without the ability to resist or seek help.

Another vulnerable group comprises those with mental impairments, where a distinction between intellectual disabilities and physical disabilities is crucial. Individuals with intellectual disabilities may lack the clarity of thought to distinguish right from wrong, rendering them at greater risk of criminal victimization. Additionally, immigrants leaving their countries of origin face a unique set of vulnerabilities, as they navigate unfamiliar environments and often lack the support networks they once had.

The dynamics of immigration, encompassing both legal and illegal cases, create an environment that can be exploited by criminals, whether acting individually or as organized groups. Immigrants, having uprooted themselves to live in a foreign country, often adopt a mindset of vulnerability, fearing repercussions if things go awry. This sense of helplessness makes them particularly susceptible to criminal activities, especially migrant workers toiling abroad who, having only completed primary education, become easy targets due to their limited educational background.

When discussing minorities, the focus is typically on the diverse range of differences in race, religion, and ethnicity that distinguishes them from the majority population in a country. Unfortunately, the small size of minority groups makes them ideal targets for criminals, as prosecuting them individually may not yield substantial outcomes. It is crucial to dispel the stigma associated with differences and refrain from using it as an excuse for the heightened vulnerability of minorities. Government intervention becomes imperative to provide full attention and protection to these minority groups, recognizing their susceptibility to criminal victimization.

Another group prone to victimization comprises individuals who are short-sighted, characterized by a lack of careful consideration in their thinking and actions. Unlike those with mental impairments, short-sighted individuals display a tendency to act impulsively without pondering the long-term consequences. Their susceptibility arises from a willingness to immediately accept tempting requests without thoroughly evaluating the associated risks. This inclination makes them particularly vulnerable to fraud and criminal activities, falling into the category of crime-prone or

victimized individuals due to their shortsightedness and lack of foresight. Recognizing and addressing the vulnerabilities of these groups is paramount in crafting effective strategies to curb crime and enhance their protection.

Individuals grappling with depression often find themselves in extremely challenging situations, rendering them unable to process information accurately. Personal, work, financial, and other severe problems can contribute to a sense of despair that clouds the mind's ability to grasp truth and justice. Depressed individuals, lacking clear and assertive communication, become susceptible to criminal exploitation, spanning across gender and age, be it women, men, children, or adults.

Greedy individuals, fixated on personal interests such as money, status, and pleasure, are particularly prone to becoming both victims and perpetrators of crime. Their insatiable desires make them easy targets for manipulation, as they readily accept enticing offers, including requests for money, houses, and cars. Their sole focus on self-interest often leads them into fraudulent schemes, victimizing themselves in the pursuit of their own greed. However, when they resort to illegal means such as bribery and corruption, they transition from being victims to active perpetrators of criminal acts.

Those who prefer solitude and solitude, tending to live in seclusion, also present a vulnerability to crime. Their penchant for aloofness and introversion, influenced by innate characteristics or environmental factors, makes them more prone to criminal victimization. Criminals find comfort in exploiting individuals with closed and introverted personalities, whether overtly or covertly. The closed nature of these individuals hinders them from sharing their thoughts with others, making them reluctant to



report crimes committed against them, even to family, friends, or siblings. This reluctance stems from a fear of repercussions, further highlighting the vulnerability of those who choose a solitary and withdrawn existence.

Indeed, people with this type of people fear and feel more comfortable when their problems are kept alone, with the aim of being uncomfortable when saying something to others, both small and big. Thing. This certainly provides a great opportunity for criminals as they can easily steal, cheat, rape or other things from people who prefer to be alone and introverted. They are less likely to report crimes committed against them by the perpetrators. Therefore, people who prefer solitude and live in isolation should receive special attention, even the full attention of their family and loved ones, both women and men, and hope that those solitary and alienated people will change them. attitude and must have the courage to say everything that is in front of you. It is true that unethical or negligent people who make decisions without thinking too much, seem rushed, can also act, which must be done carefully and with a calm mind. Since they are immoral or negligent, they mistakenly think the culprit is immoral or negligent.

These people should receive sound advice and lessons to open up about what they are going to do with certainty and accuracy. Therefore, such people need full understanding and good supervision from family members, relatives and even closest friends. Eventually a person is expelled, and of course this person can easily become a victim of crime due to the resistance of those around him. Prejudice puts people out of exclusion because of their mistakes and past and keeps them ostracized. Because of the personal problems they have experienced and they will definitely

be embarrassed, maybe they will move out soon and disappear because of exclusion. This is because the community is less supportive of the treatment and character which certainly causes a lot of hassles and certainly embarrassing for the surrounding environment or housing. Society will act by isolating them because they do not want their environment to be polluted by the actions that have been taken by those who are in trouble. From this explanation it can be concluded what causes everyone to be ostracized, including those who are at risk of becoming victims of crime today. Of course, people with degeneration cannot complain or seek help from the nearest or farthest person. When the criminal wants to commit a crime, he is free to do so. Why not because the target is an ostracized person, where it will be difficult for them to express what they have received as long as the aggressor continues to harass them.

Reports from individuals who have been ostracized may often go unnoticed by the surrounding community due to the prevailing stigma that the marginalized person is not part of their immediate environment. Even neighbors may be treated as strangers, and sometimes, even close family members might show indifference. It is crucial for society to recognize the potential harm caused by unwarranted exclusion, as it can affect individuals who may not be guilty or deserve such treatment. As human beings, respecting each other's privacy and empowering one another is essential, as every person is born with rights guaranteed by the law. The societal stigma surrounding exclusion can leave those ostracized feeling helpless, leading them to become more susceptible to criminal activities, irrespective of gender, age, or background. Criminals do not discriminate; rather, they target individuals who are naturally vulnerable to crime. Therefore, it is

important for anyone who perceives someone as highly vulnerable to criminal activities to remain vigilant and encourage open communication. Seeking support from family, relatives, close friends, or other trusted individuals can help prevent recurring problems. Additionally, recognizing the impact of exclusion and taking steps to create an inclusive and supportive community is essential in fostering a safer and more harmonious society.

Stephen Schafer's categorization of victimhood identifies seven distinct types, each offering insights into the dynamics of blame and responsibility. The *first* type, known as "Irrelevant Victims," comprises individuals who, devoid of any contributing actions, remain innocent victims. In such cases, the blame unequivocally rests on the shoulders of the perpetrator.<sup>8</sup>

"Irrelevant Victims" refers to a category of individuals who, by definition, do not engage in any actions or behaviors that contribute to their victimization. In other words, these individuals are entirely passive and innocent in the events leading to their victimhood. The term "irrelevant" is used to emphasize that their actions or circumstances are not relevant or contributory to the harm they experience.

In cases involving "Irrelevant Victims," the blame is unequivocally placed on the shoulders of the perpetrator. These victims have not taken any steps, knowingly or unknowingly, to attract harm or become involved in the situations that lead to their victimization. Instead, their victimhood is a result of the actions

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<sup>8</sup> Schafer, Stephen. *The victim and his criminal: A study in functional responsibility*. Vol. 34. (New York: Random House, 1968); Schafer, Stephen. *Victimology: The victim and his criminal*. (Reston, VA: Reston Publishing Company, 1977); Schafer, Stephen, and Leonard D. Savitz. *Theories in criminology: Past and present philosophies of the crime problem*. (New York: Random House, 1969).

or choices made by others, typically those who intentionally cause harm or engage in criminal behavior. The concept underscores the idea that in certain instances, victims are entirely blameless and bear no responsibility for the harm inflicted upon them. The term "Irrelevant Victims" emphasizes the moral and legal clarity surrounding these cases, emphasizing the wrongful actions of the perpetrator as the sole cause of the victim's suffering.

The *second* type, "Incitement Victims," involves special victims who, whether knowingly or unknowingly, play a role in enabling others to commit malevolent actions. Here, both the perpetrator and the victim share culpability for the ensuing incident.

"Incitement Victims" refer to a category of individuals who, through their actions or influence, play a role in enabling others to commit malevolent or harmful actions. This type of victimhood involves a level of agency on the part of the victim, distinguishing it from scenarios where individuals are entirely passive in their victimization.

Whether knowingly or unknowingly, individuals categorized as "Incitement Victims" contribute to the commission of harmful acts by others. Their involvement may range from active participation or encouragement to more subtle forms of influence. In some cases, these victims may be aware of the consequences of their actions, while in other instances, they may be unwittingly contributing to the harm caused by others.

The term "incitement" implies that these victims, intentionally or unintentionally, incite or prompt others to engage in malevolent actions. The dynamics in such cases are complex, involving a shared responsibility between the perpetrators and the

victims who, to varying degrees, contribute to the occurrence of harmful events.

While the blame for the harm inflicted ultimately rests on the shoulders of the perpetrators, "Incitement Victims" are acknowledged for their role in influencing or facilitating the commission of harmful actions by others. This category adds nuance to the understanding of victimhood by recognizing the active participation or contribution of certain individuals in the events leading to their victimization.

Moving on, the *third* type involves "Victims Caring for Their Interests." This category encompasses instances where victims engage in activities that invite harm, attributing blame to the unjust party. For instance, carrying large sums of cash without proper supervision. The *fourth* type, "Physically and Socially Disadvantaged Victims," focuses on individuals who are physically helpless or socially disadvantaged, such as children, the elderly, people with disabilities, the poor, and ethnic minorities. In this scenario, society bears the blame, not the victim.

The *fifth* type, "Victims of Social Misfortune," pertains to those neglected by society, like the impoverished in helpless social positions. The responsibility for their victimization falls on the perpetrators or the public. The *sixth* type involves "Self-Harming Victims." These individuals, through their own actions, become victims. Acts considered victimless crimes, such as prostitution or gambling, place the blame on the victim-turned-perpetrator.

*Lastly*, "Victims of Politics," the seventh type, highlights victims targeted by political enemies. Accountability is contingent on political conditions, and victims may feign victimhood to collaborate with perpetrators for rewards. The victim's role, actions, and surrounding circumstances influence both victim and

perpetrator, entangled in complex pragmatic relationships, often arising from fabricated circumstances.

The concept of victim responsibility introduces a nuanced perspective on the dynamics within criminal activities. Victims, while traditionally seen as passive recipients of harm, can also be actively involved in criminal scenarios, playing various roles that influence the commission of the crime. Their participation may be conscious or unconscious, direct or indirect, solitary or collective. This dynamic interaction between victims and perpetrators is shaped by the complex interplay of circumstances and conditions.

The victim's influence is not limited to mere passivity; rather, it extends to the realm of active participation, where their actions or reactions can contribute to the development of other forms of crime. The perception of the victim is intricately woven into the fabric of the criminal event, influenced by the context in which it unfolds. Whether consciously or unconsciously, victims may be interconnected through relationships, associations, cohabitation, or shared norms.

Crucially, the victim's presence is integral to the unfolding of a criminal case, as their behavior and mental state can be catalysts for criminal acts. In direct crimes involving victims and perpetrators, interactions occur within the context of familiarity, shared associations, communal living, or adherence to common norms. These relationships may not always be continuous or coordinated, yet they form the interface through which the victim and perpetrator engage.

Furthermore, the dynamics of interaction are influenced by the rationalization employed by the perpetrator. The rationalization serves as a justification for utilizing the victim and, in certain cases, justifying nefarious activities based on a particular

idea or goal, such as the realization of a dream. In essence, the victim's role extends beyond passive reception to active involvement, shaping the intricate dynamics of criminal behavior and its consequences.

The role of the victim in the occurrence of a criminal act encompasses various dimensions. *Firstly*, the victim can assume the role of an influencer, actively fortifying, welcoming, and persuading the perpetrator to engage in criminal activities. This suggests a dynamic where the victim may play a proactive part in encouraging or enticing the commission of the criminal act.

*Secondly*, the victim may function as an unwitting collaborator, acting as an invalid victim who collaborates with the perpetrator to bring about the criminal act. In this scenario, the victim becomes a co-contributor in coordinating and facilitating the actualization of the criminal act.

*Thirdly*, the victim's perception of themselves as a potential target, based on the actions of others, can lead to the adoption of retaliatory measures. In this context, the victim leverages this perceived vulnerability to enact a criminal act as a form of revenge against those they perceive as adversaries.

*Lastly*, the victim can transform into a consequential figure through self-justification for the wrongful act committed by the perpetrator. This dynamic involves the victim rationalizing or justifying their role in the criminal act based on their interpretation of the circumstances, thereby becoming an integral part of the crime's unfolding narrative.

## IV. Strategies for Prevention and Rationalization in Victim-Perpetrator Dynamics

Self-justification is intricately linked to various mechanisms such as dismissal, disagreement rooted in the parties involved, the assessment of the victim's self-worth, enduring the causes of rejection and harm inflicted upon the victim, blaming the victim, and framing the victim's persistence as a legitimate activity. As victimology evolves, it not only calls for attention to the victims' positions but also categorizes various types of victims, expanding our understanding of victimhood.

### 1. Nonparticipating victims

Individuals who exhibit apathy towards crime prevention efforts.

### 2. Latent victims

Those possessing distinctive character traits that make them prone to becoming victims.

### 3. Provocative victims

Individuals whose actions stimulate criminal activities.

### 4. Participating victims

Individuals who, through their behavior, inadvertently facilitate their own victimization.

### 5. False victims

Those who become victims as a result of actions initiated by themselves.

This categorization offers a nuanced perspective, revealing the multifaceted ways individuals can find themselves in victim



roles and adding depth to our understanding of the intricate dynamics between victims and perpetrators. Further exploring Lilik Mulyadi's typology of victims provides additional insights, drawing parallels with the categorization based on the circumstances and status of victims:

1. Unrelated victims

Individuals with no connection to the perpetrators, exemplified in situations like plane crashes where responsibility solely lies with the offender.

2. Provocative victims

Those actively encouraging their victimization, as seen in instances of cheating where the victim also plays the role of the perpetrator.

3. Participating victims

Individuals who, although not directly involved, employ their behavior to cast themselves as victims.

4. Biologically weak victims

Those with physical vulnerabilities making them susceptible to victimization.

5. Socially weak victims

Individuals with marginalized social standing, making them more vulnerable to victimization.

6. Self-victimizing victims

Individuals who become victims due to crimes committed by themselves, such as victims of drugs, gambling, abortion, or prostitution.<sup>9</sup>

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<sup>9</sup> Mulyadi, Lilik, *Bunga Rampai Hukum Pidana, Perspektif, Teoretis dan Praktik*. (Bandung: Penerbit Alumni, 2023).

Understanding these victim typologies underscores the intricate nature of victimhood, acknowledging that victims may play various roles or find themselves in vulnerable situations for diverse reasons. As for the protection of crime victims in Indonesian society and beyond, the quality and legitimacy of penal codes in different countries follow the territorial principle, representing a common legal foundation followed by nations globally.

According to Moeljanto, this guideline asserts that the criminal law of a foreign country is applicable to any individual who intentionally or unknowingly commits a criminal act within that country, regardless of whether the actor is a citizen of the host country or a foreign citizen. The concept of *lex loci delicti* (the law applied based on the location of the crime against the perpetrator) has been recognized since the 9th century. This legal principle allows for the application of the Criminal Code in foreign jurisdictions, encompassing cases where individuals, whether from the host country or abroad, have committed crimes within the territorial boundaries of another country.<sup>10</sup>

Concerning the limitations on the lawful application of criminal law in other countries from the perspective of the state, two bases can be identified. Firstly, it is grounded in a country's criminal law provisions, applying to all crimes occurring within the state's territory. This encompasses offenses committed by the state's civilian population, as well as those by foreign nationals (territorial principle). Additionally, the state exercises jurisdiction over its own citizens committing crimes abroad (individual

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<sup>10</sup> Moeljatno, Moeljatno. *Asas-asas Hukum Pidana*. (Jakarta: Rineka Cipta, Jakarta, 2002).

principle/active national principle). Originally, the emphasis was on national action, irrespective of anyone involved. In contemporary regulations, the focus has shifted to individuals engaging in criminal acts, irrespective of nationality. The Indonesian Criminal Code incorporates both these principles.

The relationship with the territorial principle seldom gives rise to legal issues, primarily because the application is guided by the sovereignty principle of other states. This principle covers all interconnected state territories and generally avoids conflicts with other nations. However, conflicts may arise when it comes to standards or principles involving individuals acting internationally, potentially leading to disputes with other countries.

In broad terms, a state is obligated to follow its citizens once it initiates the implementation of dynamic state guidelines. Under the extension of the territorial principle, when a serious unlawful act occurs in a foreign country, the state in the area where the crime transpired has the right to intervene. If the crime involves its own citizen, the foreign nation has the right to request extradition and apply its laws within its territory, subject to permission from the country of the accused. However, the issue is complex as it clashes with the general principle of international law, which emphasizes that all states must safeguard their citizens against the application of foreign regulations. This complexity is further heightened when Indonesian citizens commit crimes abroad and remain within the jurisdiction of the host country.

Moreover, in the event of a suspect, plaintiff, or host country being subject to extradition to another country for trial, there are guidelines specifying that nationals should not be handed over. This means that if the suspect, defendant, or perpetrator is a

citizen of the requested country, that nation reserves the right to retain its citizens. This principle aligns with considerations of national honor or, in the context of French law, what is known as *dignité nationale*.<sup>11</sup>

## V. Conclusion

In conclusion, an examination of the case involving Siti Aisyah, a migrant worker in Malaysia implicated in a murder, warrants a nuanced perspective that considers her vulnerability and circumstances. A comprehensive analysis reveals several key factors contributing to Aisyah's situation. Firstly, her gender, being a woman, adds a layer of vulnerability, as societal perceptions often categorize women as more susceptible. Secondly, her limited educational background and low human resources place her in a precarious position, driving her to seek employment as a migrant worker to sustain her family. This highlights her innocent disposition, marked by a lack of awareness and knowledge.

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<sup>11</sup> "Dignité Nationale" translates to "national dignity" in English. In the context of French law and international relations, "dignité nationale" refers to the concept that a nation has a duty to protect the honor and dignity of its citizens. It is the principle that a country should safeguard the interests and rights of its nationals, especially when faced with legal actions or requests for extradition from foreign countries. The idea is that a nation should not easily surrender its citizens to foreign legal systems, particularly if doing so might compromise the dignity or rights of those individuals. This concept reflects a commitment to protecting the reputation and legal standing of a country's citizens, even when they are accused of crimes in another jurisdiction. This principle is part of the broader considerations in international law regarding the rights of individuals and the responsibilities of states towards their citizens.

Thirdly, Aisyah's subordinate role under her employer serves as an additional factor contributing to her vulnerability, as power dynamics in the workplace can significantly impact the choices available to the employee. Lastly, her status as a minority and her solitary existence in a foreign country further amplify her vulnerability. Being far from her home country, Indonesia, and lacking a support system, Aisyah finds herself in a disadvantaged position.

These aspects, encompassing gender, socio-economic status, employment dynamics, and minority status, collectively underscore the need for a thorough and empathetic examination by the court. Understanding these factors is crucial in ensuring a just and equitable legal process that refrains from hasty judgments. Aisyah's circumstances should be carefully considered to avoid undue harshness in the imposition of sentences, acknowledging the multifaceted challenges she faced as a victim in the complex dynamics of the case.

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