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The international-law dynamics of green victimology and the state of environmental victim protection in Indonesia

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Abstract
Green victimology the branch of victimology that places victims of ecological harm at the centre of legal analysis has evolved from a marginal theoretical claim into a recognisable current in contemporary international law. Four converging developments confirm this: the constitutional rise of the Rights of Nature, the campaign to list ecocide among the Rome Statute crimes, an increasingly assertive jurisprudence from the ICJ and ITLOS, and the entrenchment of indigenous protections under UNDRIP. Together they advance one doctrinally potent proposition: that an ecosystem can be wronged and is therefore entitled to genuine restoration rather than mere monetary settlement. Measured against this emerging standard, Indonesia among the world's most biodiverse yet ecologically vulnerable states displays a marked gap between its progressive constitutional text and its impoverished enforcement. Using a normative-doctrinal method built on statutory, conceptual, comparative, and case-based inquiry, this article argues that Indonesia's framework, despite formally embracing ecocentric principles, suffers five structural deficits: non-recognition of ecosystems as juridical subjects, the absence of any official stance on ecocide, persistent failure to meet the free, prior and informed consent standard, the lack of an operative mechanism of ecological restitutio in integrum, and the structural weakness of victims' access to environmental justice. It concludes by proposing five concrete reforms to align Indonesian law with the emerging international architecture of ecological victim protection.

Keywords: Green victimology, rights of nature, ecocide, UNDRIP, ITLOS, International Court of Justice, Indonesian environmental law, ecological victims, indigenous peoples, free, prior and informed consent

Introduction

Background

International environmental law is in the midst of a quiet but consequential reorientation in the way it conceives of nature, and of the communities bound to it, as bearers of interests that the law is obliged to protect. That reorientation does not proceed through a single instrument but through the accumulation of several mutually reinforcing developments: the appearance of constitutions that vest rights directly in natural entities; the sustained effort to render ecocide a crime under the Rome Statute; the willingness of the International Court of Justice (ICJ) to treat ecological reparation as an enforceable obligation; the landmark Advisory Opinion of the International Tribunal for the Law of the Sea (ITLOS) of 2024 [36]; and the recognition, through the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), that indigenous communities occupy the position of victims wherever the governance of natural resources is concerned.

It is against this background that green victimology assumes its significance at once a product of, and a catalyst for, the transformation just described. Angkasa, the foremost Indonesian exponent of the field, characterises it as the study of the victims of environmental crime conducted upon an ecocentric premise: namely, that ecosystems possess an intrinsic worth that is not reducible to their instrumental value for human beings. Salim, Utami, and Fernando extend the definition, conceiving green victimology as a framework that carries the protective ambit of the law beyond the human victim to encompass the natural environment, non-human animals, and ecosystems as such — and thereby transcends the anthropocentric confines of classical victimology.

Indonesia occupies a peculiarly exposed position within this field of tension. Custodian of roughly a tenth of the planet's biological diversity, it is simultaneously the theatre of severe deforestation, protracted tenurial conflict, and corporate environmental wrongdoing on an industrial scale. The evolving international standard presses upon it ever more demanding expectations of ecological victim protection; its domestic law, by contrast, retains normative lacunae of a fundamental order. The central problem this article addresses lies precisely in that gap — between the trajectory of the global norm and the condition of protection on the ground in Indonesia.

Theoretical Framework

The impetus for green victimology arises from a defect intrinsic to conventional victimology. Yulia rightly observes that victimology performs the corrective function of restoring balance to a criminal jurisprudence long preoccupied with the offender, by constituting the victim as an object of study in its own right Yet, as Maya Indah demonstrates, the orthodox conception of the victim remains imprisoned within anthropocentrism: only the human being is admitted to victim status, with the consequence that ecological harm sustained by the ecosystem — considered as an entity unto itself — falls wholly outside the law's cognisance.

Kusuma's analysis is instructive here, distinguishing three registers of justice upon which green victimology rests: eco-justice, being justice owed to the ecosystem as an intrinsically valuable entity; environmental justice, being the

equitable apportionment of environmental burdens and benefits among human communities; and species justice, being justice owed to flora and fauna. This tripartite scheme corresponds with remarkable precision to the international developments examined below, and supplies the analytical lens through which they are read.

At the international plane, green victimology finds normative anchorage in five interlocking frameworks: the foundational principles of international environmental law, from Stockholm to Paris; the Rights of Nature movement, which invests ecosystems with legal subjectivity; the discourse of ecocide within international criminal law; the protective regime for indigenous peoples under UNDRIP; and the jurisprudence of the ICJ, ITLOS, and the regional human-rights courts, which has begun to treat ecological restoration as a juridical obligation.

Gap Analysis and Research Questions

The existing Indonesian scholarship on green victimology has, to date, confined itself to the conceptual and domestic registers, without engaging systematically with the rapidly shifting international terrain. The converse holds in the literature of international environmental law, which seldom brings a victimological lens to bear upon the Indonesian case. Wibisana captures the resulting predicament with characteristic acuity: although Indonesia has formally received the principles of the Rio Declaration into its environmental statutes, a wide gulf separates that normative reception from the substantive realisation of ecological justice. It is at this twofold gap — between disciplines, and between the domestic and the international standard — that the present inquiry is directed.

Two questions accordingly frame the analysis. First, how have the dynamics of international law shaped and propelled the paradigm of green victimology at the global level? Second, how does the condition of environmental victim protection in Indonesia withstand evaluation against those international standards, and what normative and institutional deficits stand in need of remedy?

State of the Art

The originality of this article lies in an intersection that has remained largely unexplored: the systematic conjunction of the international-law dynamics of green victimology with a structured appraisal of the Indonesian condition. The table below situates the present contribution within the existing scholarship.

Author	Principal Focus	Gap Addressed by This Study
Angkasa (2020)	Green victimology and the UUPPLH	No engagement with contemporary international-law dynamics
Salim *et al*. (2022)[15]	The green-victimology concept in Indonesia	Silent on the ICJ, ITLOS, Rights of Nature, and ecocide
Wibisana (2013, 2018)[16, 17]	Principles of international environmental law	No integration of the victimological perspective
Riani Putri (2021)[13]	Corporate sanctions and green victimology	No examination of UNDRIP, ecocide, or ICJ/ITLOS jurisprudence
This study	Green victimology + the international-law dynamics + the Indonesian condition	An integrated treatment uniting global developments with a comprehensive evaluation of Indonesia's normative deficits

Research Method

This article is a work of normative-doctrinal legal research, treating law as a system of norms and reasoning from the authoritative legal materials. Four complementary approaches are deployed in concert.

The statutory approach furnishes a hierarchical reading of the relevant domestic legislation — the 1945[19] Constitution, the UUPPLH, the Forestry Law, and the Witness and Victim Protection Law — alongside the pertinent international instruments, including the Rome Statute, UNDRIP, the Rio Declaration, the Aarhus Convention, and the Paris Agreement.

The conceptual approach elaborates the governing constructs — green victimology, the Rights of Nature, ecocide, free, prior and informed consent, restitutio in integrum, and loss and damage — drawing upon Indonesian victimological scholarship and the corpus of international legal instruments alike.

The comparative approach sets Indonesia's framework of environmental victim protection against the normative developments of Ecuador, Bolivia, Colombia, and New Zealand, and against the standards articulated by the ICJ and ITLOS.

Finally, the case approach examines concrete Indonesian episodes — the forest fires of 2015, the recurrent tenurial conflicts of indigenous communities, and corporate wrongdoing in the extractive sector — as a mirror in which the domestic condition of victim protection may be read.

Results and Discussion

1. The Paradigmatic Passage from Anthropocentrism to Ecocentrism

The transformation of international environmental law may be traced to the Stockholm Declaration of 1972[23], the first instrument to affirm that a wholesome environment is a precondition of a life of dignity, and that its degradation founds a corresponding entitlement to protection on the part of the affected community. Two decades later, the Rio Declaration crystallised the operative principles upon which ecological victim protection now rests: the precautionary principle and the polluter-pays principle. Each, on a victimological reading, presupposes that the victim of environmental harm is entitled to anticipatory protection and to restorative measures charged to the responsible actor.

Angkasa draws the correspondence out with precision. The precautionary principle answers to what may be termed preventive victimology — the forestalling of victimisation before it occurs — while the polluter-pays principle answers to restorative victimology — the rehabilitation of those already wronged. The difficulty, as he is careful to note, is that the reception of these principles into the UUPPLH has not been matched by enforcement machinery equal to the task of restoring ecological victims in any but a nominal sense.

The Paris Agreement of 2015 [25] carried the paradigm a decisive step further in recognising, within the most widely ratified of environmental treaties, the category of *loss and damage* — the harm visited upon climate-vulnerable communities by the adverse effects of a warming planet. The recognition is, in substance, an acknowledgement that

those communities are victims, owed both compensation and rehabilitation; and it is this acknowledgement, more than any other, that has lent contemporary green victimology its momentum.

2. The Rights of Nature: The Ecosystem as Legal Subject and Victim

The most far-reaching of these developments is the *Rights of Nature* movement, which confers upon natural entities juridical rights that may be vindicated before a court. Its doctrinal significance for green victimology can scarcely be overstated, for it completes the passage from anthropocentrism to ecocentrism at the operative level: if the ecosystem is a subject of rights, it must follow that it is capable of being wronged — that it may, in short, be a victim.

The pioneering instrument was the Ecuadorian Constitution of 2008 [27], which accorded to *Pacha Mama* the right to the integral respect of its existence and to the regeneration of its vital cycles. Bolivia followed with its Law of the Rights of Mother Earth (2010) [3], endowing nature with seven enumerated rights, the right to restoration among them. Ramadhoan and his co-authors are warranted in describing these instruments as the most progressive operationalisation of ecocentrism in the history of modern law, for they constitute the ecosystem an independent beneficiary of legal protection.

The judicial branch has matched the constitutional. In Sentencia STC4360-2018 [38], the Colombian Supreme Court of Justice declared the Amazon a *sujeto de derechos* possessed of juridical interests of its own and entitled to restoration through the courts. New Zealand reached an analogous result by statute, conferring legal personhood upon the Whanganui River under the Te Awa Tupua Act 2017 [29] — a recognition rooted in the Māori cosmology of the river as a living ancestor.

The implication for the Indonesian case is exacting. Where the ecosystem is a rights-holder, its destruction is no longer merely a loss to the human beings dependent upon it; it is a violation of the ecosystem's own right, suffered by the ecosystem as primary victim. Angkasa observes that the UUPPLH has embraced ecocentrism at the level of foundational principle, yet has withheld any mechanism by which the ecosystem might stand as a victim in its own right before a tribunal — an omission whose gravity the comparative material throws into sharp relief.

3. Ecocide: The Criminalisation of Ecological Destruction

The most dynamic of the international developments bearing upon green victimology is the movement to enumerate *ecocide* among the crimes of the Rome Statute. In June 2021[41], the Independent Expert Panel convened by Stop Ecocide International proposed a definition of the offence as comprising unlawful or wanton acts committed with knowledge of a substantial likelihood of severe and either widespread or long-term environmental damage.

Were the Assembly of States Parties to adopt the amendment, ecocide would take its place as the fifth crime within the Court's jurisdiction, alongside genocide, war crimes, crimes against humanity, and the crime of aggression. For green victimology the consequence would be foundational: the ecosystem laid waste by ecocidal conduct would be recognised, in terms, as the victim of an international crime entailing individual criminal responsibility — a responsibility extending to corporate officers and state functionaries alike.

Momentum behind the proposal continues to gather. Vanuatu and Samoa first brought the question before the United Nations Environment Assembly in 2022, and Belgium became, in 2024[18], the first member state of the European Union to lend it formal endorsement. Atmasasmita's warning is apposite in this connection: corporate environmental wrongdoing that transcends the national jurisdiction — including that perpetrated by transnational enterprises within the Indonesian forestry and extractive sectors — calls for frameworks of accountability that reach beyond the domestic order. Riani Putri supplies the victimological corollary, urging that the reconstruction of criminal sanctions in Indonesian environmental law be oriented towards compelling the ecosystem's restoration, rather than towards fines bearing no proportion to the harm occasioned.

4. UNDRIP and the Indigenous Community as Ecological Victim

UNDRIP stands as the most comprehensive international instrument for the recognition of indigenous peoples as victims in the governance of natural resources. Article 26 secures their rights over the lands and resources they have traditionally owned or used, while Article 32 conditions any project affecting indigenous territory upon the prior obtaining of free, prior and informed consent — a minimum standard rather than an aspiration.

The regional jurisprudence reinforces the point. The Inter-American Court of Human Rights, in Advisory Opinion OC-23/17 (2017)[37], affirmed the right to a healthy environment as an autonomous right protected by the American Convention, and imposed upon states obligations *erga omnes* towards present and future generations. The Human Rights Committee, in General Comment No. 36 (2019) [39], held that serious environmental degradation imperils the right to life, generating positive obligations of protection.

Salim, Utami, and Fernando articulate the resulting structure with clarity: the UNDRIP framework constitutes the indigenous community a double victim of environmental wrongdoing — first, of the destruction of the ecosystem upon which its livelihood and identity depend; and second, of a legal process that declines to recognise its rights over territory and resource. This is the construction of double victimisation most pertinent to the Indonesian setting, to which the analysis now turns.

5. The ICJ and ITLOS: Ecological Restoration as Binding Obligation

Over the past two decades the jurisprudence of the ICJ has moved steadily towards the recognition of ecological reparation as a binding norm. In *Pulp Mills* (2010)[34], the Court affirmed that the obligation to undertake an environmental impact assessment in advance of activities liable to occasion significant transboundary harm has attained the status of customary international law.

In *Costa Rica v. Nicaragua* (2018)[35], the Court advanced further still, affirming *restitutio in integrum* — the restoration of the ecosystem to its anterior condition — as the primary form of reparation for environmental damage. The holding is the highest juridical expression yet of the cardinal tenet of ecological victim protection: that the victim, here the ecosystem, is entitled to be restored to the

state obtaining before the wrong, and not merely indemnified in money.

The most recent and most consequential landmark is the ITLOS Advisory Opinion of 2024[36], which held that states parties to the Law of the Sea Convention bear specific and enforceable obligations to protect the marine environment from the effects of climate change. It marks the first occasion on which an international tribunal has expressly recognised ecosystems as entities the state is legally bound to safeguard and restore — a breakthrough whose influence upon the development of green victimology will be felt for years to come.

The Aarhus Convention of 1998[30] completes the architecture, establishing for the environmental victim three procedural rights: access to information, participation in decision-making, and access to justice. In the Latin-American context the Escazú Agreement of 2018[31] goes further yet, affording specific protection to environmental human rights defenders as a discrete category of victims deserving of the law's particular solicitude.

6. The Indonesian Condition: An Abundant Text, an Impoverished Practice

On its face, Indonesia's normative framework for environmental protection is generous. Article 28H(1) of the 1945[19] Constitution guarantees to every person a good and healthy environment as a component of human rights, and Article 18B(2) extends constitutional protection to customary law communities. The UUPPLH receives the principles of justice and participation and confirms the individual right to a healthy environment. The deficiency lies not in the text but in its translation into practice.

Angkasa's assessment is measured but unambiguous: the UUPPLH's adoption of ecocentrism, though it places Indonesian environmental law a step ahead of the criminal law, is unaccompanied by enforcement machinery capable of restoring ecological victims in any substantive sense. Wibisana adds that the instrument of the environmental class action remains structurally infirm in practice — citizens' claims for ecological harm being routinely defeated by disproportionate burdens of proof, indeterminate mechanisms of reparation, and the absence of any institution competent to stand for the ecosystem as an independent victim.

The comparative measure is unflattering. In Ecuador and Colombia the ecosystem may litigate through an appointed guardian; in New Zealand a river enjoys two statutory guardians; in Indonesia the ecosystem cannot be party to any proceeding whatever, its destruction being cognisable only at the suit of an affected human being, and then only through a mechanism of acknowledged frailty.

7. Indonesian Indigenous Peoples: Between Decision 35/2012 [32] and the FPIC Deficit

The signal domestic advance is Constitutional Court Decision No. 35/PUU-X/2012[32], which held that customary forests do not form part of the state forest estate and that customary law communities hold constitutional rights over their ancestral domains. The ruling runs broadly parallel to the UNDRIP standard, though it was achieved through the domestic constitutional process rather than through ratification.

The empirical record, however, discloses a chasm between recognition in principle and protection in fact. The Alliance of Indigenous Peoples of the Archipelago records, for 2023[40] alone, 2,782 agrarian conflicts implicating indigenous communities across upwards of 10.9 million hectares of customary territory. Displacement, the curtailment of access to ancestral forest, and the criminalisation of immemorial subsistence practice persist — a pattern that, in the idiom of green victimology, amounts to a recurring double victimisation.

The free, prior and informed consent standard of UNDRIP Article 32 remains, in practice, largely unhonoured. Juwana reminds us that an instrument unratified by Indonesia nonetheless retains persuasive authority as soft law capable of shaping domestic policy. Indonesia supported the adoption of UNDRIP in the General Assembly in 2007[1]; absent ratification, however, the consent standard carries no binding force within domestic enforcement. Rynaldi and his co-authors demonstrate, in the setting of nickel-mining downstreaming, that the indigenous communities adjacent to the concession have never been admitted to victim status in any proceeding, notwithstanding the manifest ecological and cultural injury they have sustained.

8. Corporate Wrongdoing and the Deficit of Ecological Restoration

No episode illustrates the Indonesian deficit more starkly than the forest fires of 2015. WALHI records that forty-three million persons were exposed to toxic haze for upwards of three months, and that not a single victim obtained adequate ecological redress from either the state or the corporations responsible.

The citizens' suit brought by WALHI before the Palangkaraya District Court (Case No. 118/Pdt.G/LH/2016[33]/PN Plk) issued in a judgment upholding the claim and ordering the state both to compensate and to restore. The decision is a rare precedent for the judicial recognition of the ecological victim in Indonesia; yet it falls well short of the standard of *restitutio in integrum* affirmed by the ICJ, for the comprehensive restoration it contemplated was never in fact effected.

Measured against the standards of the ICJ and ITLOS, the deficit is threefold: Indonesia possesses no operative mechanism of ecological *restitutio in integrum*; its environmental-impact-assessment requirement does not in practice yield an enforceable duty of restoration; and no institution exists to represent the ecosystem as a victim in legal proceedings. Wibisana observes, in this vein, that the polluter-pays principle, as operationalised in the UUPPLH, has been reduced to administrative fines disproportionate to the scale of the harm — in plain contradiction of Rio Principle 16, which requires the polluter to bear the full cost of restoration, and not a penalty readily absorbed within a balance sheet.

9. Comprehensive Evaluation: Indonesia within the Global Landscape

The foregoing analysis permits Indonesia's condition to be evaluated against five dimensions of the prevailing international standard.

International Standard	Global Benchmark	Indonesia's Present Condition
Ecosystem legal subjectivity	Ecuador, Colombia, NZ: ecosystems as rights-holders	Ecosystems remain objects, not subjects, of protection
Criminalisation of ecological harm	Ecocide debate advancing within the Rome Statute	No official position; sanctions disproportionate to harm
Indigenous rights (FPIC)	UNDRIP: consent required prior to projects on ancestral land	Decision 35/2012[32] progressive, yet 10.9 m ha remain in dispute
Restitutio in integrum	ICJ (2018): restoration to the prior ecological condition	No operative restoration mechanism in existence
Victims' access to justice	Aarhus & Escazú: information, participation, justice	Class action weak; defenders without specific protection

Muladi's dictum supplies the governing principle: in a democratic state under the rule of law, the exercise of law enforcement is inseparable from the protection of human rights, the rights of victims among them. Translated into the register of green victimology, this entails that the reform of Indonesian environmental law cannot rest content with the criminalisation of ecological destruction; it must reconstruct, at a more fundamental level, the identity of the recognised victim, the manner of that victim's protection, and the mechanism by which genuine — as opposed to merely pecuniary — restoration is to be assured.

Sunarso's observation that the Indonesian criminal-justice system has yet to attend adequately even to the conventional victim — let alone to the ecological victim of green-victimological conception — finds its sharpest expression in Kusuma's conclusion: the absence of any instrument expressly constituting the ecosystem a victim entitled to restoration within criminal proceedings is the single most pressing lacuna confronting Indonesian law reform.

Conclusion

This article has advanced three principal conclusions. *First*, the international-law dynamics of green victimology move with a settled consistency towards the recognition of the ecosystem as a rights-bearing entity capable of being wronged — from the Rights of Nature in Ecuador, Bolivia, Colombia, and New Zealand, through the ecocide discourse of the Rome Statute, the ICJ's affirmation of *restitutio in integrum*, the ITLOS Advisory Opinion of 2024[36], and the indigenous protections of UNDRIP. Cumulatively these strands compose an emergent global norm: that ecological destruction is no mere administrative irregularity, but a wrong that produces victims — the ecosystem itself, the indigenous communities bound to it, and the generations who will inherit its consequences.

Second, Indonesia confronts a grave and multi-dimensional disjuncture between that evolving standard and the domestic condition of environmental victim protection. Notwithstanding a constitutionally progressive framework — Article 28H of the 1945[19] Constitution, the UUPPLH, and Decision 35/2012[32] — five structural deficits endure: the non-recognition of ecosystems as juridical subjects; the absence of any official position on ecocide; the persistent non-fulfilment of the consent standard, with more than 10.9 million hectares of customary territory in dispute; the want of an operative mechanism of ecological *restitutio in integrum*; and the structural weakness of victims' access to environmental justice.

Third, the article commends five concrete measures to the Indonesian legislature and executive: (a) the ratification of UNDRIP and the integration of the consent standard as a binding obligation across the whole field of natural-resource governance; (b) the formulation of an official position in support of the criminalisation of ecocide within the Rome Statute; (c) the reconstruction of the statutory definition of the victim under Law No. 31 of 2014[2] so as to encompass the non-human ecological victim; (d) the development of an operative mechanism of ecological *restitutio in integrum* within environmental enforcement, consonant with the standard affirmed by the ICJ; and (e) the ratification, or formal adoption of the principles, of the Aarhus Convention, so as to secure to the environmental victim the rights of information, participation, and access to justice — including specific protection for the environmental human rights defender.

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