

APPLICATION OF *ACTIO INIURIARUM* WITH *EX ANTE* AND *EX POST* APPROACHES TO LOVE SCAMMING CASES IN INDONESIA

Siti Alisah*, Riski Ananda Kusuma Putri

University of Muhammadiyah Cirebon/Faculty of Law/Law/ Jl. Fatahillah, Watubelah, Kec.

Sumber, Cirebon Regency, West Java 45611

Corresponding Author Email: siti.alisah@umc.ac.id



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Abstract: Love scamming is a form of emotional relationship-based crime that develops along with the advancement of information technology. This mode exploits the victim's emotional needs through the manipulation of online romantic relationships for financial gain. Unfortunately, Indonesia's legal system still primarily focuses on material losses and has not adequately accommodated non-material losses, such as honor, self-esteem, and emotional injury. This research employs normative juridical methods, incorporating legislative and conceptual approaches, to examine the potential application of the principle of *actio iniuriarum* within the context of Indonesian law. This approach not only emphasizes the element of violation of personality rights, but also allows for the award of non-material compensation in the form of *solatium*. By integrating *the ex ante* (assessment of risk and malicious intent before harm occurs) and *ex post* (evaluation of post-breach emotional harm), the study offers a more holistic and adaptive model of legal protection. The results of the study show that *actio iniuriarum* has the potential to be a relevant alternative mechanism to answer the void of legal protection for digital-based emotional crimes.

Keywords: Love scamming, *actio iniuriarum*, *ex ante*, *ex post*, emotional crime, *solatium*

I. INTRODUCTION

The development of information technology has brought about significant transformations in various aspects of human life, including in the way we build interpersonal relationships. One form of relationship that has undergone a significant shift is romantic relationships, where individuals can now establish emotional closeness through online platforms without first meeting in person. This phenomenon gives rise to new opportunities but also creates space for relationship-based crimes, such as love scams. Love scamming, also known as romance scamming, is a *modus operandi* that exploits a person's emotional and romantic needs for financial gain. Ontologically, love scamming is a social phenomenon that combines psychological, technological, and criminal aspects in one affection-based act of fraud.

This phenomenon can be understood through the psychological approach of human needs introduced by Maslow. According to Maslow, humans are driven by the need for love and have belonging and love needs after physiological needs and security are met. When these needs are not met in a real social environment, individuals often seek them in the virtual realm, including through online dating apps. Unfortunately, this digital space is also used by criminals who take advantage of emotional closeness to deceive victims. According to Statista data cited by Cover (2024), as many as 63% of young Indonesians have used online dating apps, indicating significant potential for fraud in this medium.

Various studies have examined the impact and mode of love scamming, Cross, C., Richards, K., & Smith, (2016) Shows that victims of online fraud not only suffer financial losses but also emotional distress and social stigma. Research by Cole, (2024) Highlighting the profound psychological consequences experienced by the victim, including depression and trauma. In Indonesia, a report from the Financial Transaction Reporting and Analysis Center (PPATK) states that in the 2020–2022 period, losses due to love scamming reached IDR 8.13 billion, with an average individual loss of up to IDR 600 million, which is much higher than other types of online fraud (Yuniarto, 2023).

However, the legal approach used in handling love scamming cases is still limited to the conventional criminal framework. The emotional and non-material aspects experienced by victims are often not adequately accommodated. The principle of *actio iniuriarum* from the Roman legal tradition can be a relevant alternative. This principle governs the protection of personal dignity and honor, and also allows claims for non-material damages. Although it has long been part of the legacy of Roman-Dutch law that influenced the Indonesian legal system, this principle has not been widely adopted in the practice of handling affectation-based cybercrime. (Kasapoglu, 2022).

This research is important to expand the horizons of legal understanding in dealing with increasingly complex forms of digital crime. Practically, this research provides an alternative discourse on legal settlement that is more holistic and just for victims. Meanwhile, from the academic side, this study enriches the legal discourse by bridging psychological and legal aspects, as well as reintroducing classical legal principles into the contemporary context (Yuniarto, 2023).

The novelty of this research lies in the exploration of the application of *actio iniuriarum* as a legal approach to love scamming cases in Indonesia, an aspect that has been overlooked in the national legal literature (Cross et al., 2016). In contrast to previous research that has focused on material losses and criminal frameworks, this paper presents a new approach that

emphasizes the protection of the victim's honor, self-esteem, and emotional well-being. Thus, this research not only contributes to the development of legal theory but also offers a solution-based approach to addressing the reality of cybercrime in the context of emotional relationships. (Cole, 2024).

II. RESEARCH METHODS

This research uses normative (doctrinal) juridical research to investigate related legal regulations, theories, and concepts. The legislative approach, conceptual, is used in the research (Marzuki, 2005). The research is descriptive and analytical, concentrating on the explanation of legal principles and a critical examination of their application (Soekanto, S., & Mamudji, 2011). Data collection techniques are employed through literature reviews, content analysis, and case studies. The data is then analyzed qualitatively to produce comprehensive information and draw relevant conclusions (Ibrahim, 2006).

III. RESEARCH RESULTS

The Application of Actio Iniuriarum as a Legal Approach to Love Scamming Cases in Indonesia

Phenomenon of *Love Scamming* As a form of crime based on emotional relationships, it has shown significant development in the digital era. The modus operandi of this crime includes psychological manipulation through a false romantic relationship to obtain financial gain from the victim. However, what often escapes Indonesia's positive legal framework is the non-material impact experienced by victims, such as loss of self-esteem, emotional trauma, and loss of trust in social relationships. In this context, the principle of actio iniuriarum of Roman law becomes relevant to be adapted (Fitriyani & Iswahyuningtyas, 2020).

Actio iniuriarum is a civil legal framework that protects a person's personality rights from violations of his honor, reputation, and dignity. In the civil law tradition adopted by some jurisdictions, such as South Africa, this principle provides the basis for claims for emotional damages without the conditions of material damage. Its application relies on three main elements: the existence of a real violation of personality rights, the element of wrongfulness, and the element of intentionality (intention) (Retnowati, 2015).

In the case of *Love Scamming*, the perpetrator deliberately creates a false identity, fosters emotional attraction, and then exploits the victim through requests for money or gifts. This act fulfills the element of real violation, because the victim experiences mental pressure and inner wounds that interfere with the integrity of his personality. These losses are not always financial,

but the impact can be more psychologically destructive. Therefore, the principle of *actio iniuriarum* can be used as a basis for recovery for victims who are not adequately protected in Indonesia's conventional criminal law (Dewa Ayu Raka Agil Safitri, 2023).

Further, the approach *ex ante* and *ex post* in the legal framework *Actio iniuriarum* is also relevant to be applied. The *ex ante* approach looks at potential infringement before harm occurs, and in this context, can detect the malicious intent of the perpetrator who has manipulated the victim's emotions. Meanwhile, the *ex post* approach evaluates the impact caused after the violation occurs, including psychological losses such as embarrassment, anxiety, and the destruction of the victim's personal reputation (Nomleni, 2023).

Cases in Indonesia, such as the one in Bogor in 2022 and the case of online fraud cited by CNBC Indonesia, demonstrate how victims continue to be traumatized even if they do not suffer material losses. (Fangzhou Wang, 2022). Unfortunately, the absence of a legal mechanism that recognizes emotional loss makes this kind of case unable to be prosecuted further legally (Aborisade et al., 2024). If the *actio iniuriarum* is applied, the victim has a legal basis to sue the perpetrator for violating their dignity and emotional integrity. (Lazarus et al., 2023).

By adopting this principle, Indonesia can strengthen legal protection against crimes that exploit emotional relationships. In addition, recognition of solatium of compensation for mental humiliation and suffering will provide more comprehensive justice, going beyond mere measurement based on material loss. (Becker et al., 2010). Therefore, *actio iniuriarum* not only offers an alternative legal approach but also paves the way for a more humanistic and responsive legal system to address contemporary cybercrime challenges. (Patrizia, 2020).

Legal Protection of the Honor, Self-Esteem, and Emotional Loss of Love Scamming Victims

An aspect that is often overlooked in the settlement of love scamming cases is the psychosocial dimension of the victim (Hanoch & Wood, 2021). In fact, these crimes systematically attack the deepest elements of a person's personality of trust, love, and hope, which then leads to feelings of shame, loss of self-esteem, and prolonged trauma. (Wang et al., 2021). In the Indonesian legal system, which still emphasizes the element of material loss as the primary requirement for prosecution, the dimension of emotional loss has not been given sufficient consideration. (Wood, Stacey Liu, Pi-Ju Hanoch, Yaniv Xi, Patricia M. Klapatch, 2018).

Through the *actio iniuriarum* approach, the state has the opportunity to provide legal recognition of the emotional wounds of the victim, as well as protect the right to personal dignity and honor. These rights, although not material, are the foundation of social life and individual identity (Sima Amirkhani, Fatemeh Alizadeh, Dave William Randall, 2024). Therefore, when such rights are violated through deliberate love deception, the state is obliged to provide a legal mechanism that guarantees the full recovery of the victim (Whitty & Buchanan, 2012).

This research shows that by recognizing love scamming as a form of violation of personality rights, the law not only protects victims normatively, but also substantially. Through the award of non-material damages, such as *solatium*, the victim will feel that their emotional suffering is legally recognized and respected. This serves as a deterrent to the perpetrator and fosters legal awareness in society that emotional crimes are as serious as material crimes. (Tom Sorell, 2019).

Thus, the contribution of this research extends beyond the academic development of a more adaptive legal framework to also provide practical solutions that ensure more comprehensive justice for victims. The protection of self-esteem, honor, and emotional well-being is no longer purely ethical, but must be an integral part of a legal system that is fair and responsive to the dynamics of modern crimes involving emotional relationships.

IV. CONCLUSION

The conclusion of this discussion shows that love scamming as a crime based on emotional relationships has not received an adequate legal response in the Indonesian legal system, especially related to non-material losses such as loss of dignity, honor, and emotional injury. The *actio iniuriarum* approach of the Roman legal tradition, which emphasizes the protection of personality rights—including honor and self-esteem—offers a relevant and solvable legal framework to fill this void. With elements of real violations, mistakes, and intentionality, as well as the flexibility of *ex ante* and *ex post* approaches, this principle is able to answer the legal needs of the complexity of modern cybercrime. The application of *actio iniuriarum* also paves the way for the recognition of *solatium*, or non-material compensation, which has not been accommodated in Indonesia's positive law. Therefore, the integration of this approach is expected to provide more holistic and equitable legal protection, as well as expand the scope of legal development in a more humanistic and responsive direction, aligning with the social dynamics of the digital era.

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