

Legal Protection Of Victims' Rights In The Settlement Of Criminal Cases

by Muslim Muslim

Submission date: 11-Jul-2024 12:26PM (UTC+0700)

Submission ID: 2415096225

File name: ijsl_vol_1_no_3_AGUSTUS_2024_HAL_218-231.pdf (680.36K)

Word count: 6522

Character count: 34048



Legal Protection Of Victims' Rights In The Settlement Of Criminal Cases

Muslim Muslim¹, H. Abdul Razak Nasution²

¹⁻²Universitas Pembangunan Panca Budi, Indonesia

Alamat: Jl. Gatot Subroto Km.4,5 Sei Sikambing 20122 Kota Medan, Sumatera Utara

Abstract. Talking about victims of crime in general, of course, victims are individuals. In a criminal act, the victim is the party who is harmed by the perpetrator of the crime, both materially and immaterially. This greatly affects the psychological condition of the victim, not to mention the complicated judicial process that makes the victim a very disadvantaged party to the laws and regulations under it. The position of victims in the practice of criminal procedure law is relatively less considered because the provisions Indonesian law still rely on protection for the perpetrator (offender oriented). Normative legal research is in the form of library research and written documents as data sourced from secondary data including primary legal materials, secondary legal materials and tertiary legal materials. The nature of this research is descriptive analysis. The data obtained in this research will be analyzed qualitatively in accordance with the specifications of the nature of the research to examine between theory and practice in legal protection of victims of criminal acts. To solve the existing problems and then draw a conclusion by utilizing the data collected through interviews and document studies, the results of this study were first analyzed using qualitative analysis. The Criminal Code (KUHP) has implicitly provided protection for victims of crime with all efforts to fulfill rights and provide assistance to provide security to victims who must be implemented by the Witness and Victim Protection Agency (LPSK) or other institutions in accordance with the provisions. As it is known that the KUHP is not too optimal because there are more victims like the position of the perpetrator which results in a legal vacuum, and in the context of protecting victims of crime, there are preventive and repressive efforts made, both by the community and the government (through law enforcement officials). Another thing that is noted that in the Law on Witness and Victim Protection is the absence of coercive efforts regarding compensation from the perpetrator to the victim, namely not regulating the payment of compensation from the perpetrator to the witness or victim, even though the victim as a witness who is harmed by someone's unlawful actions, but is not protected.

Keywords: Protection, Law, Rights, Victims, Criminal Acts

1. INTRODUCTION

The Criminal Procedure Code (KUHP) as the legal basis of the Indonesian Criminal Justice System fails to carry out the primary function of law and the educational function of education and legal awareness. Indicators of this failure include an imbalance in the regulation of the rights of the suspect/defendant and the rights of the victim, because most of the articles favor the rights of the suspect/defendant. As a result, as a legal subject, the suspect/defendant is given an equal position with law enforcement. The criminal justice system according to Mardjono Reksodiputro is a crime control system consisting of the institutions of the police, prosecutors, courts and correctional institutions.

It is also stated that the criminal justice system is a system in a society to tackle crime. The protection of victims of crime in the national legal system does not seem to have received serious attention. This can be seen from the lack of regulation of the rights of victims of crime in national legislation. The imbalance between the protection of crime victims and the

protection of perpetrators is a deviation from Article 27 paragraph (1) of the 1945 Constitution, which states that "All citizens shall be equal before the law and government and shall uphold the law and government with no exception." In this case the state is committed that every citizen must be treated well and fairly, equal standing in the law in accordance with the principle of equality before the law, also in the sense of whether he is a suspect or victim of a criminal offense, humanity as the joint philosophical value of Pancasila animates the entire existence of law in the country of Indonesia, starting from the 1945 Constitution to the laws and regulations.

Talking about victims of crime in general, of course, victims are individuals. This view is not wrong, because this is the case for crimes that commonly occur in society. For example, murder, assault, theft and so on. In a criminal act, the victim is the party who is harmed by the perpetrator of the crime, both materially and immaterially, this greatly affects the psychological condition of the victim, not to mention the complicated judicial process that makes the victim a very disadvantaged party to the laws and regulations below the perpetrator of the crime.¹ Victims are those who suffer physically, mentally and socially, as a result of the evil actions of those who want to fulfill their own interests or those who suffer.²

The position of victims in the practice of criminal procedure law is relatively less considered because the provisions of Indonesian law still rely on the protection of offenders (offender oriented).³ This can be proven in the Criminal Procedure Code which does not directly regulate the right of victims to take legal remedies in the practice of criminal procedure law in contrast to criminal offenders in articles 50 to 68 of the Criminal Procedure Code which regulates the right to take legal remedies that can be carried out by suspects in the Criminal Procedure Code so that the position of victims in the practice of criminal procedure law lacks access to legal remedies that are equal to criminal offenders because they have not been regulated in the Criminal Procedure Code.⁸

Victims of crime, who are essentially the party that suffers the most in a criminal offense, do not receive as much protection as the law provides to criminals. As a result, when the perpetrators of crimes have been sentenced to criminal sanctions by the court, the condition of crime victims seems to be completely ignored. Victims of crime in their quality as witnesses are entitled to reimbursement of expenses, as stipulated in Article 229 paragraph (1) of KUHAP, namely witnesses or experts who have attended to fulfill summons in order to provide information at all levels of examination, are entitled to reimbursement of expenses according to applicable laws and regulations. However, in reality, the right of victims of crime to reimbursement of costs is rarely fulfilled. Judging from several events and cases that have occurred, the Criminal Procedure Code favors the perpetrators more than the victims, one of which is in the case of rape which often makes the victim a double victim and must provide

testimony in a state that has not recovered either physically or psychologically. So this shows that there is still a void.

Victims are not authorized and are not actively involved in the investigation and trial process so that they lose the opportunity to fight for their rights and restore their condition as a result of a criminal act or crime. It is also not uncommon to find victims of crime who have suffered (physically, mentally or materially) from a criminal act that has befallen them, not exercising the rights they should receive for various reasons, for example victims refuse to apply for compensation because they are worried that the process will be longer and more protracted which can result in prolonged suffering.⁸ One form of protection for victims of crime and the right of victims of a criminal offense is to receive compensation. Compensation is provided by the state to victims of gross human rights violations.

Dalam setiap penanganan perkara pidana, aparat penegak hukum (polisi, jaksa) seringkali Victims are faced with the obligation to protect two seemingly contradictory interests,¹⁷ namely the interests of victims who must be protected to restore their suffering because they have become victims of crime (mentally, physically and materially), and the interests of the suspect even if he is guilty. Victims of crime are only placed as evidence that provides testimony, namely as witnesses, so that the possibility of victims to obtain the freedom to fight for their rights is very small.² Victims are not given the authority and are not actively involved in the investigation and trial process so that they lose the opportunity to fight for their rights and restore their condition as a result of a criminal act or crime. There are several national laws and regulations that regulate the provision of compensation. Prior to the enactment of Law No. 26/2000 on Human Rights Courts,¹² the term compensation for victims of crime was simply stated as "compensation". Initially, compensation for victims of crime could be found in the Criminal Procedure Code (KUHAP), which was imposed on the perpetrators of crime. In the KUHAP, compensation for victims is not sufficiently regulated because it is only regulated in Article 98 which states that third parties who suffer losses, and this can be understood as victims, can file a lawsuit to combine compensation claims. This compensation for victims only covers material damages, while immaterial damages for victims must file a civil lawsuit.

¹⁹ 2. RESEARCH METHODS

In accordance with the title and problems to be discussed in this study and in order to provide useful results, this research was conducted with empirical juridical research (empirical legal research method). Normative legal research is in the form of library research and written documents as data sourced from secondary data including primary legal materials, secondary legal materials and tertiary legal materials.⁶ The specification of the type of research in this

paper researches problems regarding juridical matters and is based on facts obtained from research results with reference to real patterns of community behavior in the field. Which is related to the issue of protection given to victims of criminal acts.

The nature of this research is descriptive analysis, meaning that this research is expected to obtain a detailed and systematic description of the problems to be studied. The intended analysis is based on the description, the facts obtained will be carefully analyzed to answer the problem. So that it can answer questions in accordance with the subject matter in writing this research. The data required is secondary data relevant to this research problem. which consists of:

- a. Primary legal materials in the form of norms/basic regulations and legislation related to the law of child adoption. In this research, the primary legal materials are the 1945 Constitution and the Criminal Code. Article 1 paragraph (2) of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP). Law no. 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection.
- b. Secondary legal materials, both sourced from books written by legal experts, doctrines / opinions / teachings of legal experts, seminar results, legal journals, scientific papers, magazine articles, and newspapers as well as articles from cyberspace / internet sources related to the implementation of rehabilitation in correctional institutions.
- c. Tertiary legal materials, namely, all materials that provide explanatory instructions and information that support primary and secondary legal materials such as general dictionaries, legal dictionaries, as well as materials outside the field of law that are relevant and can be used to complement the data needed in this research.

Qualitative analysis is to discuss the results of research described comprehensively, by trying to see the factors behind certain programs, cultures and policies, such as the selection of principles, theories, norms, doctrines and articles contained in the Law that are relevant to the problems to be discussed in this study. Data analyzed qualitatively will be presented in the form of systematic descriptions as well, then all data is selected, processed and then stated descriptively so that it can provide solutions to the problems in question.

3. DISCUSSION AND ANALYSIS

Victim protection arrangements in Indonesian Positive Criminal Law Kitab Undang-Undang Hukum Pidana (KUHP) Implicitly, the provisions of Article 14c paragraph (1) of the KUHP have provided protection for victims of crime. The article reads: "In the order referred to in Article 14a, except in the case of a fine, together with the general condition that the person convicted will not commit a criminal offense, the judge may impose a special condition that

the person convicted will compensate similar protection is also contained in Law Number. 13 Year 2006 on Witness and Victim Protection Article 5 paragraph (1) letter a, namely:

- a. Obtain protection for the security of his/her person, family, and property, and be free from threats related to the testimony he/she will, is, or has given. Ikut serta dalam proses memilih dan menentukan bentuk perlindungan dan dukungan keamanan
- b. Giving testimony without pressure; Having an interpreter; Freedom from incriminating questions
- c. Obtain information on case progress
- d. The view that victims only act as supporting/complementary instruments in the disclosure of material truth, for example when victims are only positioned as witnesses in a criminal case, should be abandoned. Similarly, the view that with the criminalization of the perpetrator, the victim of crime has received sufficient legal protection is no longer tenable.

The discussion about victims is inseparable from the underlying science, namely victimology. The emergence of this discussion about victims is a form of balancing from the side of the perpetrator, which is discussed in the science of Criminology. The issue of victims is also not a new problem in a criminal offense, because victims have a functional role in the occurrence of a crime. Victims also have an important role in the search for material truth in a criminal offense. Perpetrators and victims are like two sides of a coin, which in a criminal offense there will definitely be perpetrators of criminal acts and victims of criminal acts. This can be proven in the offense of murder (Article 338 of the Criminal Code), whose offense formulation is "Whoever intentionally takes the life of another person, shall be punished for murder with a maximum imprisonment of fifteen years". This means that from the formulation of this offense there is an effect that causes the victim of the perpetrator's actions. As a result of a person becoming a victim of a criminal offense, he must receive legal protection because his rights have been deprived by the actions of the perpetrator. In order to know about the victim, especially his/her rights, it is necessary to know first the definition of victim as a rationale.

The definition of protection based on Article 1 point 5 of the Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Chief of Police of the Republic of Indonesia, the Corruption Eradication Commission of the Republic of Indonesia, the Chairman of the Witness and Victim Protection Agency of the Republic of Indonesia Number: M.HH-11.HM.03.02.th.2011, Number: PER-045/A/JA/12/2011, Number: 1 of 2011, Number: KEPB-02/01-55/12/2011, Number: 4 of 2011 concerning Protection for Whistleblowers, Whistleblower Witnesses and

13
Witnesses of Cooperating Actors, protection is all efforts to fulfill rights, and provide assistance to provide a sense of security and respect for whistleblowers, whistleblower witnesses and witnesses of cooperating actors that must be implemented by law enforcement officials in accordance with statutory provisions. The definition of protection is also regulated in Article 2 of Government Regulation No. 2 of 2002 concerning Procedures for the Protection of Victims and Witnesses in Serious Human Rights Violations, which is a form of service that must be carried out by law enforcement officials or security forces to provide a sense of security, both physical and mental, to victims and witnesses, from threats, interference, terror, and violence from any party, which is given at the stage of investigation, prosecution, and or examination at the court session.

13
In Article 1 point 8 of Law Number 13 of 2006 concerning Witness and Victim Protection as amended by Law Number 31 of 2014, protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims that must be implemented by LPSK or other institutions in accordance with the provisions of this Law. The protection that has been described is provided since the investigation stage begins and ends in accordance with the provisions as stipulated in the Law. The difference between the two regulations is in the types of witnesses, in Law Number 13 of 2006 concerning Witness and Victim Protection as amended by Law Number 31 of 2014 there is only one type of witness, while in the Joint Ministerial Regulation witnesses consist of reporting witnesses and perpetrator witnesses who work together.

2
Victims according to the Big Indonesian Dictionary (KBBI) are gifts to express devotion, loyalty, and so on; sacrifices; people, animals, and so on who suffer (die and so on) as a result of an event, evil deed, and so on.... Arief Gosita provides an understanding in his book Siswanto Sunarso that victims are those who suffer physically and spiritually as a result of the actions of others who seek to fulfill the interests and human rights of those who suffer. Victims related to a criminal offense are also referred to as victims, which by an expert Abdussalam provides the definition of a victim is a person who has received physical suffering or mental suffering, loss of property or resulted in death for acts or efforts of minor offenses committed by a criminal offense and others. In general, the existence of positive law in Indonesia is a rule that one of its objectives is to prevent crime. This means that the law also aims to protect the public from becoming victims of crime before the crime occurs. Based on legal science, the victim can claim losses or compensation against the convicted party.

A victim is a person who suffers physical, mental and/or economic loss as a result of a criminal act that will, is or has occurred (Article 1 paragraph (3) of Law Number 13 of 2006 concerning Witness and Victim Protection as amended by Law Number 31 of 2014. The

position and role of the victim is as a witness, so the victim also has a very important role in a criminal justice process. The definition of victims is very diverse, there are several legal expert opinions regarding the definition of victims quoted in this paper. In Muladi's opinion, ¹⁵ victims are people who individually or collectively have suffered losses, including physical or mental, emotional, economic losses or substantial interference with their fundamental rights, through acts or commissions that violate criminal law in each country, including abuse of power.

In addition, many other principles regulate the protection of the perpetrator of the crime compared to the victim of the crime, such as ¹² the principle of presumption of innocence, where the perpetrator of the crime has not been found guilty before the verdict of the judge and there are many other principles in the practice of criminal procedure law that regulate the interests of the perpetrator, resulting in a lack of justice for the victim and the position and rights of the aspirations of what the victim wants against the perpetrator of the crime are not conveyed because the position and rights of the victim in the practice of criminal procedure law are not given an active role even though they are represented by the public prosecutor. In addition, the judicial process is regulated by the Letter of Termination of Investigation which is regulated in Article 109 paragraph 2 of the Criminal Procedure Code, namely the investigator has the authority at any time to stop the case because there is insufficient evidence or the event does not constitute a criminal offence or the investigation is stopped for the sake of law.

This often leads to dissatisfaction in the settlement of criminal cases. Many victims of crime are found to lack adequate legal protection both materially and immaterially, victims are not given active authority in the investigation and trial process, thus losing the opportunity to fight for their rights and restore the situation due to a crime suffered by victims of crime. Although the victim's interests have been represented by the public prosecutor in the trial process as part of the protection of victims of crime, in the judicial process the victim is not given prosecutorial rights, namely the rights given to the victim directly through the victim's own role to carry out prosecution in the trial process against the perpetrator of the crime.

If we look at the position and rights of victims above, ¹⁶ the Criminal Procedure Code emphasises the protection of the dignity of the suspect or defendant rather than the position and rights of the victim, which does not reflect a sense of justice for victims of crime. Therefore, the current Criminal Procedure Code must be revised because the position and rights of victims of crime are very little regulated compared to the rights of the perpetrators of criminal offences. So that later in the new KUHP there will be a balance between the position and rights of victims and perpetrators in the practice of criminal procedure law. Legal Remedies Victim protection in the criminal justice process in Indonesia has not been specifically regulated in the Criminal Procedure Code.6 Article 50 to article 68 of the Criminal Procedure Code only

regulates the protection of suspects or defendants to get protection from various possible violations of human rights while legal remedies for victims to fulfil the aspirations or satisfaction of victims to take legal remedies have not been regulated in the Criminal Procedure Code.

In the practice of criminal procedure law, the victim has been represented by the public prosecutor in accordance with Article 14 of the Criminal Procedure Code in terms of making indictments, conducting prosecutions and taking legal remedies. Article 1 point 12 of the Criminal Procedure Code states that only defendants or public prosecutors are granted the right to file legal proceedings, while victims are not granted the right to file legal proceedings. With the explanation above, it can be seen the imbalance of the right to take legal remedies given by KUHAP to victims and perpetrators of crimes, because the right to take legal remedies is only given to perpetrators of criminal acts, while victims are not given this right because the State has represented victims through public prosecutors so that there is a lack of justice for victims who are not satisfied with the judge's decision.

State efforts to provide protection through legislation have not been maximised. Only assistants (NGOs/LBH) that provide services for women victims of rape have been moving optimally. Although there is already a Law on Witness and Victim Protection, what is in it has not been implemented by law enforcement officials. From the description above, there are still legal officers who treat victims in rape cases not from a women's perspective. The handling of rape cases is also too long because it must follow legal procedures that make victims reluctant to deal with the law, which is a very laborious process that can be done with various methods, both through the comparative method and the evaluation method. The comparative method, for example, can be done by comparing with other legal provisions while the evaluation method is by evaluating the implementation of a law. Responsibility is based on three things :

1. This responsibility is linked to the circumstance that the authorities declare certain acts to be serious offences and serious attacks on law and order. Following the criminalisation of these offences, a duty on the part of the authority to mitigate or eliminate the consequences of the offence may be envisaged.
2. More philosophical in nature; society can be seen as a subtle network of human actions, so that everyone in a human sense is generally "guilty" of what ultimately becomes the guilt of an individual who commits a criminal offence. In short, there is solidarity with those who are victims of crime.
3. An important consideration for the politics of law; the law is seen as having a conciliatory or conflict-resolving ("conflict resolving") effect: if there is a special focus on the victims of criminal offences, the social-psychological climate is favourable for

treating the offender in the most favourable way from the point of view of social prevention.

4. The policy of legal formulation on witness protection in the criminal justice process in the future is certainly inseparable from the current legislation. In this case, it is related to the Law on Witness and Victim Protection which is currently in force.

Law No. 13/2006 on Witness and Victim Protection as a legal umbrella on witness protection has not been able to provide maximum protection. This is based on the ineffectiveness of the legal components that must be provided, such as the Witness and Victim Protection Agency and the implementing regulations of this law. There are several national laws that regulate the provision of compensation. Prior to the enactment of Law No. 26/2000 on Human Rights Courts, the term compensation to victims of crime was only expressed by the use of the term "compensation". Initially, compensation for victims of crime could be seen in the Criminal Procedure Code (KUHP), which was imposed on the perpetrators of crime.

In KUHP, compensation for victims is not sufficiently regulated because it is only regulated in Article 98 which states that third parties who suffer losses, and this can be understood as victims, can file a lawsuit to combine compensation claims. This compensation for victims only covers material damages, while immaterial damages for victims must file a civil lawsuit. Thus, the Criminal Procedure Code does not mention the protection of victims and the rights of victims of gross human rights violations. Neither the prosecutors nor the judges have made any mention of remedies for victims, even though gross human rights violations in East Timor have been recognised by the court. This contrasts with the decision of the Dutch Hague Tribunal, which awarded compensation to the widows of victims of gross human rights violations committed in Rawagede in 1947, even though these gross human rights violations occurred shortly after Indonesia declared its independence. The human rights judicial process in Indonesia has only functioned to find out who the perpetrators are and punish them, but justice for victims has not really been an important part of the process.

The right to compensation, which is clearly stated in Law No. 13/2006 on the Protection of Witnesses and Victims, is not even exercised at all, as it does not receive enough attention when compared to the protection of the rights of suspects, defendants or convicts. The rights of victims of crime were further strengthened and recognised in the national legal system with the enactment of Law 26/2000 on Human Rights Courts. This law gives victims of gross human rights violations the right to compensation, restitution and rehabilitation. However, this regulation is intended for gross human rights violations and not for all victims of criminal offences. The right to compensation is again regulated in Law No. 13/2006 on Witness and

Victim Protection which is regulated in Article 7 paragraph (1), which states that: "Victims through LPSK may apply to the Court in the form of:

- a. Right to compensation in cases of gross human rights violations
- b. The right to restitution or compensation for losses that are the responsibility of the perpetrators of criminal offences.

However, in practice, it is very rare to find victims of gross human rights violations who receive compensation. Human rights cases that have occurred in Indonesia have never provided compensation to victims of crimes of gross human rights violations even though it is clearly regulated in Law No. 13/2006 on Witness and Victim Protection, that victims are entitled to compensation. Mechanism of Witness and Victim Protection by LPSK Some of the requirements that have been determined by LPSK to provide protection and assistance to witnesses and victims are listed in Article 28 of Law Number 13 of 2006 which reads: LPSK's protection agreement for Witnesses and/or Victims of criminal offences as referred to in Article 5 paragraph (2) is given by considering the following conditions:

1. The importance of the Witness and/or Victim's testimony
2. The level of threat that endangers the Witness and/or Victim
3. The results of the medical or psychologist team's analysis of the Witness and/or Victim
4. Track record of crimes committed by the Witness and/or Victim 4.

The procedure for providing protection to witnesses and victims is described in Article 29 of Law No. 13 of 2006 which reads the procedure for obtaining protection as referred to in Article 5 as follows:

1. The Witness and/or Victim concerned, either on his/her own initiative or at the request of an authorised official, submits a written request to LPSK.
2. LPSK immediately conducts an examination of the application as referred to in letter a
3. LPSK's decision is given in writing no later than 7 (seven) days after the application for protection is filed.

From the provisions of Article 29, there is a regulation regarding whether the application is in writing or the application for protection should not only be made by the witness/victim and the authorised official but also by the family of the witness and victim concerned and the witness and victim advocate. Submissions should be made by parents or guardians of victims or witnesses who are minors or children. LPSK made LPSK Regulation No. 6/2010 which specifically regulates the procedure for submitting an application. Article 9 states that: (1) The applicant for protection addressed to the LPSK chairman through a letter or request from an authorised official as referred to in Article 4 paragraph (3) letter b, the LPSK

chairman forwards the application to UP2 LPSK for further research on the completeness of the requirements in accordance with the provisions of this regulation.

The application that has been received will be forwarded to the chairman of the LPSK. (Application Reception Unit) is the Unit in charge of providing services for receiving applications for protection for witnesses and victims related to the implementation of the functions and duties ⁹ of the Witness and Victim Protection Agency. Meanwhile, the LPSK's decision regarding the acceptance or rejection of an application for protection based on the examination that has been carried out is submitted no later than 7 days after the application for protection is submitted. Furthermore, Article 30 paragraph (1) of Law Number 13 of 2006 states that: "In the event that LPSK accepts the application of a witness and/or victim as referred to in Article 29, the witness and/or victim shall sign a statement of willingness to follow the terms and conditions of witness and victim protection". Legal protection of witnesses and victims has been based on the Criminal Code as a source of material law, using KUHAP as procedural law. However, the KUHAP regulates more about suspects than about witnesses and victims. The position of witnesses and victims does not seem to be optimal compared to the position of perpetrators.

Despite the enactment of Law No. 13/2006 on Witness and Victim Protection, the provision of protection for witnesses and victims is still not optimal. The Witness and Victim Protection Law is considered insufficient to ensure the protection of witnesses and victims, which directly hampers the performance of the Witness and Victim Protection Agency (LPSK) itself. One of them is that the Witness and Victim Protection Law does not specifically regulate what kind of authority the LPSK has ¹² in order to provide protection to witnesses and victims, which sometimes causes the LPSK to often go the wrong way in carrying out its duties, which in fact puts the witness and/or victim in a complicated situation. Another obstacle to the development of the Witness and Victim Protection Agency (LPSK) is the lack of information or socialisation for the public, resulting in a lack of knowledge about the presence of the LPSK despite the enactment of the Witness and Victim Protection Law.

Therefore, providing information to the wider community is very important, especially to provide information to witnesses and victims about the presence of LPSK. LPSK must also be able to rebuild public trust in its performance by continuing to improve the weaknesses and shortcomings they have. From the various weaknesses and limitations of the LPSK, it can be seen that the performance of the LPSK in terms of providing protection to witnesses and victims cannot be effective without changes to the Law on Witness and Victim Protection itself.

The realisation of the fulfilment of victims' rights is highly dependent on the efforts made by the government to organise public welfare programs, which in a broad sense includes efforts to provide legal protection for members of the community. Rights and obligations are inseparable, in addition to rights, victims also have obligations, among others, namely:

1. Not personally victimise by taking revenge (taking the law into one's own hands).
2. Participate with the community to prevent the creation of more victims
3. Preventing the destruction of the victimiser, either by oneself or by others;
4. Participate in fostering the victimiser
5. Willing to be counselled or counselling oneself not to become a victim again.
6. Not demanding compensation that is not in accordance with the victimiser's ability to pay.
7. Give the victim-maker the opportunity to compensate the victim in accordance with his/her ability (gradual instalments/service fees)
8. Become a witness if there is no danger to oneself and there is a guarantee.
9. The obligations of the victim mentioned above are mostly obligations towards the victim himself/herself to behave as a good citizen, which is directly or indirectly related to the existence of the perpetrator and the citizens in general.

4. CONCLUSIONS

The Criminal Code (KUHP) has implicitly provided protection for victims of crime with all efforts to fulfil their rights and provide assistance to provide security to victims, which must be carried out by the Witness and Victim Protection Agency (LPSK) or other institutions in accordance with the provisions. As it is known that the KUHP is not very optimal because there are more victims like the position of the perpetrator which results in a legal vacuum, and for the context of protection of victims of crime, there are preventive and repressive efforts made, both by the community and the government (through law enforcement officials and seeing the journey of the birth of the law which was very tough and seemed only to meet the demands of the community and the discussion process that had "stalled" in the House of Representatives which took about five years.

Another thing that is noted in the Law on Witness and Victim Protection is the absence of coercive measures regarding compensation from the perpetrator to the victim, namely not regulating the payment of compensation from the perpetrator to the witness or victim, even though the victim is a witness who is harmed by someone's unlawful actions, but is not protected. Therefore, the Law on Witness and Victim Protection should refer to the Draft Law

on the Criminal Code, which includes payment of compensation from the perpetrator to the victim as a form of protection.

5. ADVICE

Victims of criminal offences need protection to obtain guarantees or legal compensation for the suffering or loss of being a victim of the crime of rape, in the form of restoration of good name (rehabilitation), restoration of inner balance, provision of compensation which can be in the form of restitution, compensation and social welfare guarantees or compensation and so on. Therefore, attention to the rights of victims must be seen as an integral part of the overall criminal policy, such as the position of victims who should not be present in court either as victims or witnesses because they are mentally not ready to provide concrete testimony and the protection of witnesses/victims in the criminal justice process in the future, is an ideal in the national legal system that touches all people and is impartial. For the government as the legislator, it is necessary to revise Law No. 13/2006 because it does not fully protect and guarantee the interests of victims, especially rape victims. It is hoped that in the future there will be legislation that fully protects and guarantees the interests of rape victims both before trial, during trial, and after trial.

REFERENCES

- Achmad, A. (2009). *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial Prudence) Termasuk Intepensi Undang-Undang*. Bandung: Kencana.
- Arifin, S. (2012). *Pengantar Hukum Indonesia*. Medan: Medan Area University Press.
- Ashshofa, B. (1996). *Metode Penelitian Hukum*. Jakarta: Rineka Cipta.
- Atmasasmita, R. (2012). *Sistem Peradilan Pidana Kontemporer* (Cet. ke-2). Jakarta: Kencana.
- Gosita, A. (2009). *Masalah Korban Kejahatan* (Cet. Pertama). Jakarta: Universitas Tri Sakti.
- Harahap, Y. (2010). *Pembahasan Permasalahan dan Penerapan KUHAP* (Cet. ke-12). Jakarta: Sinar Grafika.
- Koesna, R. A. (2005). *Susunan Pidana dalam Negara Sosialis Indonesia*. Bandung: Sumur.
- Lubis, M. S. (1994). *Filsafat Ilmu dan Penelitian*. Bandung: Mandar Maju.
- Muhammad, A. K. (2004). *Hukum dan Penelitian Hukum*. Bandar Lampung: PT. Citra Aditya Bakti.
- Santoso, M. A. (2014). *Hukum, Moral & Keadilan: Sebuah Kajian Filsafat Hukum* (Cet. Kedua). Jakarta: Kencana.

- Soekanto, S., & Mamuji, S. (1990). *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: CV. Rajawali.
- Sunggono, B. (2007). *Metodologi Penelitian Hukum*. Jakarta: RajaGrafindo Persada.
- Waluyo, B. (2015). *Viktimologi: Perlindungan Korban dan Saksi* (Cet. Pertama). Jakarta: Sinar Grafika.
- Wibawa, S. (1994). *Evaluasi Kebijakan Publik*. Jakarta: PT Raja Grafindo Persada.

Legal Protection Of Victims' Rights In The Settlement Of Criminal Cases

ORIGINALITY REPORT

13%

SIMILARITY INDEX

10%

INTERNET SOURCES

10%

PUBLICATIONS

6%

STUDENT PAPERS

PRIMARY SOURCES

- 1 Osgar Sahim Matompo. "Legal Protection of Indonesian Migrant Workers based on The Job Creation Law", Jurnal Justiciabelen, 2022

Publication

1 %
- 2 Febrianika Maharani. "Criminal Responsibility for Children Who Perpetrate Serious Abuse to Achieve Justice In Society", JURNAL LEGALITAS, 2023

Publication

1 %
- 3 www.shs-conferences.org

Internet Source

1 %
- 4 Purwoto, Ady. "Rekonstruksi Regulasi Perlindungan Hukum Untuk Keselamatan Kerja Bagi Tenaga Kesehatan Akibat Pandemi Penyakit Menular Berbasis Nilai Keadilan", Universitas Islam Sultan Agung (Indonesia), 2023

Publication

1 %
- 5 Tuti Widyaningrum, Andry Suharto. "The Value of Restitution and Diversion in the Law

1 %

Enforcement of Criminal Sexual Violence Against Children", KRTHA BHAYANGKARA, 2024

Publication

6	jurnal.bundamediaгруп.co.id Internet Source	1 %
7	jurnalmahasiswa.uma.ac.id Internet Source	1 %
8	Yanto Sufriadi. "Prevention Efforts Against E-Commerce Fraud Based on Indonesian Cyber Law", 2021 9th International Conference on Cyber and IT Service Management (CITSM), 2021 Publication	1 %
9	docplayer.net Internet Source	1 %
10	Listyawati, Peni Rinda. "Rekonstruksi Regulasi Corporate Social Responsibility Berbasis Asas Ta'Awun", Universitas Islam Sultan Agung (Indonesia), 2023 Publication	1 %
11	repositori.usu.ac.id Internet Source	1 %
12	www.bayefsky.com Internet Source	1 %
13	jurnal.umt.ac.id Internet Source	

1 %

14

journal.ubaya.ac.id

Internet Source

1 %

15

jih.fh.unsoed.ac.id

Internet Source

1 %

16

ejournal.uniska-kediri.ac.id

Internet Source

1 %

17

Margie Gladies Sopacua. "VIKTIMISASI
DALAM PROSES PERADILAN PIDANA (STUDI
KASUS PERKOSAAN)", SASI, 2015

Publication

1 %

18

Miftachur R Habibi. "JUDGEMENT, LEGAL
ATTEMPT AND EXECUTION OF CRIMINAL LAW
IN INDONESIA", DE RECHT (Journal of Police
and Law Enforcement), 2024

Publication

1 %

19

Submitted to Universitas 17 Agustus 1945
Semarang

Student Paper

1 %

Exclude quotes On

Exclude matches < 1%

Exclude bibliography On