



Position of individual victims in the criminal judicial processes in Indonesia

Ikhwaluddin Simatupang¹, Sri Endah Wahyuningsih², Anis Mashdurohatun³

¹ Doctoral Program Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia

² Faculty of Law, Sultan Agung Islamic University Semarang, Indonesia

Abstract

The regulation of the rights of victims of the prosecution of defendants in criminal procedural law in Indonesia has not been adequate. The purpose of this research is to explain and analyze the position of individual victims in the criminal justice system in Indonesia. To analyze the causes of the rights of individual victims in the prosecution of the accused, currently it is not based on the values of justice and expediency. To find a reconstruction of the rights of individual victims in the prosecution of defendants based on the values of justice and expediency.

The paradigm of this research is constructivism. This type of research is a sociological legal research, using a case approach as primary data and a law approach as a secondary legal material. Primary data was obtained by making observations at the district attorney's office and interviews with prosecutors who had handled cases. While secondary data is obtained through literature study of primary legal materials in the form of legislation, secondary legal materials in the form of books, journals, theses and other sources as well as legal dictionaries and encyclopedias as tertiary legal materials. The data obtained were then analyzed using a qualitative descriptive method.

The results of the study show that the rights of victims in the prosecution of defendants are currently not based on the values of justice and expediency due to the legal substance, legal culture and legal structure in Indonesia. In this study, reconstruction is divided into Norm Reconstruction Values. The legal objectives of justice, benefit and legal certainty are expected to be realized together. Justice must be prioritized first, then benefits and finally legal certainty. Article 75, Article 284 (3) of the Criminal Code as well as Article 14, Article 72, Article 244 of the Criminal Procedure Code are reconstructed and the victim's right to information on case examiners as stipulated in Article 5 paragraph (2) of the UULPSK is placed in Chapter VI of the Criminal Procedure Code Article 68 of the Criminal Procedure Code so that individual victims have the right to prosecution. defendant based on the value of justice and expediency.

Keywords: individual victim rights, prosecution; justice; i

Introduction

The regulation of the rights of victims of prosecution of defendants in recent years has become a problem that requires a study to find a solution. The reaction of the victim/victim's family to the prosecutor's demands in the trial in the district court is an important concern for giving the victim the right to determine the size of the criminal charge or not even submitting a claim at the time of examination of the case in the district court ^[1].

The fundamental weakness in the law enforcement process in Indonesia is the neglect of the rights of crime victims in the process of handling criminal cases and the consequences that must be borne by crime victims because legal protection for crime victims does not receive adequate regulation. This can be seen in Law No. 8/1981 concerning the Criminal Procedure Code, very few articles discuss the rights of victims. The discussion in the Criminal Procedure Code does not focus on the existence of victims of criminal acts but only as ordinary citizens who have the same rights as other citizens. For example, in Article 160 paragraph (1) letter b of the Criminal Procedure Code which states that the first to be heard is the victim who is a witness. The position of the victim here is only as a witness of a criminal case solely to prove the guilt of the suspect/defendant, not as a party who is heard about his or her rights as a victim of a crime ^[2].

Victims of crime are basically the party who suffers the most in a crime, but they do not get the protection as provided by law to the perpetrators of the crime. This can result in when the perpetrator of the crime has been sentenced to criminal sanctions by the court, the condition of the victim is neglected or ignored at all. Whereas the issue of justice and respect for human rights should not only be given to perpetrators of crimes, but also victims of crimes ^[3]. Based on the description above, the purpose of this study is to analyze the position of victims in the criminal justice process in Indonesia which is not based on the value of justice.

Research Methods

This type of research is normative juridical, with a positivism paradigm. The data used is secondary data obtained by conducting a literature study consisting of primary legal materials in the form of legislation, secondary legal materials in the form of books, journals, results of previous research and tertiary legal materials in the form of dictionaries and encyclopedias. The data obtained were then analyzed using a qualitative descriptive method.

Discussion

1. The Role of the State in the Criminal Justice System in Indonesia

The current model of the criminal justice system in Indonesia has protected the rights and interests of criminals, but not much attention has been paid to the interests of crime victims who are directly the aggrieved parties. According to Mudzakkir, neglect of crime victims will have a negative impact on the criminal justice system itself. Victims of crime will reduce their support for the criminal justice system, and victims will become apathetic. This kind of situation can be used as an excuse for victims to seek alternative settlements outside the criminal justice system by illegal means. The attitude and support of crime victims to the criminal justice system depends a lot on how the services are provided directly and in real terms to victims of crime ^[4]. The better the attention and service (the ability of law enforcement to resolve cases) given to victims, the greater the support for crime victims towards the implementation of the criminal justice system. In other words, the victim's positive attitude and confidence in the capabilities of the police and prosecutors will determine the size of the victim's participation in criminal justice. The state, in this case the police and prosecutors, has a dominant role and monopolizes the reaction to violations of criminal law, is the legitimate representative of the community or the public interest, in fact through a long historical process has taken over the role of the victim as the party who suffers because of the crime ^[5]. The dominant role of the state is not followed by a clear regulation of the existence of crime victims and the legal relationship between victims on the one hand and the state, in this case the police and prosecutors, on the other hand which results in victims becoming passive objects in the administration of the criminal justice system. Meanwhile, victim participation in the justice system is seen as "nothing more than a piece of evidence" and being outside the system (outsider) is not an interested party and involved in the system (insider) ^[6]. At the police level, the position and role of the victim of a crime is required by investigators to be asked to provide information as a witness, because the victim is considered as the party providing the report or complaint that a crime has occurred. Although it is passive, the victim's information is very much needed by investigators to strengthen the suspicion that the suspect has committed a criminal act. The position and role of the victim will become more important when the crime that occurs is very minimal in evidence. In such circumstances, whether or not the criminal process will continue will depend on the willingness of the victim to testify before the investigator. The position and role of the victim at that level in the police will continue in the prosecution and examination of cases in court ^[7]. At the stage of prosecution by public prosecutors and examination of cases in court by judges, basically it cannot be separated from the existence of Articles 183 and 184 of the Criminal Procedure Code regarding evidence and evidence. The two articles show that the position and role of the victim is nothing more than a witness. At this level the victim also still has to be passive. He may or may even be obliged to retell the tragic incident that happened to him if requested by the authorities during the judicial process. When the information provided by the victim is deemed sufficient, the position and role of the victim in the criminal justice mechanism is also completed. he no longer has the right to interfere in determining the appropriate sanctions that will be prosecuted or imposed on the perpetrators, because these have become the monopoly of the court bureaucracy. Even

when sanctions have been imposed and must be carried out by the perpetrator, the authority to determine how the sanctions are carried out by the perpetrator is decided without asking the victim's opinion ^[8]. According to Darmono, the position of the public prosecutor who has the obligation to prove the guilt of the defendant and as an investigator (in certain cases) who is in charge of making case documents clear, the prosecutor has an interest so that the victim gets protection and guarantees for his safety so that he feels comfortable in giving information. Because if he is under pressure, terror, and intimidation in giving information, it is feared that the information given at the time of the investigation is different from the information given at the examination at trial. Such conditions will make it difficult for the prosecutor to prove the defendant's guilt in order to convince the panel of judges. Therefore, when witnesses and victims provide testimony, it must be accompanied by guarantees that the person concerned is comfortable and free from fear, both before giving information, while giving information or after giving information. This guarantee is given in order to ensure that the information given by the witness/victim is truly pure, not the result of engineering or pressure from certain parties. So this is the reason it is important to pay attention to victims, for the smooth running of the ongoing judicial process ^[9]. In the settlement of criminal cases, the state has taken over all reactions that can be made by the victim against people who have harmed or suffered themselves as a result of the actions that have been carried out by the perpetrator. The loss or suffering of the victim has been abstracted by the state and manifested in the form of threats of sanctions, criminal acts, or actions against the perpetrators. The threat of sanctions in many cases cannot represent the loss or suffering of the victim, and thus cannot restore the happiness and well-being of the victim to their original condition ^[10]. The operation of criminal justice both in institutions and legal institutions is more oriented to the perpetrators of the crime (offender oriented). The existence of victims is subordinated and eliminated as risk secondary victimizations in the work of criminal justice, this is a form of juridical victimization from the judicial aspect as well as regarding the dimensions of statutory discrimination, including applying the law of power. It can be understood that the criminal justice system has its own public which is always related to the social context of the community in which the criminal justice system is run. The vulnerability of the criminal justice system in translating its functions related to interests can be understood from the character of the criminal justice system itself ^[11]. The criminal justice system so far has prioritized protecting the interests of crime makers (offender centered), based on the view that the criminal justice system is organized to try suspects and not to serve the interests of crime victims. Another reason that supports this view is the classical paradigm which sees crime as violating the public interest (public law), then the reaction to crime becomes a state monopoly as a public or community representation. This view dominates the practice of criminal justice, as a result, people whose rights have been violated and suffer the consequences of crimes are ignored by the criminal justice system. Mudzakkir, citing M.S. Groenhuijsen stated that victims of crime are not legally recognized as parties in the Dutch criminal justice system, but the interests of victims are recognized and taken into account at every stage of the criminal justice process

[12]. In the settlement of criminal cases, the law often puts too much emphasis on the rights of the suspect/defendant, while the rights of the victim are ignored. Many victims of crime are found to be lacking adequate legal protection, both immaterial and material protection. Crime victims are placed as evidence to provide information, namely only as witnesses so that the possibility for victims to gain freedom in fighting for their rights is small [13]. Victims of crime as parties who are harmed in the existence of a crime, have not received special attention from the criminal justice system. According to Rendy E. Bernett as quoted by Mudzakkir, the criminal justice system, consciously or unconsciously, intentionally neglects the interests of victims of crime, on the pretext that the criminal justice system is not organized to serve the interests that crime victims want to fight for. 2. Position of Victims in the Indonesian Criminal Justice System The position of victims in the Criminal Justice System (hereinafter referred to as SPP) is currently not placed fairly and even tends to be forgotten. This condition has two fundamental implications, namely the absence of legal protection for victims and the absence of judges' decisions that fulfill a sense of justice for victims, perpetrators and the wider community. Victimologists have termed the position of such victims in various words, such as forgotten man, forgotten person, invisible, (forgotten person, invisible) a second class citizen, a second victimization (as the second citizen, being the second victim). after the first) and double victimization [14]. The position of the victim in criminal justice as a party seeking justice has been neglected. When examined from the purpose of punishment in positive law, criminals receive more attention such as rehabilitation, social adaptation, correctional facilities and others. This is a form of injustice for the victim, because as the injured party it is only functioned as a means of proof, and not infrequently the victim's human rights are neglected [15]. The criminal justice process, which ends in a judge's decision in court, as is currently the case, seems to tend to forget and leave the victim. The parties involved include starting from the Indonesian National Police (POLRI) as criminal investigators, prosecutors, legal advisors (PH) for suspects/defendants, witnesses (victims) and judges supported by available evidence, tending to focus on proving the prosecution's accusations. against the suspect/defendant. The neglect of the victim element in the judicial process tends to distance the judge's decision that fulfills the sense of justice for the perpetrator and the community. It must be admitted that in some cases, the victim can play a role with varying degrees of guilt from being completely innocent to a degree that is more wrong than the perpetrator, related to the role of the victim in a crime, Hans Von Hentig said, "... in sense, the victim shapes and molds the criminal and his crime . . ." Thus, if you are going to understand a crime according to its actual dimensional portion, you must consider the role of the victim in the occurrence of the crime [16]. The conditions as mentioned above cannot be separated from positive legal norms, theories of criminal law and punishment as well as doctrines that are the source of criminal law. Based on this, it is necessary to change views or new paradigms in the process of the criminal justice system. The orientation is not only on the perpetrator, but also the victim in a balanced way. In the victimology literature, this view is called by Schafer criminal-victim relationship. Referring to the theory

above, attention to criminal law issues tends to turn into crime (deeds), mistakes (people), victims and criminals. Through this paradigm, it seems that criminal law becomes more appropriate and fulfills a sense of justice. This concept of thought should be studied and developed in research on the position of victims in the SPP, the end of which is the recommendation of a model of the position of victims fairly in the SPP that fulfills a sense of justice as the essence of forming a norm [17]. Likewise, the issue of victims of criminal acts has actually been discussed by experts for a long time, but the public seems to pay more attention to the problem of crime in terms of the perpetrators, this is proven by the existence of the discipline of criminology, namely the science that studies the causes of crime and how to overcome them. The judicial process is more focused on the actions of the suspect/defendant fulfilling the formulation of the criminal law article that was violated or not. In such a process, it appears that criminal procedural law is the basis for proceedings with the aim of seeking material truth (substantial truth) as the complete truth and the protection of human rights is not fully achieved. The police and prosecutors in acting in handling criminal cases are carrying out state duties in the field of investigation and prosecution, not in the context of protecting and serving or fighting for the interests of victims of crime. Victims of crime do not have a clear legal relationship with the police and prosecutors, as does the legal relationship between the perpetrator and his legal advisor. So for the police and prosecutors, he has no responsibility to the victim to fight for the interests of the victim because between the police/prosecutor and the victim there is no clear legal relationship. The police and prosecutors are solely responsible to the state as a forum that gives the task and authority to provide services to victims. This is what causes the police and prosecutors to be less than optimal in carrying out their authority in providing services to victims to fight for their rights and interests, and only responsibility to the bureaucracy in order to facilitate the normative tasks they carry out [18]. The neglect of the interests of the victims of these crimes is not in accordance with the principles of the implementation of the Indonesian legal state, where the state is obliged to protect all parties, both the interests of community members who are suspected of violating the law, especially members of the public who are victims of a crime. The fate of the victims of these crimes is likened to experiencing a natural disaster and the criminal justice system does not care about the fate of people who suffer from natural disasters. Good and fair treatment of suspects and people who are victims of crime is a must in the administration of the Indonesian rule of law. Reflection on the principle of the rule of law, as contained in the General Elucidation of the 1945 Constitution, should be the basis and be reflected in the administration of criminal justice, where law and justice are enforced. Criminal law and criminal procedural law as a branch of law that deals a lot with human rights issues and through the criminal justice system some of these human rights are tested and the values desired by the community are upheld [19]. The victim as the party who is harmed as a result of the perpetrator's actions, should still have a role in the judicial process of the case concerned with him, because after all the victim also has the right to express his desire to participate in determining the imposition of sanctions for the perpetrators of the crime. So that justice for the victim is difficult for the victim to feel.

The involvement of crime victims in the criminal justice process is important, because the relationship between victims, communities and offenders is the focus for mediation and reconciliation in order to resolve the conflicts they face. The highlights are empowering participants, promoting dialogue and mutual problem solving and providing satisfaction for all parties ^[20]. Criminal law laws and regulations and their implementation in daily legal practice as reflected in the MARI Decision show that the existence and position of crime victims is not recognized. The absence of such acknowledgment has further consequences where the rights of victims which have been regulated in criminal law are not directly related to the obligations (duties) of the police and prosecutors, are not equipped with other supporting rights, and do not have clear control rights, such as their rights. The legal rights of the suspect/defendant. This situation results in the rights of victims of crime being unable to be implemented properly ^[21]. Citing the opinion of Andrew Ashworth, it is said that the position of victims in the criminal justice system and in judicial practice is relatively under-appreciated because Indonesian legal provisions still rely on protection for perpetrators (offender oriented). The position of victims of crime in the practice of criminal procedural law in Indonesia is the party who will not benefit the most because they do not get as much protection as the law provides for criminals. While the rights of victims are the right to equal treatment before the law, the right to justice and the right to reparation (recovery), namely rights that show all types of recovery, both material and non-material for victims of human rights violations, while in the settlement of criminal cases the process is often the law puts too much emphasis on the rights of criminals while the rights of victims of crime are ignored ^[22]. The absence of legal protection as an implication of not placing victims fairly in the SPP, can be examined through laws and regulations in the field of criminal law including material law, formal law and implementing (criminal) law. Likewise, through empirical observations in law enforcement practices in sub-sub-SPP institutions, victims also do not appear to have received legal protection ^[23]. This can be seen with more other principles governing the protection of perpetrators of criminal acts compared to victims of the crime, such as the principle of presumption of innocence where the perpetrator of a crime has not been determined guilty before a judge's decision and there are many other principles in the practice of procedural law. criminal law that regulates the interests of the perpetrator so that it creates a sense of justice that is lacking for the victim and the position and rights of the aspirations that 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 procedural law are not given an active role even though they have been represented by public prosecutor ^[24]. In addition, in the judicial process, a Letter of Termination of Investigation (SP3) 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 not enough evidence or the event is not a criminal act or the investigation is terminated by law. This often causes dissatisfaction in the settlement of criminal cases, many victims of crime are found to lack adequate legal protection, both material and immaterial, victims are not actively authorized in the investigation and trial process, thus losing

the opportunity to fight for their rights and restore the situation as a result of a crime. Crimes suffered by victims of crime. Although the interests of the victim have been represented by the public prosecutor in the trial process as part of the protection of the victim of a crime, but in the judicial process the victim is not given procedural rights, namely the right given to the victim directly through the role of the victim himself to prosecute in the trial process against the perpetrators of criminal acts ^[25]. If one observes the position and rights of the victim above, the Criminal Procedure Code emphasizes the protection of the dignity of the suspect or defendant rather than the position and rights of the victim so that it does not reflect a sense of justice for the victim of a crime. Therefore, the current Criminal Procedure Code must be revised because the position and rights of crime victims are very little regulated compared to the rights of criminals. So that later in the new KUHAP there will be a balance between the position and rights of the victim and the perpetrator in the practice of criminal procedural law ^[26]. Victims have a very important role in participating in the performance of the police and prosecutors through the form of reports or complaints from victims. Without the participation of the victim, the role of the police and prosecutors in exercising their authority cannot run properly and optimally. Therefore, for the criminal justice system to run well and maximally, there should be a balance between what the victim (participation) has given to the police and prosecutors with what the police and prosecutors have given to the victim, namely in the form of fulfilling the rights and interests of the victim by giving good service. For the victim of a crime, the occurrence of a crime against him will destroy the belief system and the regulation of criminal law and others serves to restore that trust. Consideration of the need for attention to victims of crime is based on the theoretical basis that the state must take care of its citizens in meeting their needs or if their citizens experience difficulties and the state can be said to have monopolized all reactions to crimes and prohibits personal actions, therefore if a crime occurs that cause victims, the state must also be responsible for paying attention to the needs of the victims ^[14]. The position of the victim is only an element of legal order. So a criminal act is not an act that harms people who have flesh, blood and feelings, but an act that is against the law, contrary to something abstract called legal order (in breuk op de rechtsorde). With such growth, the person who is harmed does not have; it is abstracted. In the criminal case process, it is as if he is "in humanized"; he is a witness (usually the first witness) who is only important to provide information about what the maker did in order to be used as evidence about the guilt of the maker. The legal position of victims of crime, namely the state, in the justice system plays a central and dominant role in making decisions against suspects or violators of criminal law. On the other hand, other parties who are not conceptualized as involved or included, as perpetrators or victims, are positioned as instruments of evidence in the criminal process, namely as witnesses. As a piece of evidence, the witness has no legal relationship with the criminal law violation case that he witnessed and was subsequently used as an instrument in imposing a criminal offence. This concept was dominant until the end of the 19th century. The concept of crimes against the state began to be sued and judged not to be in accordance with the realities of everyday life. The fiction or assumption that the state is the

sole victim is difficult to accept in real and objective situations. John O. Haley put it that the state and its judicial system cannot stand as imaginary representatives of real people who have personally suffered because of crime. The sin of the transgressor itself is not an abstract entity called the state, but its victims and the actual and real community^[27]. Victims of crime are people who are harmed due to violations of criminal law (crimes), first and foremost, those who directly suffer because of the crime are called real victims (primary), then called victims, while others are indirect victims (secondary). In the case of a crime, the main victims are the community and the state. In the form of the loss of a sense of peace and security as well as the collapse of the authority of the state in the eyes of the community in the sense that the community will assume that the state is unable to protect its citizens from crime. Elimination of the position of victims of crime in the justice system (criminal law) through a long history of criminal law and each country has its own experience. Victims of crime who were significantly harmed at first as dominant actors in the criminal justice system, were gradually taken over by the state as legal representatives and the community along with the formation of modern state organizations. The state monopoly in prosecuting violators of criminal law and eliminating the position of the victim, received the support of criminal law doctrine (academic), finally the establishment was institutionalized in a criminal law system until now^[28]. The concept of criminal law regarding crime victims is influenced by the political views of criminal law-formers, namely the notion that crime victims are individuals who are harmed then in accordance with the development of constitutional politics and then the state as the only victim, now it is starting to be re-initiated that individuals are also victims, in addition to the state, or society collectively. When the concept of the state as the only victim of a violation of criminal law, the state then has great power and monopolizes the reaction to crime and affects the joints of the administration of criminal justice. Individual participation of individuals who are actually harmed by crimes is abolished, in addition to not being recognized as victims, as well as to avoid excessive individual retaliation in prosecuting criminals as previously applied. The implementation of criminal justice places the function of the state as the dominant one in the form of rationalizing the distribution of revenge against violators^[29].

3. Procedures for Fulfilling the Right to Compensation against Victims of Criminal Acts in Indonesia The Criminal Procedure Code provides space for victims to obtain rights in the form of filing for compensation for the losses they have suffered as a result of a criminal act. The victim can file a claim for compensation and ask the judge at the hearing to give a decision to combine the examination of the compensation case with the examination of the criminal case. The claim for compensation is filed against the reimbursement of costs incurred by the aggrieved party as regulated in Article 98 of the Criminal Code. The request to combine the examination of the claim for compensation with the criminal case can only be submitted no later than before the public prosecutor files a criminal charge. In the event that the public prosecutor is not present, the request is submitted no later than before the judge makes a decision. The district court will consider its authority to adjudicate the lawsuit, the truth of the basis of the lawsuit and the penalty for reimbursement of the costs incurred by the aggrieved

party. Decisions regarding compensation are automatically legally binding if the criminal decision also has permanent legal force. If the public prosecutor does not file an appeal against the decision of a criminal case, then an appeal regarding the compensation decision is not allowed. The claim for compensation can only be filed against the reimbursement of costs that have been incurred by the victim and does not include immaterial compensation. In addition, the victim cannot take legal action against the decision on the claim for compensation, because the right to file a legal action rests with the public prosecutor, not the victim. If the public prosecutor does not file an appeal against the decision of a criminal case, then an appeal regarding the compensation decision is not allowed^[30]. A violation of criminal law can cause harm and immaterial to other parties. People who suffer losses caused by other people's unlawful actions, according to civil law, have the right to claim compensation (Article 1365 of the Civil Code). The victim of a crime as one of the people who are harmed in a violation of criminal law has the right to file a claim for compensation combined through a criminal procedure (Article 98 paragraph (1) of the Criminal Procedure Code. The full article contains: If an act that forms the basis for an indictment in an examination of a criminal case by a district court causes harm to another person, (pen) the presiding judge of the trial at the request of that person may decide to combine the compensation case with the criminal case. Loss for other people means that the (subject) is not limitative, that is, in accordance with the provisions in civil law, anyone who suffers losses caused by a crime, including the loss of the victim (Elucidation of Article 98 paragraph 1), while the type of loss caused by a crime limited in nature, which is limited to material losses in the form of costs or reimbursement of costs that have been incurred by interested third parties (Article 99 of the Criminal Procedure Code) which is confirmed in MARI jurisprudence. The provisions regarding this type of loss are not in accordance with the aspirations of Article 101 of the Criminal Procedure Code, namely "the provisions of the rules of civil procedure law apply to claims for compensation." Civil law does not limit the type and amount of loss suffered by the injured party (plaintiff) if the loss is truly in accordance with the quality principle as regulated in Article 1365 of the Civil Code^[31]. According to Yahya Harahap, the possibility of a third party lawsuit or a victim of a crime that can be used with a criminal case is a "new legal system in the legal life in Indonesia, while Lamintang says it is something extraordinary and as the first provision in the history of Indonesian criminal justice procedural law. The examination and decision is granted and whether the request for compensation is assessor, meaning that the decision to grant or reject the request for compensation depends on the decision of the main case, namely the criminal act charged by the public prosecutor. Decisions on compensation for third parties can only be executed if the main decision has permanent legal force^[32]. Claims for compensation caused by a violation of criminal law can be pursued through two procedures, namely merging in criminal justice procedures and lawsuits through civil court procedures. Claims for compensation due to crimes in various countries can be submitted to the state in the form of compensation, because the state has a responsibility to its citizens who suffer losses due to violations of criminal law. Indonesia's positive law does not regulate the issue of

compensation for material losses caused by crimes. The right to obtain compensation is one of the rights of victims as stated in the 1985 UN Declaration Number A/Res/40/34. Normatively, the Criminal Procedure Code only pays attention to the rights of criminals, without giving space to victims to fight for their rights. As stated in previous chapters, victims in the Criminal Procedure Code are only regulated in several articles, namely Articles 98-101. Articles 98-101 of the Criminal Procedure Code are articles related to the victim's right to claim compensation. The mechanism used is the merger of lawsuits for compensation in criminal cases. The amalgamation of compensation cases is a unique and special event characteristic, which are contained in the contents of the provisions of the Criminal Procedure Code^[33].

Conclusion

The position of the victim in the investigation/investigation, prosecution and trial based on the Criminal Procedure Code, is nothing more than evidence (witness testimony). To intervene in determining the appropriate sanctions that will be prosecuted or imposed on the perpetrators, because all of that has become a monopoly of the court bureaucracy, even when sanctions have been imposed and must be carried out by the perpetrators, the authority to determine how the sanctions are carried out by the perpetrators is decided without asking the opinion of the victim. The position of the victim of a crime in the practice of criminal procedural law in Indonesia is the party who will not benefit the most because they do not get as much protection as the law provides for criminals. The Criminal Procedure Code focuses more on protecting the dignity of the suspect or defendant than the position and rights of the victim so that it does not reflect a sense of justice for the victim of a crime. with the Procedural Rights Model. The Procedural Rights Model emphasizes the possibility of the victim playing an active role in the criminal process or in the course of the judicial process. In this case, the victim of a crime is given the right to file a criminal complaint or to assist the prosecutor or the right to be presented and heard at every level of the court trial whose interests are related to it, including the right to be asked for consultation by a prison institution before being released on parole and finally the right to hold peace or civil justice. This kind of approach sees the victim as a subject who must be given broad juridical rights to claim and pursue his interests.

positive law stipulates that the position of the victim of a crime is only as a witness (Article 108 Paragraph (1) of the Criminal Procedure Code in conjunction with Article 184 of the Criminal Procedure Code) and as a claimant or plaintiff for damages (civil) combined in criminal procedures (Article 98-101 of the Criminal Procedure Code). Indictment and prosecution under Article 14 of the Criminal Procedure Code is only owned by the Public Prosecutor. Criminal Procedure Code. Withdrawal of a complaint in positive law which has a time limit of three months after the complaint is filed (Article 75 of the Criminal Code), except for the offense of adultery complaints (Article 284 of the Criminal Code) where the complaint is withdrawn before the commencement of the examination of the case in court does not fulfill the sense of justice for the victim and has no legal benefit.

References

1. Tibaka L, Rosdian R. The Protection of Human Rights in Indonesian Constitutional Law after the Amendment of the 1945 Constitution of The Republic of Indonesia. *Fiat Justisia*,2018;11(3):268-289. doi:10.25041/fiatjustisia.v11no3.1141
2. Wahyudi R. Illegal Journey: The Indonesian Undocumented Migrant Workers to Malaysia. *Populasi*,2018;25(2):24. doi:10.22146/jp.36202
3. Kusumaningrum A. the Challenges of International Air Law Principles in Globalization Era. *Brawijaya Law J*,2017;4(2):255-268. doi:10.21776/ub.blj.2017.004.02.07
4. Wahyuningsih SE. Reconstruction of the retroactive principle in the Indonesian criminal Law code based on the value of religious wisdom,I(1):177-198.
5. Prashant Rahangdale. Witness Protection: A Comparative Analysis of Indian and Australian Legislation. *J Gujarat Res Socceity*,2019;21(3):141-149. https://ssrn.com/abstract=3516628.
6. Koegl CJ, Farrington DP, Raine A. The relationship between low resting heart rate , systolic blood pressure and antisocial behavior in incarcerated males ☆. *J Crim Justice*,2018;55:88-95. doi:10.1016/j.jcrimjus.2018.02.004
7. Wahyuningsih SE, Adi N, Iksan M. The role of scientific testimony in the process of investigation of crime in Indonesia, 2018, 97-103.
8. Garofalo C, Bogaerts S, Denissen JJA. Personality functioning and psychopathic traits in child molesters and violent offenders. *J Crim Justice*,2018;55:80-87. doi:10.1016/j.jcrimjus.2018.02.003
9. Allely CS, Kennedy S, Warren I. A legal analysis of Australian criminal cases involving defendants with autism spectrum disorder charged with online sexual offending. *Int J Law Psychiatry*,2019;66:101456. doi:10.1016/j.ijlp.2019.101456
10. Wahyuningsih SE, Sholeh M. Judge 's Considerations Analysis toward Perpetrators of Criminal Acts of Sexual Violence to Underage Children in Demak District Court Reviewed with Law Number 35 Year 2014 about Children Protection,2017;IV(35):346-352.
11. Pistor K. The value of law. *Theory Soc*,2020. doi:10.1007/s11186-020-09388-z
12. Norris JJ, Grol-prokopczyk H. International Journal of Law, Crime and Justice Entrapment allegations in right-wing terrorism cases : A mixed- methods analysis. *Int J Law Crime Justice*,2018;53:77-88. doi:10.1016/j.ijlcj.2018.03.009
13. Maglione G. International Journal of Law, Crime and Justice Imaging victims , offenders and communities . An investigation into the representations of the crime stakeholders within restorative justice and their cultural context. *Int J Law, Crime Justice*,2017;50:22-33. doi:10.1016/j.ijlcj.2017.02.004
14. Suyanto B, Hidayat MA, Sugihartati R, Ariadi S, Wadipalapa RP. Incestuous abuse of Indonesian girls: An exploratory study of media coverage. *Child Youth Serv Rev*,2019;96:364-371. doi:10.1016/j.chilyouth.2018.11.034
15. Siwach G. International Review of Law and Economics Criminal background checks and recidivism : Bounding the causal impact. *Int Rev Law Econ*,2017;52:74-85. doi:10.1016/j.irlle.2017.08.002

16. Oromiyaa JS, Journal OL. Ethiopian witness protection system: comparative analysis with UNHCHR and good practices of witness protection report. *Oromia Law J*,2017;6(1):124-150.
17. Enikö F. The rising importance on the protection of witnesses in the European Union. *Rev Int Droit Penal*,2006;77(1):313-322. doi:10.3917/ridp.771.0313
18. Kepli MY bin Z, Nasir MA. Money Laundering: Analysis on the Placement Methods. *Int J Business, Econ Law*,2016;11(5):9. <http://ijbel.com/wp-content/uploads/2017/03/IJBEL-50.pdf>.
19. Watkins AM, Melde C. Gangs , gender , and involvement in crime , victimization , and exposure to violence. *J Crim Justice*,2018;57:11-25. doi:10.1016/j.jcrimjus.2018.02.005
20. Wahyuningsih SE, Purba AR, Mahardi M. LEGAL PROTECTION OF CHILDREN AS VICTIMS OF PEDOFILIA IN INDONESIA,2014;97(24):71-84.
21. Wismayanti YF, O'Leary P, Tilbury C, Tjoe Y. Child sexual abuse in Indonesia: A systematic review of literature, law and policy. *Child Abus Negl*,2019;95:104034. doi:10.1016/j.chiabu.2019.104034
22. Isra S, Amsari F, Tegnan H. International Journal of Law , Crime and Justice Obstruction of justice in the effort to eradicate corruption in Indonesia. *Int J Law, Crime Justice*,2017;51:72-83. doi:10.1016/j.ijlcj.2017.07.001
23. Maksum A, Surwandono. Suffer to survive: The Indonesian illegal workers experiences in Malaysia and Japan. *J Soc Res Policy*,2017;8(1):101-123.
24. Wibowo RA. When anti-corruption norms lead to undesirable results: learning from the Indonesian experience. *Crime, Law Soc Chang*,2018;70(3):383-396. doi:10.1007/s10611-017-9737-8
25. Jiang N. International Journal of Law , Crime and Justice Old wine in new bottles? New strategies for judicial accountability in China. *Int J Law Crime Justice*,2018;52:74-85. doi:10.1016/j.ijlcj.2017.09.006
26. Satrio N, Faisal F. Hak Saksi Dan Korban Tindak Pidana Kasus Tertentu Dalam Perlindungan Saksi Dan Korban Perspektif Equality Before the Law. *Cepalo*,2021;5(1):1-10. doi:10.25041/cepalo.v5no1.2109
27. Street B, Village L, District B, City B, Sulawesi S. LEGAL PROTECTION POLICY FOR WITNESSES IN THE,2020;1(2):28-51.
28. Schabas W. The United Nations War Crimes Commission's Proposal For An International Criminal Court. *Crim Law Forum*,2014;25(1-2):171-189. doi:10.1007/s10609-014-9230-3
29. O'Brien M. *Classifying Cultural and Physical Destruction: Are Modern Historical and Current Human Rights Violations in China Violations of International Criminal Law?* 26, 2015. doi:10.1007/s10609-015-9261-4
30. Joseph Joseph C, Gunawan J, Sawani Y, Rahmat M, Avelind Noyem J, Darus F. A comparative study of anti-corruption practice disclosure among Malaysian and Indonesian Corporate Social Responsibility (CSR) best practice companies. *J Clean Prod*,2016;112:2896-2906. doi:10.1016/j.jclepro.2015.10.091
31. Sitorus JHE. Pancasila-based Social Responsibility Accounting. *Procedia - Soc Behav Sci*,2016;219:700-709. doi:10.1016/j.sbspro.2016.05.054
32. Adjorlolo S, Chan HC. (Oliver). Risk assessment of criminal offenders in Ghana: An investigation of the discriminant validity of the HCR-20V3. *Int J Law Psychiatry*,2019;66:101458. doi:10.1016/j.ijlp.2019.101458
33. Wahyuningsih SE, Danujaya IDPGA, Iksan M. Policy of criminal sanctions against corporations using illegal foreign workers in Indonesia. *Int J Innov Creat Chang*,2020;12(10):166-182.