

FULFILLMENT OF THE RIGHTS OF CORPORATE CRIME VICTIMS IN THE STUDY POSTMODERN VICTIMOLOGY

VOKKY HERLAMBANG

Jayabaya University Indonesia
vokky.sagala99@gmail.com

RAMLANI LINA SINAULAN

Jayabaya University
ramlani_ls@jayabaya.ac.id

MARSUDIN NAINGGOLAN

Jayabaya University
marsudin_nainggolan@jayabaya.ac.id

THIKAMPORN THAWEEDECH

International College, Rajamangala University of Technology Krungthep
thikamporn.t@mail.rmstk.ac.th

ABSTRACT

Criminal law must be able to protect the human rights (HAM) of both perpetrators and victims of crimes and protect the interests of society and the state in harmonious considerations. The main weakness in the application of the criminal law referred to, is the neglect of the rights of victims of crime in the process of handling criminal cases and the consequences that must be borne by the victim. This can be seen in the Penal Code, the absence of articles dealing with victims, and the discussion does not focus on the existence of victims of criminal acts, in addition to the presence of many victims who are still not sure of the losses they suffer, there is still a lack of legal security guarantees about victims whom They report or witness a crime, which is why the facts of existing problems related to the realization of victims' rights are studied, in victim studies. In addition, in the current development of the victim world, it is not only individuals who can cause victims to fall victim to someone, but they have turned to crimes committed by legal entities or companies which cause losses and more victims. Thus the author tries to examine the implementation of human rights. For Victims of Corporate Crime and Corporate Responsibility to Victims from a Postmodern Victims' Perspective.

Keywords: Victim, Crime, Corporate

INTRODUCTION

Problems related to the rights of victims of criminal acts currently receive less attention from the government, but the issue of concern is only how to punish the perpetrators of crimes. In the Code of Criminal Procedure, the victims did not receive optimal attention, but on the contrary, the interest in legal arrangements based on respect for human rights from the perpetrators of criminal acts, was a

lot. Starting from a simple form to a systematic and scientific form. Steps in this direction are also evident in the assumptions of a group of people who believe that the causes of evil do not lie in humans, but are affected by evil spirits or possessed by demons. 1 “Whatever factors influence people to commit crimes, what is certain is that someone's actions will result in victims. As a victim of a crime, the state must of course pay attention to where she is. In the form of a government institution, we already have the Witnesses and Victims Protection Agency (LPSK). The existence of this institution in protecting victims of crimes was mentioned in Law No. 13 of 2006 on the Protection of Witnesses and Victims. Moreover, this law grants power of attorney in favor of the victims in an institution formed under the law, which is LPSK.” In its role, although the rights and the victim's interests have been authorized by the criminal justice system, in practice the victim remains a party of lesser interest. If we look at the reality of existing laws, we find that both offenders and victims have differences in terms of handling and protection. Even in granting and guaranteeing the rights of actors, they always face obstacles in dealing with their rights. Whereas these rights must always be granted or must be obtained. In the context of a crime, the victim is the person who should have the primary attention. This is because the victims are the people who experience suffering after they have been subjected to the evil act by the perpetrator. It may be that the suffering will make him suffer a prolonged trauma or even worse.” In law enforcement practice, the victim, all this time feels that his rights have been neglected, including charges ([Bambang Waluyo, J.E. Sahetapy, M. Arief Amrullah, 2018](#)). Victimology will mainly study topics about victims, for example, the role of the victim at the time of the crime, and then the relationship between the perpetrator and the victim, which is just as important as the vulnerability of the victim and the role of the victim in the criminal justice system. The human problem as a social reality. Victims and those causing victims here can mean individuals, a group, private companies, and the government. 4 According to Dignan, as quoted by Newborn, six factors contribute to the rise of victimology and public interest in victims. On crime: First, the contribution of the ideas of Margery Frey, criminal reform thinker in the 1940s, that the interests of crime victims should be taken into account. Second: The media that publishes the suffering of crime victims. Third, the increased recognition of the existence of vulnerable groups in the 1960s. Fourth, there are interesting cases both at the international and domestic levels that show the suffering of the victims. Fifth, increasing knowledge of crime victims through victim surveys. Sixth, criminologists recognize the importance of studying and understanding crime victims and creating a system of victimology. ([Chaerudin dan Syarif Fadillah, 2004](#)) As human beings, as part of society. and of course. Thus in a legal situation and for law enforcement purposes, victimology is very useful for getting justice for the victims. Victims and society are automatically represented by the state with criminal penalties for perpetrators as well as protection for victims. In this sense, victimology is very useful in carrying out the functions and duties of the legal apparatus.” ([Bambang Waluyo, 2014](#)). For police officers, for example, it is very clear that victimology can aid in efforts to beat crime. Police officers, of course, will easily find out why someone was forced to commit a crime, and what the modus operandi is. Meanwhile, for the prosecution, victimology is very useful for considering the severity of the charges to be brought against the defendant. For justice, victimology is beneficial for the benefit of the

victims. Victims can hope the judge will punish the perpetrator as a result of a crime committed by the perpetrator through the judge's decision. Finally, in the current development of the modern legal world, the emergence of victims can not only be due to individuals or individuals, but at this time, the problem of crimes against victims is getting more and more complicated, because these developments are opening up too many. Space for an agency or company to commit large-scale, systematic, organized crime. This means that it will lead to an increase in the number of crime victims. Currently, almost all sectors of the economy are controlled by corporations, so when the control is within a corporation, the opportunities for wrongdoing and crime are wide open. Combined with many victims of corporate crime who are unable to claim all of their rights due to a lack of protection from related parties, victims also do not dare to report any losses they suffer. (M. Arief Amrullah, 2018)

METHODOLOGY

The research method used by the author is the normative legal research method. The data used by the authors in this study is secondary data by conducting studies related to the data in the library study which includes primary, secondary, and tertiary legal subjects. These legal materials can be found in the literature on the issues under study such as rules, regulations, bills, research findings, and even dictionaries. The data collected is processed and analyzed to answer the problems found in this study. As a major problem with this writing, then; First, what are the rights of victims in corporate crime? Second, what is the legal protection for victims of corporate crime like from the perspective of postmodern victims?

RESULTS

Talk about the rights of victims in a crime committed by a company can be found in Article 20 of Perma No. 13 of 2016 on Procedures for Handling Criminal Cases by Companies, which states that losses incurred by victims due to criminal acts committed by companies can be demanded compensation. Through a response mechanism by applicable laws and regulations or a civil suit. This is further emphasized in Article 32 of Perma No. 13 of 2016 which is; companies that are subject to additional penalties represented in the replacement of funds, compensation and refund, and procedures for their implementation are carried out by the provisions of laws and regulations. If an additional penalty in the form of compensation, and recovery is imposed on a company, the company is given a maximum period of one (one) month after the decision and has the permanent legal force to pay damages, compensation, and compensation. If there is a strong reason, the said period can be extended by a maximum of one month. If the convicted company does not pay restitution, compensation, or restitution as intended, the plaintiff can confiscate and auction his property to pay restitution, restitution, and restitution.” And recognition concerning all applicable legal procedures without any differences between the perpetrators, in addition to that the victims are also entitled to information, explanations, and continuation of all processes related to the problems they are facing, then the victims are also entitled to the best possible assistance in dealing with the law that they are facing in every stage of the ongoing legal process, and then the victims are also entitled to receive protection of privacy and self-protection from any possible things that could happen in the legal process that the victim is subject to as a witness and as

a reporter, and the victim is also entitled to access at every stage of the search process. Investigation, examination, and prosecution. (H.R. Otje Salman dan Anthon F. Susanto, 2012). The protection of crime victims in the process of resolving criminal cases is not only important for the victims and their families but also for the broader interests, that is, to overcome crime on the one hand and the other hand for the interests of the perpetrators themselves. Various forms of crimes are not easy and so is the protection from crimes committed by the company. This is because it is very difficult to proceed through existing legal procedures. This is where the integrity of the legal apparatus is tested while taking the Oath of Office, Volume 2, Issue 2, October 2018, p. 245. “That is, uphold fair justice as far as possible without discrimination.” “Many things can be done to empower and protect victims of crime. Victims of crime should have equal legal protection as perpetrators, i.e. through the provision of legal aid. Apart from that, from a legislative perspective, special attention should also be given to drafting laws in Parliament that would add a larger part of legal protection in the form of legal standing in the legal protection of victims. In addition, there is a need for a program to raise the awareness of law enforcement, whether they are police, prosecutors, the judiciary, or correctional institutions, as to their concern for all victims of crime. In addition, international cooperation in the protection of victims and witnesses must be strengthened.” The basic norms or basic rules of our country have ensured that there must be justice, equality, and equality of law for all citizens without exception, and this is what we usually call the principle of “equality before the law.” (Jimmy Tawalujan, 2010) The article states 27 Paragraph (1) of the 1945 Constitution states that all citizens have the same standing before the law and the government and are bound to uphold that law and the government without exception. This means that at every stage of treatment, the procedures and processes for offenders and victims must be equal, equal, just, and not one-sided, which is just according to Aristotle, which means to give something equal or equal to someone, and if you don't. It doesn't have to be the same, even Socrates describes justice directly to the state, according to which justice is if the government can act justly towards its people. This includes victims of crime. Victims of crime must be treated fairly. When you pay close attention, since the inception of criminal law, the subject focus that has been highlighted the most has been the perpetrator. (J.E. Sahetapy , 1995) In fact, of the crime, the victim is the party that loses the most. However, there are very few laws or regulations that regulate and protect victims. The current status of victims in the criminal justice system is not equitably presented, and even tends to be forgotten, because victims in court are represented only by prosecutors. This requirement has implications for two fundamental things, namely the lack of adequate legal protections for victims and the absence of judges' decisions that bring a sense of justice to victims, offenders, and the wider community. (Kristian, 2014) It appears that the victim's place in the criminal justice system is forgotten after the perpetrator receives punishment. Victims do not receive rehabilitation or recovery, particularly in material terms, in the sense that property that may be lost as a result of other people's crimes receives no compensation after the perpetrators receive their punishment. Victim protection, as well as legal certainty and legal benefits. This must be brought up for the legal objectives in dealing with victim protection to be achieved. Later, the victim's role in criminal proceedings will have a very important meaning in the investigation and trial

process by testifying before the court to reveal the crime currently under investigation. Victims' rights must be protected by holding perpetrators accountable. (Hans Kelsen, 2016)

DISCUSSION

Based on the above description, the rights of victims of crimes or criminal acts, especially in the occurrence of crimes in the corporate sphere, include the provision of compensation, compensation, medical services, and legal assistance. In addition, compensation for losses incurred by victims of corporate crime can be claimed as one of the rights of victims of criminal acts. By providing legal protection to victims of corporate crime, it is very clear that the work of law in society is for the realization of the real goals of the law, which are the certainty, justice, and benefits of the law. Other than this, there are also rights, such as the right to recover his (property) rights; the right to be notified when the offender will be released from temporary detention. Besides, there is the right to obtain information regarding police investigations related to the crimes that occurred to the victims. The right to personal liberty/personal confidentiality such as keeping phone numbers or the identity of other victims' secret, the right to receive guidance and rehabilitation as well as the right to access (Bambang Waluyo, J.E. Sahetapy, M. Arief Amrullah, 2018).

CONCLUSION

First, corporate criminal liability refers to the legal liability that can be applied to a company or organization as a legal entity, not just to individuals involved in the company's activities. This means that companies can be sued and subject to criminal penalties for violations of the law committed by their employees or agents in the course of the company's activities. Corporate criminal liability is based on the principle that companies should be responsible for actions taken within the scope of their business activities. This enables law enforcement against companies engaged in violations of the law such as fraud, corruption, money laundering, environmental violations, financial crimes, or other human rights violations. There are several legal approaches used to determine corporate criminal liability, depending on the legal jurisdiction of a particular state. Some common approaches include the theory of criminal responsibility. This theory asserts that companies can be held criminally liable if it is proven that they are directly or indirectly involved in criminal acts or had knowledge of such acts. Next is the organizational responsibility theory. This approach involves applying the law against companies based on failures in the company's internal systems that allow violations of the law to occur. In this case, the company can be held guilty if it did not have sufficient procedures to prevent the violations or if it failed to take appropriate action after the violation occurred.

REFERENCES

1. Arif Gosita, Masalah Perlindungan Anak, (Jakarta: CV Akademika Pressindo, 1989), hal. 94. Ario Ponco Wiguno, Kajian Viktimologi Terhadap Anak Sebagai Korban Tindak Pidana Kesusilaan, Jurnal Ilmu Hukum Legal Opinion, Edisi I, Volume 1, Tahun 2013

2. Bambang Waluyo, *Viktimologi Perlindungan Korban dan Saksi*, (Jakarta: Sinar Grafika, 2014)
3. Chaerudin dan Syarif Fadillah, *Korban Kejahatan dalam Perspektif Viktimologi dan Hukum Pidana Islam*, (Jakarta: Ghalia Press, 2004)
4. H.R. Otje Salman dan Anthon F. Susanto, *Beberapa Aspek Sosiologi Hukum*, (Bandung: PT. Alumni, 2012)”
5. Hans Kelsen, *Teori Umum Tentang Hukum dan Negara*, (Bandung: General Theory Law and State, 2016)
6. J.E. Sahetapy, *Bungai Rampai Viktimisasi*, (Bandung: Eresco, 1995)
7. Jimmy Tawalujan, “Pertanggung jawaban Korporasi Terhadap Korban Kejahatan,” *Jurnal Lex Crimen*, Vol. 1, No. 3, Juli-September 2012 Korban adalah orang yang telah mendapat penderitaan fisik atau penderitaan mental, kerugian harta benda atau mengakibatkan mati atas perbuatan atau usaha pelanggaran ringan yang dilakukan oleh pelaku tindak pidana dan lainnya. Lebih jauh lihat Abdusalam, *Victimology*, (Jakarta: PTIK, 2010)
8. Kristian, *Hukum Pidana Korporasi, Kebijakan Integral (Integral Policy), Formulasi Pertanggungjawaban Pidana Korporasi di Indonesia*, (Bandung: Nuansa Aulia, 2014),
9. Lilik Mulyadi, “Upaya Hukum Yang Dilakukan Korban Kejahatan Dikaji Dari Perspektif Sistem Peradilan Pidana Dalam Putusan Mahkamah Agung RI”, *Jurnal Hukum dan 15 Peradilan*, Nomor 1 Volume 1, Mahkamah Agung RI, Jakarta
10. M. Arief Amrullah, *Perkembangan Kejahatan Korporasi Dampak dan Permasalahan Penegakan Hukum*, (Jakarta: Prenadamedia Group, 2018)