

LEGAL PROTECTION FOR VICTIMS OF CRIMES OF ABUSE THAT RESULT IN SERIOUS INJURIES: A HUMAN RIGHTS PERSPECTIVE

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Abstract

Human Rights (HAM) are inherent rights that every person possesses from birth and must be respected by all individuals. In the case of decision number 467/Pid.B/2022/PN.Dpk., the victim of the abuse did not receive their due rights for the suffering and losses endured. This study employs a normative legal research method with a juridical normative approach to analyze human rights theories and relevant legislation concerning legal protection for victims of criminal acts in Indonesia. The findings reveal that such acts of abuse violate human rights values enshrined in both national and international regulations. The state plays a crucial role in restoring the human rights of victims to ensure legal protection and justice. Legal protection should include judges' understanding of victims' rights, including the application for restitution and compensation, as well as the merging of criminal and civil cases.

Keywords: Human Rights; Abuse; Legal Protection.

Abstrak

Hak Asasi Manusia (HAM) merupakan hak yang melekat pada diri seseorang sejak lahir dan harus dihormati oleh setiap individu. Pada kasus putusan nomor 467/Pid.B/2022/PN.Dpk., korban penganiayaan tidak memperoleh hak atas penderitaan dan kerugian yang dialaminya. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan yuridis normatif untuk menganalisis teori HAM serta peraturan perundang-undangan terkait perlindungan hukum terhadap hak-hak korban tindak pidana di Indonesia. Hasil penelitian menunjukkan bahwa tindakan penganiayaan tersebut melanggar nilai-nilai HAM yang diatur secara nasional dan internasional. Negara memiliki peran penting dalam pemulihan HAM korban untuk menciptakan perlindungan hukum yang adil. Perlindungan hukum harus mencakup pemahaman hakim tentang hak-hak korban, termasuk permohonan restitusi dan kompensasi, serta penggabungan perkara pidana dan perdata.

Kata Kunci: Hak Asasi Manusia; Penganiayaan; Perlindungan Hukum.

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INTRODUCTION

Indonesia is a legal state, which means that all state administration systems in carrying out their duties and powers are regulated based on law, and the social interaction patterns of citizens are also based on law. This is confirmed in the third amendment to the 1945 Constitution of the Unitary State of the Republic of Indonesia which states that Indonesia is a country based on the name of law (*rechtstaat*), which is not based on power alone (*machstaat*).¹ Power must obey the law, because the law is the key to the balance between social and political. Apart from that, law is also the main basis for utilizing the joints in social life. The existence of law for a country is a barrier to national and state life because law has an influence on the social atmosphere in order to create security, order and peace. This is implied in the preamble to the 1945 Constitution, paragraph IV, which states that it protects the entire Indonesian nation and all of Indonesia's blood, promotes general welfare, makes the nation's life intelligent and participates in implementing world order. In order to implement security, order and peace in social life, it is regulated by a legal regulation, namely criminal law. Criminal law is a guideline for achieving justice in Indonesia. These rules are contained in the Criminal Code (KUHP) which regulates prohibited behavior and the consequences for those who carry it out. Acts of abuse are one of the behaviors prohibited in the Criminal Code as contained in articles 351 – 358 of the Criminal Code. Persecution is an act that violates human rights which is prohibited in the Criminal Code. Acts of abuse refer to physical actions such as hitting, kicking, throwing and even using sharp weapons.²

Human rights themselves, based on the Law of the Republic of Indonesia No. 39 of 1999 concerning Human Rights, provides the understanding that human rights are a series of rights that attach to every human being as part of the nature created by God Almighty. This right must then be appreciated and respected by the state and the entire community. Therefore, human rights are not based on positive law, but rather are based on the value and dignity of a human being which cannot be removed because it is inherent from birth.³ In cases of abuse, every person whose human rights are violated through violence can obtain guarantees for their rights, so legal protection for victims is very important in accommodating the interests of victims. Legal protection is a condition that describes justice, benefit and legal certainty given to every legal subject. Preventive legal protection and repressive legal protection are part of the form of legal protection.⁴ Preventive legal protection is protection created to stem the occurrence of conflict and minimize the implementation of obligations. On the other hand, repressive legal protection is the final protection that results in consequences/fines if a violation or crime occurs. This legal protection is the most basic thing that the Indonesian state must provide to all Indonesian people, especially to victims of human rights violations. Legal protection for victims must be upheld, because it contains all legal actions that must be carried out by law enforcement officials to avoid intimidation, both psychological and physical, so that they are free from harassment and

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² Joko Sasmito, *Pengantar Negara Hukum Dan HAM* (Malang: Setara Press, 2018).

³ Philip Aston and Franz Magnis-Suseno, *Hukum Hak Asasi Manusia (HAM), Evolusi Pemikiran Dan Sejarah Perkembangan Hak Asasi Manusia* (Yogyakarta: Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia, 2008).

⁴ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia*, Cetakan Pe (Peradaban, 2007).

intimidation from certain groups.⁵ With legal protection, it will create a means for legal subjects to defend their rights and is related to how the law can create justice for victims who experience losses both materially and immaterially.

Basically, victims of abuse are parties who suffer losses due to criminal acts, but often do not receive adequate legal protection. Victims are often only considered as evidence in the judicial process, so their chances of fighting for their rights are very minimal. As a result, victims lose their freedom to defend and restore their situation. Legal protection of human rights is essential in the criminal justice system. However, if these provisions are considered comprehensively, regulations regarding the rights of suspects/defendants are more common. This is in contrast to the rights of victims which are not regulated explicitly.⁶ For example, a perpetrator who is tried in a case from the start receives protection in the form of legal aid, is treated well, is protected from torture, is informed of the alleged crime, has the right to request compensation, and receives rehabilitation if he is caught, arrested or questioned arbitrarily. according to law.⁷

The role of the victim is very important in uncovering a legal incident, but in fact in the criminal justice system, law enforcement officials seem to only observe law enforcement against the perpetrator, by looking for accurate ways to impose sanctions on the perpetrator. As a result, the existence and attention to victims is neglected, so that legal protection for crime victims becomes less than optimal. As explained in the Human Rights Convention and legally guaranteed by that agreement. If legal protection for victims has been implemented, of course it will not only be the victims who will receive protection, but the community, nation and state. The hope that will be realized is not only justice, legal certainty and order, but also the welfare of the country.⁸

Provisions regarding protection for crime victims are contained in several regulations. If we look at the Criminal Procedure Code, it predominantly contains provisions regarding compensation as contained in articles 98 - 101 of the Criminal Procedure Code, but in the process quite a few victims choose to file a claim for compensation after the case obtains a decision that has permanent legal force (inkrach). Other regulations governing legal protection for victims of criminal acts are contained in Law Number 31 of 2014 concerning amendments to Law Number 13 of 2006. This regulation explains that the protection of witnesses and victims requires authentic evidence in the judicial process. . This evidence must contain statements from witnesses and victims who saw, heard and experienced the criminal incident, in order to obtain the truth in the criminal incident. In terms of arranging protection for victims, attention must be paid to the suffering and losses experienced by the victim. Furthermore, Regulation of the Supreme Court of the Republic of Indonesia (PERMA) Number 1 of 2022 concerning Procedures for Settlement of Applications and Providing Restitution and Compensation to Victims of Crime. This regulation more clearly regulates the mechanism for obtaining compensation for the impact of criminal acts. As well as other regulations relating to legal protection for crime victims.

Nevertheless, the formation of the witness and victim protection agency (LPSK) which was formed by the government has had a good impact on the state in addressing law enforcement issues in

⁵ C S T Kansil, *Pengantar Ilmu Hukum Dan Tata Hukum Indonesia*, Balai Pustaka (Balai Pustaka, 1989).

⁶United Nations. "Universal Declaration of Human Rights." United Nations, 1948. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁷United Nations. "International Covenant on Economic, Social and Cultural Rights." United Nations, 1966. <https://treaties.un.org/doc/Publication/UNTS/Volume%20993/volume-993-i-14531-english.pdf>.

⁸ Bambang Waluyo. 2011. *Viktimologi Perlindungan Korban & Saksi*, Jakarta: Sinar Grafika.

order to facilitate victims in obtaining their rights through more specific regulations (*lex specialist*) which were previously divided into several regulations.⁹ However, the facts are contradictory because the regulation does not explain specifically, because the Witness and Victim Protection Law largely regulates LPSK obligations, LPSK membership and selection processes, decision making and funding. Meanwhile, matters regarding organization and institutional support, administration, human resources, supervision, as well as transparency and accountability of witness and victim protection institutions are not regulated in this regulation. Protection for crime victims is an urgent need and needs to be implemented and implemented immediately because it affects the quality of law enforcement in Indonesia.

Based on the background above, this research aims to examine and analyze cases of abuse that resulted in serious injuries in decision number 467/Pib.B/2022/PN.Dpk. From a Human Rights (HAM) perspective. As well as reviewing legal protection efforts to fulfill the rights of victims of abuse which resulted in serious injuries in decision number 467/Pib.B/2022/PN.Dpk.

METHOD

The writing in this research uses the normative legal analysis method,¹⁰ which uses a normative juridical approach method by analyzing theories related to human rights (HAM)¹¹ as well as analyzing laws and regulations relating to legal protection for victims of abuse, in order to answer the problems raised in this research. To then be connected to the case of abuse which resulted in serious injuries in decision number 467/Pib.B/2022/PN.Dpk. This research uses secondary data as the main data obtained from literature studies in the form of legal literature, books, journals and the internet which are relevant to the research title being discussed.¹²

RESULT AND DISCUSSION

1. *Analysis of Serious Persecution Cases in Decision Number 467/Pib.B/2022/PN.Dpk. In Human Rights (HAM) Perspective*

In the case of abuse that occurred in the jurisdiction of the Depok District Court with decision number: 467/Pid.B/2022/PN.Dpk. What happened on Monday, May 2 2022. The perpetrator abused the victim based on jealousy towards his wife because the victim was the ex-husband of the defendant's wife. That the act of abuse began when the victim initially wanted to stay in touch on the Eid al-Fitr holiday at the house of the victim's ex-wife's parents. Then at that time the victim was about to say goodbye to go home and walked towards his car, then from behind the perpetrator appeared and invited the victim to fight and grapple by saying "you are disturbing my family" then when the victim was careless the perpetrator ran to his motorbike and took a sharp knife type weapon. foldable which the defendant often used to cut fishing line, then the defendant and the victim were still fighting and while

⁹ Nadia Ayu Apriani, *Perlindungan Hukum Saksi Dan Korban Penganiayaan oleh Lembaga Perlindungan Saksi Dan Korban*, Jurnal Ilmu Hukum, Vol. 05 No. 02 November 2020.

¹⁰ A. Rifa'i, I. J., Purwoto, A., Ramadhani, M., Rusydi, M. T., Harahap, N. K., Mardiyanto, I., ... & Surasa, *Metodologi Penelitian Hukum*. ., ed. Anik. Iftitah (Sada Kurnia Pustaka, 2023).

¹¹United Nations General Assembly. (2005). *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>

¹² Irwansyah, *Penelitian Hukum (Pilihan Metode & Praktik Penulisan Artikel)* (Yogyakarta: Mirra Buana Media, 2020).

they were pulling each other's clothes, the perpetrator swung his folding knife and slashed the victim's neck until blood came out.

In the case above, the act of abuse carried out by the perpetrator clearly illustrates an act that injures a person's honor and dignity, for his actions the perpetrator not only violated the provisions of the criminal law, but also constituted a violation of human rights. An act of abuse can be defined as an act of physical violence or torture that causes injuries to the victim's body which is carried out intentionally. Article 1 paragraph (4) of the Human Rights Law regulates this. In fact, in some of the abuse cases that occurred, the victims experienced permanent physical disabilities that even took their lives. Apart from that, this act of abuse has an impact on the victim's psychology, such as experiencing trauma, fear, feeling depressed and even experiencing mental and psychological disorders.

Human rights violations are broadly divided into 2 categories, namely, serious human rights violations and minor human rights violations. What is meant by serious human rights violations includes the crime of genocide which destroys a certain group. Apart from that, there are serious human rights violations in the form of crimes against humanity and the crime of apartheid. Meanwhile, minor human rights violations can take the form of mistreatment of others, defamation of someone's good name, obstructing someone's freedom of expression, acts of violence and beatings, taking other people's belongings, acts of bullying and coercion by parents against their children.¹³

The Universal Declaration of Human Rights (UDHR) is the foundation for all Human Rights (HAM) instruments, both internationally, regionally and nationally. All of these instruments refer to the principles stated in the UDHR. Even though the UDHR does not have binding legal force like international agreements or statutory regulations, it has significant moral force as soft law that regulates humanitarian principles. The UDHR was ratified by the UN General Assembly, so it has strong moral authority.¹⁴ The UN General Assembly then gave a direct mandate to the Commission on Human Rights to transform the UDHR into an international agreement called a covenant. This decision was formalized through General Assembly Resolution 217 (III) which was adopted on 10 December 1948, when the UDHR was promulgated.¹⁵

The act of abuse that occurred in decision 467/Pid.B/2023/PN.Dpk. In fact, it violates the international instrument in the Universal Declaration of Human Rights (UDHR) in article 1 which states that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of brotherhood, which means that every human being is born with equal dignity and rights, then is given a mind and conscience to interact with each other in a spirit of brotherhood.¹⁶ The acts of abuse carried out by the perpetrator in this case did not at all reflect the spirit of brotherhood among human beings, clearly ignoring humanitarian principles.

¹³ Fika Putri Rofifah, dkk. 2023. Kejahatan Remaja (Klitih) Sebagai Bentuk Pelanggaran HAM. *Jurnal Hukum dan Ham Wara Sains*, Vol. 2. No. 6.

¹⁴ Eko Riyadi. 2018. *Hukum Hak Asasi Manusia: Perspektif Internasional, Regional dan Nasional*, Depok: Raja Grafinda Persada.

¹⁵ Ruslan Renggong & Dyah Aulia Rachma Ruslan. 2021. *Hak Asasi Manusia Dalam Perspektif Hukum Nasional*, Jakarta: Kencana.

¹⁶ Eko Riyadi. 2018. *Hukum Hak Asasi Manusia: Perspektif Internasional, Regional Dan Nasional*, Depok: Raja Grafinda Persada.

Furthermore, the abuse that occurred in decision 467/Pid.B/2023/PN.Dpk also violated human rights in the national instrument, namely the 1945 Constitution of the Republic of Indonesia as stated in article 20G paragraph (1) which states that every human being has the right to security, self, family, honour, dignity and valuables and have the right to avoid intimidation and protection from intimidation and worries that could limit them in doing something against their human rights. As an embodiment of the 1945 Constitution, the Indonesian government established a statutory regulation, namely Law Number 39 of 1999 concerning human rights through the national human rights commission. Article 30 explains that every human being has the right to avoid intimidation and to be peaceful without any disturbance that could influence him in his actions. It is further explained in article 33 paragraph (1) that every human being has the right to be free from torture, punishment, inhumane cruelty that can injure his or her human dignity. Thus, the act of torture in this case clearly violated basic humanitarian principles by intentionally carrying out torture by the perpetrator on the victim which resulted in the victim experiencing suffering and loss.

According to the author's analysis, the acts of abuse that occurred in decision number 467/Pid.B/2023/PN.Dpk. Included in the category of minor human rights violations, because the form of abuse is carried out using physical violence, resulting in the victim experiencing losses, both material and immaterial losses. Furthermore, the abuse occurred in decision number 467/Pid.B/2023/PN.Dpk. Injuring the rights stated in human rights instruments, both international and national. Despite the human rights violations that occurred in decision number 467/Pid.B/2023/PN.Dpk. Having obtained a decision that has permanent legal force (*inkracht*), the presence of the state is very necessary and obligatory for the restoration of the human rights of victims who have been injured, with the aim of minimizing the number of greater human rights violations in the future.

2. *Legal Protection Efforts to Fulfill the Rights of Victims of Persecution in Decision Number 467/Pib.B/2022/PN.Dpk.*

Micro, Small and Medium Enterprises (UMKM) dominate the business sector in Indonesia. Based on data provided by the Indonesian Chamber of Commerce and Industry or KADIN, the role of UMKM is very large in Indonesias economic growth, with the number reaching 99% of all business units. In more detail, in 2023 there will be around 66 million UMKM entrepreneurs and the contribution of UMKM to Indonesias Gross Domestic Income (GDP) will reach 61% or the equivalent of Rp. 9.5800 trillion. Apart from that, this sector is also the backbone of absorption national workforce by absorbing around 97% of the total workforce.¹⁷

In the criminal justice process, victims of abuse are often found who have not received legal protection that accommodates the victims' interests. Meanwhile, the victim is the party who is seriously disadvantaged by a crime and is entitled to legal protection. However, often the victim's existence is only considered as evidence to provide testimony at trial to strengthen the prosecutor's claims. This is evident in the regulations for the protection of victims of abuse in the Witness and Victim Protection Law, these regulations focus more on the role of victims as witnesses. so that the protection that victims

¹⁷ KADIN Indonesia is accessed via [https://kadin.id/data-dan-statistik/umkm-indonesia/#:~:text=At%20year%202023%20performer%20business,%25\)%20of%20total%20energy%20work](https://kadin.id/data-dan-statistik/umkm-indonesia/#:~:text=At%20year%202023%20performer%20business,%25)%20of%20total%20energy%20work) . on 05 June 2024 o'clock 05.50

receive is limited because their status is only as a witness to the victim, not as a victim who experiences loss and suffering.

Based on evidence of Visum Et Repertum from Hermina Depok Hospital Number: 1892/YANMED/RSHDPK/V/2022. The victim in decision number 467/Pid.b/2023/PN.Dpk suffered a wound on the neck, the shape was a gap, the wound could be closed perfectly, both corners were sharp, with a length of 30cm, a width of 4cm and a wound of 2.5cm, clear boundaries, flat edges, flat wound edges, no tissue bridge visible, wound edges include skin, connective tissue, muscle fat, muscle wound base. It appears that the right and left large veins (External Jugularis Vein) are cut, the largest neck muscle (Sternocleidomastoid Muscle) on the right side is partially cut, the gasal muscle (Scalenus Muscle) on the right side is partially cut, the muscle that lifts the shoulder blade (Levator Scapula Muscle) on the right side is cut partially, the ear nerve (Nervus Auricularis Magnus) on the right side was cut. Then there is a wound on the right eyelid to the bridge of the nose, the shape is in the form of a slit, the wound can be closed perfectly, both corners are sharp, with a size of 7cm, a width of 0.5cm, clear edges are even, the edge of the wound is even, no tissue bridge is visible, the base of the wound connective tissue. The eyelids appear pale. Then the membrane on the left side of the eyelid looked pale.

The consequences resulting from the crime were that the victim's body was disabled, the victim could not raise his hand because the victim's two nerves were severed, then in the treatment process due to serious injuries the victim was treated for five days and underwent therapy for four months. While undergoing treatment the victim incurred medical expenses amounting to Rp. 100,000,000.00 (one hundred million rupiah). Due to the condition he was suffering from, the victim was unable to support his family for five months.

As stated above, the losses experienced by victims are not just physical injuries but have psychological and emotional effects, economic losses and injury to the victim's human rights. Of course, all the suffering and losses experienced by the victim have a negative impact on the survival of the victim of abuse in the future.

Legal protection for crime victims has two forms, namely preventive legal protection and repressive legal protection. Preventive legal protection is protection provided by the state before a violation/crime occurs, in order to limit an act. Meanwhile, repressive legal protection is a last resort that provides sanctions in the form of fines, imprisonment or additional penalties, which are implemented after a violation/crime occurs.¹⁸ Furthermore, if it is related to the case that occurred in decision number 467/Pid.B/2023/PN.Dpk. The legal protection that can be applied to victims of abuse is a form of repressive legal protection because the act of abuse carried out by the perpetrator against the victim has been carried out, causing suffering and loss to the victim, then this case has been tried and obtained a decision that has permanent legal force (inkracht).

Therefore, law enforcement officials should not only pay attention to the enforcement of basic criminal law against perpetrators, but they should also look at the legal protection of the rights of crime victims to obtain compensation for the medical costs they have incurred and the factors that caused them. Victims cannot return to their original condition, in order to create a sense of justice for the parties, especially victims of criminal acts. Legal protection for victims of abuse that occurred in

¹⁸ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2014).

decision number 467/Pid.B/2023/PN.Dpk. Ideally, this should be regulated firmly in order to provide clarity in the regulations, to serve as a basis for law enforcement officials in carrying out their responsibilities. Apart from that, this must be used as a reference for the community to be directly involved in supporting legal protection for victims of abuse, by providing a special position for victims in the law enforcement process.

Law Number 13 of 2006 concerning Protection of Witnesses and Victims states that protection is a series of efforts to fulfill rights and provide assistance in ensuring a sense of security for witnesses and victims that must be implemented by LPSK. The meaning of protection for victims can be seen from two meanings, as follows:¹⁹

- a. as legal protection so as not to become a victim of crime, defined as protection of a person's human rights and legal interests.
- b. As protection in obtaining legal guarantees for suffering and losses for victims, it is defined as providing assistance to victims. This form of guarantee is in the form of rehabilitation, mental recovery, as well as compensation such as restitution, compensation.

The concept of legal protection for crime victims includes various ways that can be done, tailored to the suffering or loss felt by the victim. Efforts usually taken are by providing compensation and restitution. As stated in article 1 numbers 10 and 11 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims. The compensation in question is compensation assisted by the state when the perpetrator is unable to fulfill his obligations to the victim or his family. Meanwhile, restitution is compensation given by the perpetrator to the victim or his family.

The compensation for losses in the form of restitution that victims can obtain is regulated in article 4 of the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2022 concerning Procedures for Settlement of Applications and Providing Restitution and Compensation to Victims of Crime.

Victims have the right to receive restitution, namely compensation for loss of wealth or income, both material and immaterial, resulting from criminal acts, such as costs for mental treatment or physical injuries, as well as other losses experienced, including transportation costs, attorney's fees and other expenses related to the crime the legal process.

The concept of legal protection is also regulated in the Criminal Procedure Code, regarding the rights of crime victims, including 4 victims' rights, including:²⁰

- a. Has the right to supervise investigators and public prosecutors.
- b. Has the right to withdraw from being a witness.
- c. Has the right to apply for compensation for criminal acts suffered through efforts to combine criminal and civil cases.

¹⁹ Theodora Shah Putri. 2003. *Upaya Perlindungan Korban Kejahatan Melalui Lembaga Restitusi Dan Kompensasi. Jurnal Media Hukum dan Keadilan*. Vol.2. No 9.

²⁰ Sjofoyan Hasan. dkk. 2009. Kajian viktimologis terhadap aspek perlindungan korban dalam KUHAP. *Jurnal Legalitas*. Vol. 1. No. 1.

d. The victim's family has the right to ask the police to carry out an autopsy.

Furthermore, the concept of compensation for victims is touched upon in the Criminal Procedure Code contained in articles 98 to 101 in the form of combining criminal and civil cases. However, in fact there are still several weaknesses, including the individual nature of compensation obligations. This can be interpreted as being only charged to the perpetrator of the crime so that it cannot be charged to other parties, so that it is possible that the victim will not receive collateral when the perpetrator is unable to pay the loss, there must be active action from the victim by submitting a request before the prosecutor demands it. In a quick examination, there is only one trial so that there is no need to examine witnesses from the victim's side so that the victim is not informed on the day of the trial of his opportunity to file a claim for compensation which results in the opportunity being lost. A claim for compensation is an inseparable part of a criminal case. If the case has received a decision that has permanent legal force, then the plaintiff is not permitted to take further legal action.²¹

Legal protection aims to provide a sense of security to crime victims, especially when disclosing information in the judicial process. It is also hoped that this protection can provide moral support to victims so they are not nervous when undergoing the legal process, restore their self-confidence so they can interact with society again and uphold a sense of justice whose impact can be felt by the wider community.

The criminal justice process is a law enforcement process that is carried out responsibly in order to provide decisions based on a sense of justice. Gustaf Radbruch explained that ideally court decisions must fulfill aspects of justice, legal certainty and expediency. To implement these three aspects, efforts are certainly needed because there may be a mismatch between legal certainty and justice for society. However, these three aspects must be realized proportionally, if they conflict, the judicial institution must still prioritize attention and prioritize justice.²²

So, the author concludes that in the judge's decision number 467/Pid.B/2023/PN.Dpk. The object of this research, namely the suffering and losses felt by victims of abuse, should be an important indicator that must be taken into consideration by the judge in handing down his criminal decision. Apart from that, the victim of abuse in this case has the right to obtain repressive legal protection for the actions the perpetrator committed against him. If we look at the rights of victims of abuse in this case, the judge's decision does not contain provisions governing the fulfillment of victims' rights. Furthermore, the human rights of the victim, which the perpetrator has clearly violated, are not used as a basis by the judge as an effort to restore the victim's human rights. So the author is of the opinion that in fulfilling the rights of victims of abuse in this decision the judge should not be passive by waiting for the request for compensation submitted by the victim, but be active by first asking the victim or his family regarding whether or not to submit a request for compensation for the losses experienced by the victim, then include it in the decision regarding compensation that must be paid by the perpetrator of the crime.

²¹ John Kenedi. 2020. *Perlindungan Saksi Dan Korban*, Yogyakarta: Pustaka Pelajar.

²² Rusli Muhamad. 2010. *Kemandirian Pengadilan Indonesia*. Yogyakarta: FH UII Press.

CONCLUSION

Human Rights (HAM) are rights inherent in every individual from birth, which must be respected and upheld by fellow humans. The acts of abuse that occurred, as in decision number 467/Pid.B/2022/PN.Dpk., clearly constitute a violation of human rights, because they degrade the victim's dignity as a human being and result in suffering and losses for the victim. These violations not only conflict with human rights values regulated nationally, but also internationally, as stated in the Universal Declaration of Human Rights (UDHR) and Law Number 39 of 1999 concerning Human Rights. Therefore, the state has a very important role in restoring the human rights of victims who have been injured, in order to create fair legal protection and minimize human rights violations in the future.

Legal protection for victims of criminal acts is an important instrument in the law enforcement system in Indonesia, where victims are often the parties most disadvantaged in the judicial process. Victims of abuse, as in the case of decision number 467/Pid.B/2022/PN.Dpk., often do not receive adequate legal protection, so further efforts are needed to ensure that victims can obtain their rights, both materially and immaterially. Judges in the criminal justice process must also be active in providing an understanding of the rights that can be obtained by victims and their families, as well as providing space for victims to fight for their rights, including by submitting requests for restitution and compensation in accordance with Law Number 31 of 2014 concerning Amendments Based on Law Number 13 of 2016 concerning Protection of Witnesses and Victims. In addition, combining criminal and civil cases, as regulated in the Criminal Code, can be an effective step in providing justice to victims of abuse and reducing the risk of human rights violations in the future.

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