

# Resolution of Compensation for Crime Victims as the Responsibility of the State through the LPSK Institution Examined from the Perspective of Legal Certainty

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**Abstract:** The state, through LPSK (the Witness and Victim Protection Agency), serves as the forefront in resolving compensation issues for crime victims, as a form of responsibility and guarantee from the state to its citizens, as well as protection for crime victims. LPSK, an abbreviation for the Witness and Victim Protection Agency, is an institution tasked with providing protection and rights to witnesses and/or victims, in accordance with Law Number 13 of 2006 concerning Witness and Victim Protection. The guarantee provided by the state through LPSK is the right to equal legal certainty. This has been emphasized in Article 28D, paragraph (1) of the 1945 Constitution, which states that "Every person has the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law." The resolution of compensation is regulated in Law No. 13 of 2006 jo. Law No. 31 of 2014, PERMA (Chief Justice Regulation) No. 1 of 2022, Government Regulation (PP) No. 8 of 2014, and PP No. 7 of 2018. These regulations are intended as state guarantees in protecting the rights of crime victims. Unfortunately, these regulations only cover compensation in specific cases. Additionally, the form of non-monetary compensation promised by the state through legislation is unclear in terms of the monetary value. This becomes challenging to implement due to the lack of clarity regarding the form and scope of compensation provision. The obstacles in resolving this compensation issue need to be overcome so that crime victims can obtain certainty in their compensation rights. Revision or creation of regulations related to the implementation of non-monetary compensation should be considered as the state's responsibility in compensating victims. This is based on research findings using a descriptive-analytical method in normative legal research. Based on the research results, there is a gap in the regulations described by the author regarding the explanation of non-monetary compensation in compensation payments. This causes the process to become complicated and seemingly does not provide certainty to the victims. Moreover, there is no clarity regarding the amount of compensation, although the calculation of losses has been thoroughly regulated in paragraph (1), including injured victims, deceased victims, loss of income, and/or property damage. The determination of compensation amounts is done by LPSK after obtaining approval from the minister responsible for finance. Ideally, the state through LPSK should have a standard value as a benchmark to ensure victims receive guaranteed compensation. As the compensation offered by the law is not always in the form of money, this raises concerns for victims in obtaining their compensation rights. Compensation itself is the obligation of the state through LPSK in protecting the rights of victims. Based on assessments from various journals, the author assumes that the government needs to demonstrate consistency in the payment of compensation regardless of case classification. This is intended as a form of protection for all citizens and to provide assurance of the protection of the rights of crime victims outside the classification of relevant laws on who is entitled to receive compensation. Revision or creation of regulations related to the implementation of non-monetary compensation, if not in the form of money, is necessary as the state's responsibility in compensating crime victims.

*Keywords:* victim compensation resolution, LPSK institution, legal certainty perspective.

## I. INTRODUCTION

Based on Article 4 of the Preamble to the Constitution of the Republic of Indonesia of 1945 (UUD 1945), the state has an obligation to provide protection to Indonesian citizens. As the institution responsible for this matter, LPSK (the Witness and Victim Protection Agency) has tasks and functions that are regulated based on legislation. The tasks and functions of LPSK are explained in the Regulation of the Witness and Victim Protection Agency Number 5 of 2010 concerning the Tasks and Functions of the Witness and Victim Protection Agency, which include the following aspects. The tasks of LPSK encompass the scope of responsibilities and obligations of each field within the Witness and Victim Protection Agency.

The functions of LPSK are a series of activities, programs, or initiatives carried out in order to fulfill the tasks of each field within the Witness and Victim Protection Agency. The fields within LPSK serve as a platform to align the tasks and functions within the Witness and Victim Protection Agency. In carrying out these tasks and functions, LPSK undertakes several activities, including:

1. Formulating policies in the field of Witness and Victim Protection.
2. Implementing protection for Witnesses and Victims.
3. Implementing the provision of compensation, restitution, and assistance to Witnesses and/or Victims.
4. Carrying out dissemination activities and community relations.
5. Collaborating with institutions and training and education agencies.
6. Conducting supervision, reporting, research, and development.
7. Performing other tasks related to the protection of Witnesses and Victims.

The establishment of LPSK by the government is a positive response from the state in supporting the enforcement of criminal law and providing protection to witnesses and victims, in accordance with Law No. 13 of 2006 and the principles of "Good Governance" which include the rule of law. Compensation is a tangible form of the state in safeguarding the rights of its citizens who have become victims of crime (Rena Yulia, 2010). The state plays a crucial role in ensuring the implementation of these rights, as it has an obligation to respect, protect, and fulfill the rights of its citizens. As the duty-bearer, the state becomes the primary source for its citizens to obtain compensation when they become victims of crimes. This is an effort by the state through the government. Regarding the financing and financial calculations related to compensation, the Ministry of Finance is responsible for implementing them in accordance with Article 2 of Law No. 31 of 2014. Compensation rights, as referred to in paragraph (1), are granted to witnesses and/or victims of crimes in specific cases in accordance with the decision of LPSK. Victims of crimes, whether victims of terrorist acts, gross human rights violations, or conventional crimes, have the same position as citizens who must be protected by the state in terms of their personal security, life, property, honor, and reputation. Therefore, in the regulation of compensation in the law, all victims should receive equal legal protection. The provision of compensation by the state is crucial when compensation cannot be obtained from the perpetrators of the crimes. Currently, there are still shortcomings in the regulation of compensation for victims of conventional crimes in the law, and the ambiguity regarding non-monetary compensation does not provide certainty for victims of crimes. Therefore, LPSK, as the institution handling restitution and compensation issues, is responsible for ensuring the state's protection for its citizens. It should be emphasized that the difference between restitution and compensation is that restitution is the compensation provided by the perpetrators of the crimes, while compensation is given by the state as a form of state protection for its citizens. Jeremy Bentham proposed the Theory of Utility in his book "The Theory of Legislation," which states that the purpose of law is to provide sustenance, prosperity, equality, and security. This means that normatively, the law plays a crucial role in determining these aspects. With the realization of security, victims and every citizen can be assured of obtaining sustenance, prosperity, and equality.

In addition to law enforcement through the imposition of imprisonment as a criminal punishment on offenders, the enforcement of law through the provision of compensation to crime victims by the perpetrators is also necessary, without involving other legal efforts to obtain such compensation from the state. This aims to maintain consistency in providing protection to citizens, regardless of the nature of the committed crime, whether it is a serious human rights violation or a conventional crime (Agus Takariawan; Sherly Ayuna Putri, 2018). However, unfortunately, regarding compensation in the form of non-monetary restitution, the implementation and explanation of such matter are still unclear, and the detailed provisions regarding the state's compensation to victims are not explicitly stated in laws and regulations. This leads to inconsistencies when faced with situations where the assessment of the classification of victims entitled to compensation is related to victims of serious human rights violations. The LPSK (Witness and Victim Protection Agency) has the duty to uphold justice for the victims, as they suffer the consequences of the perpetrators' actions, and also because the perpetrators are unable or incapable of being held accountable for their actions.

Here are several regulations that govern the implementation of compensation as the responsibility of the state through the LPSK for crime victims:

1. Law No. 13 of 2006 amended by Law No. 31 of 2014.
2. Supreme Court Regulation (Perma) No. 1 of 2022.
3. Government Regulation (PP) No. 44 of 2008.
4. Government Regulation (PP) No. 7 of 2018.

The existence of several regulations as mentioned above has limited scope, as they only apply to specific cases and do not cover all types of cases. Furthermore, in their implementation, there is no guarantee that victims will receive their rights according to the applicable provisions. Nevertheless, the presence of the state is expected to provide encouragement and moral support to victims in overcoming the very difficult situations caused by the impact of crime. Although the state can only fulfill the right to compensation in specific cases as described in Law No. 31 of 2014, the state's presence in providing compensation for victims of conventional crimes is not strongly felt by the victims. Generally, crimes result in victims, and offenders require someone else to be the victim of their actions. It can be said that victims play a functional role in the occurrence of crimes. Crimes can happen because there are parties involved, whether consciously or not, desired or undesired by the victim. This leads to the losses suffered by the victims as a result of the crime being a misfortune that must be borne by the victims themselves, as it is not the function of the criminal justice system to bear them (Fauzy Marasabessy, 2015).

The enactment of Law No. 13 of 2006 concerning Witness and Victim Protection in the Republic of Indonesia provides new hope for victims who previously did not receive any benefits in the criminal justice system. One of the valid pieces of evidence in criminal proceedings is the testimony of witnesses and/or victims who have heard, seen, or personally experienced a criminal act. However, in reality, the role of victims as witnesses adds to their psychological suffering. Victims, who are essentially the weak or disadvantaged party in the occurrence of a crime, need protection in seeking justice, especially in the criminal process. The occurrence of a criminal act will directly have negative impacts on the victim, both in terms of material and immaterial losses. Material losses are related to property damage, while immaterial losses are related to the feeling of being a crime victim, which can cause mental pressure on the victim. This is particularly true in cases of severe human rights violations that always result in losses for the victims.

Law No. 13 of 2006 concerning Witness and Victim Protection has undergone changes and developed into Law No. 31 of 2014 concerning Witness and Victim Protection. Law No. 31 of 2014 serves as the main foundation for the Witness and Victim Protection Agency (LPSK) in protecting witnesses and victims of criminal acts. Every citizen fundamentally has rights and obligations regulated in the constitution and other regulations. To avoid conflicts, these rights must be immediately fulfilled without any demands. Therefore, comprehensive and accountable understanding and implementation are needed in fulfilling these rights. Article 1, Paragraph 3 of Law No. 31 of 2014 states that a victim is a person who experiences physical, mental, and/or economic suffering caused by a criminal act. Furthermore, Article 1, Paragraph 55 mentions that the Witness and Victim Protection Agency (LPSK) is the institution tasked and authorized to provide protection and other rights to witnesses and/or victims in accordance with the provisions of this Law. Article 10 states that compensation is the indemnity provided by the state when the perpetrator is unable to fully compensate the victim or their family as their responsibility.

From the above explanation, it can be analyzed that the Witness and Victim Protection Agency (LPSK) is the authorized institution responsible for implementing the rights of crime victims, including the compensation provided by the state through the LPSK. However, unfortunately, the regulations regarding natural compensation are unclear in terms of fulfillment and implementation by the state through the LPSK. State compensation payments should have a standard value established by the LPSK after obtaining approval from the minister in charge of financial affairs. This uncertainty causes anxiety and uncertainty for the victims, especially because under Government Regulation No. 35 of 2020, which amends Government Regulation No. 7 of 2018, only serious human rights violations, terrorism, human trafficking, torture, sexual violence, and severe abuse are eligible to receive compensation from the state. The author analyzes that there is a tendency for injustice when crime victims who do not fall into the category of serious human rights violations and terrorism do not receive compensation for damages. This injustice is caused by the uncertainty in the legislation regarding the resolution of compensation for crime victims who are not classified by the LPSK as serious crimes or terrorism. Article 6, Paragraph (1) states that victims of serious human rights violations, terrorism, human trafficking, torture, sexual violence, and severe abuse, in addition to having rights as stipulated in Article 5, also have the right to compensation. Article 7, Paragraph (2) states that compensation for victims of serious human rights violations is submitted by the victim, family, or their representative to the Human Rights Court through the LPSK. The implementation of compensation payments, as regulated in Paragraph (3), is carried out by the LPSK based on a legally binding court decision. The provision of compensation for victims of terrorism is carried out in accordance with the provisions stipulated in the Law on the Eradication of Terrorism. Article 7, Paragraph (1) also mentions that victims have the right to submit to the court for rights such as compensation in cases of serious human rights violations, as well as restitution or damages that are the responsibility of the perpetrator of the crime.

## II. METHODE

The type of research conducted is normative juridical legal research, which focuses on positive legal norms in the form of legislation. This research is carried out by studying legislation and other regulations related to the researched issue. The data sources used in this normative legal research consist of secondary data as the main data and primary data as supporting data. The primary legal materials used include the 1945 Constitution, Law Number 13 of 2006 jo no 31 of 2014 concerning the Protection of Witnesses and Victims, Government Regulation Number 2 of 2002 concerning Procedures for the Protection of Victims and Witnesses in Human Rights Violations, and Supreme Court Regulation Number 1 of 2022. Meanwhile, the secondary legal materials used are legal opinions found in various books related to victims, witness protection law, and victims.

## III. RESULT AND DISCUSSION

Legal certainty requires the establishment of legal regulations by competent and authoritative entities. Therefore, these rules must have juridical aspects that ensure the certainty that the law functions as a regulation to be obeyed. Legal certainty ensures that individuals can conduct themselves in accordance with applicable laws, and conversely, without legal certainty, individuals cannot have standardized guidelines for carrying out specific behaviors. The state has a responsibility to guarantee the constitutional rights of every individual to obtain fair recognition, guarantees, protection, and legal certainty, as well as equal treatment under the law as a means to protect human rights. Several important factors that serve as references in creating legal certainty for society are as follows:

- a. Clear norms that establish what is required and what is prohibited. However, as legal instruments, these norms can be subject to different interpretations by law enforcement officials and those subject to sanctions, according to their own preferences and interests.
- b. Legal transparency that prevents normative confusion among the public. Consistency in the actions and statements of state officials and law enforcement is an important part of legal transparency. If there are contradictions in their actions and statements, it will deepen "normative confusion" among the people. Because, wherever they are, the people perceive (and often remember) the words and behavior of state officials and law enforcement as their reference.
- c. The continuity of the rule of law provides guidance for future behavior. If at one point a state official declares that the government will not interfere in the legal process, but later the government actually intervenes, it will create distrust among the people regarding the continuity of the rule of law.

Regarding the principle of legal certainty, its existence is essentially understood as a condition where the law is clear due to the concrete force behind it. The principle of legal certainty serves as a form of protection for justice seekers (justiciable) against arbitrary actions, which means that a person will and can obtain what is expected in certain circumstances (Sudikno Mertokusumo, 1993). Without legal certainty, a person would not know what to do, and ultimately uncertainty arises, leading to violence and chaos due to the lack of clarity in the legal system. Therefore, legal certainty refers to the enforcement of laws that are clear, stable, and consistent, where their implementation cannot be influenced by subjective conditions (R. Tony Prayogo, 2016). Thus, ensuring the resolution of compensation for crime victims carried out by the LPSK institution is an implementation based on the principle of legal certainty, as compensation is a mandatory protective measure to be paid and is the responsibility of the state. The state's obligation to provide compensation to victims of crimes committed by perpetrators is based on the theory of failure to protect. This theory states that a person becoming a victim of crime is fundamentally due to society's failure to eliminate crime and law enforcement's failure to prevent criminal acts (Julie Goldscheid, 2004).

Furthermore, there are two arguments as to why victims are entitled to compensation provided by the state. Firstly, compensation is based on the principles of fairness and social solidarity. This theory asserts that crime victims are actually victims of society and should be compensated by society for the losses suffered. In a broader sense, this theory states that the government has a responsibility to compensate victims because law enforcement agencies have failed to prevent crime. Secondly, other sources of compensation have proven to be inadequate in fully compensating victims (Nicholas Katsoris, 1990).

Compensation is a scheme related to the provision of public funds to individuals who have become victims of a crime. It is important to note here that these funds are public funds that can come from external sources of crime and are provided for the specific needs of the victims (Frederic Megret, 2010). According to Muladi in his book (Muladi, 2002), legal protection for crime victims is necessary based on the social contract argument and social solidarity argument. The social contract argument states that the state has a monopoly on social reactions to crime and prohibits private actions. Therefore, if a crime occurs and a victim is affected, the state is also responsible for addressing the needs of the victim. The social solidarity argument states that the state must support citizens in meeting their needs or provide assistance if they experience difficulties. Through cooperation in society using the means provided by the state, this can be achieved through improved services or the regulation of rights. The state, through the LPSK, has the authority regulated in Law No. 13 of 2006 jo. Law No. 31 of 2014. Article 12A (1) of the law grants authority to the LPSK to perform tasks such as obtaining statements from applicants and related parties, examining relevant statements and documents, requesting information on case developments from law enforcement, changing protected identities according to legal provisions, managing safe houses, relocating or relocating protected individuals to safer places, providing security and protection, providing assistance to witnesses and/or victims in the judicial process, as well as assessing compensation for restitution and compensation. The Witness and Victim Protection Agency, established under Law No. 13 of 2006 on Witness and Victim Protection, plays a crucial role in law enforcement and the handling of human rights violations, especially in the resolution of compensation.

The state's responsibility through LPSK (National Commission on Human Rights) towards victims is based on the Universal Declaration of Human Rights 1948 and The International Covenant of Civil and Political Rights 1966, which affirm that "Anyone who has been unlawfully detained or arrested has the right to obtain enforceable compensation." Furthermore, in relation to the "Declaration on Justice and Assistance for Victims," it is expected that the state has the responsibility to:

- (1) In state where general social insurance programme are insufficient, the state should establish compensation programmes to assist victim,
- (2) State compensation should be provided to the victims on an interim basis before finalization of criminal proceedings,
- (3) State compensation should include financial awards for physical and mental injury, loss of income, rehabilitation funeral expenses,
- (4) International funds, such as the United Nations Voluntary Fund for Victims of Torture, should be strengthened and expanded to provide compensation for victims or their dependents.

The basic rationale for the state to provide compensation is as follows:

- (1) The state's obligation to protect its citizens.
- (2) The possibility of the perpetrator's inability to provide adequate compensation. (3) The sociological perspective of law that views crime as a result of societal contributions to wrongdoing or as a product of the social environment.
- (3) The principle of providing compensation should be part of the principles of United Nations member states, implemented through state policies.
- (4) Legislators require the payment of compensation to victims as determined by the state based on legal decisions. Unfortunately, in the legislative regulations, compensation can only be sought in cases of serious human rights violations and terrorism offenses as stipulated in the regulations, which are regulated in the Ministry of Law and Human Rights Regulation Number 1 of 2022.

Compensation is a form of restitution provided by the state when a criminal offender is unable to fully compensate for the damages for which they are responsible. Victims of serious human rights violations and terrorism offenses are entitled to receive compensation in the form of (Komariah, Mamay, 2015):

1. Compensation for loss of wealth and/or income.
2. Compensation for damages resulting from direct suffering related to the crime, including physical injuries or death.
3. Reimbursement for necessary medical treatment and/or care.
4. Other material and immaterial losses experienced by the victim as a result of the crime.

Compensation for victims of serious human rights violations can be provided in non-monetary or in-kind forms, implemented gradually, such as providing educational scholarships, job opportunities, or other forms.

Therefore, the provision of compensation is limited to specific cases, namely those classified as serious human rights violations as defined in Law No. 31 of 2014. However, this can create injustices within society, as follows:

1. The assessment standards for compensation for crime victims are based solely on the severity of human rights violations.
2. The specific criteria for assessing these standards are not clearly explained in the law, which can lead to incorrect assessments between ordinary cases and cases deemed severe in terms of human rights violations.
3. The state has a responsibility to protect all victims and society from any form of injustice, without limiting whether the case is considered severe or not. Therefore, compensation should be provided whenever a crime occurs and there is a victim involved.
4. The form of compensation in kind is explained in Law No. 13 of 2006 in conjunction with Law No. 31 of 2014, but it does not always have to be in the form of money. This becomes unclear when compensation is given in the form of employment, as the system of provision and procedures are not clearly explained. The regulations related to this matter are described in Supreme Court Regulation No. 1 of 2022, Part Two regarding the rights of victims and forms of compensation in Article 17. (1) Victims of serious human rights violations and terrorism offenses are entitled to compensation in the form of: a. Compensation for loss of wealth and/or income; b. Compensation for damages resulting from direct suffering as a consequence of the crime, including injuries or death; c. Reimbursement for necessary medical treatment and/or care; and d. Other material and immaterial losses suffered by the victim as a result of the crime. (2) Compensation for victims of serious human rights violations can be provided in non-monetary or in-kind forms, implemented gradually, such as providing educational scholarships, job opportunities, or other forms.
5. In Supreme Court Regulation No. 1 of 2022, Chapter II explains the scope of compensation in Article 2 Paragraph 1 letter b. Furthermore, in the second section, the implementation of providing compensation in cases of serious human rights violations is regulated in accordance with Article 31. (1) Compensation in cases of serious human rights violations is granted by LPSK based on final and binding court decisions. (2) LPSK carries out the provision of compensation based on human rights court decisions no later than 30 (thirty) days from the date of receiving a copy of the court decision. (3) The 30 (thirty) day period mentioned in Paragraph (2) marks the start of the compensation provision. (4) If the court grants both restitution and compensation requests filed simultaneously, the implementation of compensation provision is carried out after the Attorney General delivers a copy of the restitution implementation as regulated in Article 29 Paragraph (1) letter b number 6. (5) The amount of compensation to be paid by LPSK is the difference between the restitution implementation already conducted by the Attorney General, as explained in Paragraph (4), and the amount of compensation determined by the court, in accordance with Article 29 Paragraph (1) letter b number 5. (6) LPSK creates a record of the compensation provision. (7) The implementation of compensation provision based on human rights court decisions is reported by LPSK to the chief judge and the Attorney General, accompanied by evidence of the implementation. (8) After obtaining proof as explained in Paragraph (6), the court immediately announces the implementation of compensation provision through the court's website or notice board. (9) If the implementation of compensation provision based on human rights court decisions exceeds the time limit, the applicant reports this to the Attorney General with a copy to the chief judge. (10) The Attorney General orders LPSK to carry out the compensation provision no later than 14 (fourteen) days from the date of receiving the order letter. (11) If the compensation is provided in kind and the provision is carried out gradually, each stage of implementation or any delays are reported by the applicant to the Attorney General.
6. There is a tendency indicating the weakness of substantive legal regulations concerning the protection of crime victims in terms of compensation, thus overall justice guarantees for crime victims cannot be fully realized. Currently, existing legal institutions have not provided maximum guarantees for victims.
7. The financial condition of the state may not allow fulfilling the perpetrator's obligation to pay compensation to all crime victims.
8. Consistency from the government is needed to ensure alignment between what has been guaranteed and promised as victims' rights (compensation) in the law, with financial support facilities that need to be adjusted according to the state budget (APBN).

The following are the procedures for filing a compensation application as stipulated in the legislation:

1. Basically, the provisions regarding compensation applications in Article 5 of Perma 1/2022 apply *mutatis mutandis*, with certain exceptions. (Hakim, Lukman., 2020)

- a. The application does not need to include the identity of the perpetrator of the crime in cases where the identity of the accused/perpetrator is not yet known or unknown.
  - b. For specific criminal case compensation applications, the application must be accompanied by:
    - 1) A statement from the investigator confirming that the applicant is a victim of a terrorist crime, if the request is submitted for a terrorist crime.
    - 2) A statement from the National Commission on Human Rights (Komnas HAM) declaring that the applicant is a victim or a family member, parent, guardian, or heir of a victim of a serious human rights violation, if the request is submitted for a serious human rights violation.
    - 3) A statement from the Representative of the Republic of Indonesia abroad stating that the applicant is a victim based on the applicable provisions in the country where the terrorist crime occurred, if the request is submitted for Indonesian citizens who are victims of terrorist crimes outside the territory of Indonesia.
  - c. The compensation request must be submitted through LPSK.
2. Compensation applications can only be submitted before a final and binding court decision, except in the following cases:
    - a. Compensation applications can be submitted by victims who have been victims of terrorism crimes, where the perpetrators are unknown or deceased, and the application must be submitted within a minimum of 1 year from the occurrence of the incident.
    - b. Compensation applications can be submitted by victims who have been victims of terrorism crimes that occurred outside the territory of Indonesia.
  3. Victims of gross human rights violations and terrorist crimes are entitled to receive compensation in the form of:
    - a. Compensation for the loss of wealth and/or income;
    - b. Compensation for damages arising from direct suffering related to the crime, including injury or death;
    - c. Compensation for medical and/or treatment expenses;
    - d. Compensation for other material and immaterial losses suffered by the victim as a result of the crime.
  4. If there are multiple applicants, the applications can be merged.
  5. Compensation applications can only be submitted to the first-instance court and are exempt from fees.
  6. The process of submitting and examining compensation applications for serious human rights violations involves the following steps:
    - a. LPSK submits the compensation request along with LPSK's decision and considerations to the Court through the Attorney General.
    - b. If the request is submitted before the case files are transferred, the Attorney General is obliged to include the request in the indictment and include it in the case files, as well as provide a copy to the defendant or their legal counsel.
    - c. If the request is submitted after being transferred to the court, the request must be submitted before the reading of the criminal charges. The Attorney General is obliged to include the compensation in the charges.
    - d. The judge grants permission to LPSK to present evidence after the process of proving the case is completed.
    - e. The judge examines the compensation request files and provides a legal assessment of the evidence for compensation, considering it in the mandatory ruling, which should include:
      - 1) The court declares whether the compensation request is accepted or rejected.
      - 2) The court provides reasons for accepting or rejecting, either partially or entirely, the compensation request.
      - 3) The court determines the amount and form of compensation that must be paid or implemented.

The submission and examination of compensation requests for acts of terrorism involve the following steps:

- a. LPSK submits the compensation request from the victim or the victim's heirs, along with LPSK's decision and considerations regarding the act of terrorism, to the court through the public prosecutor.
- b. The provisions applicable to the examination of compensation requests, as regulated in Article 20 of Perma 1/2022, are applied *mutatis mutandis* to such compensation requests. However, there is an exception that if the judge decides for acquittal or releases from legal charges, the judge still rules on the compensation request based on the evidence presented.

Based on the above description regarding the regulation on providing compensation as protection for the rights of crime victims, which is the state's obligation, it should not be necessary to wait for a court decision

that has obtained legal force (inkracht) before compensation is given to the victims. Ideally, compensation should be provided directly and automatically to the crime victims.

The following regulations contribute to the uncertainty in the implementation of compensation resolution for crime victims by the LPSK institution.

1. Law No. 13 of 2006 jo 31 of 2014; Article 3 of Witness and Victim Protection is based on: a. Respect for human dignity, b. Fulfillment of security, c. Principle of justice, d. Non-discrimination, e. Provision of legal certainty. In the context of letter e, concerning legal certainty in the effort to resolve compensation for crime victims, the form of non-monetary (natura) compensation is still unclear regarding the appropriate form. Therefore, there needs to be certainty regarding the types of compensation that will be provided by the government through LPSK. If the compensation is in the form of money, according to the author, it should be standardized based on the level of damage or eligibility, as stipulated in Article 34 (1) of LPSK, which determines the eligibility for assistance to witnesses and/or victims. This is not only limited to severe human rights cases but also applies to other eligible cases submitted by victims to LPSK.
2. Based on Law No. 13 of 2013 jo No. 31 of 2014 and Supreme Court Regulation No. 1 of 2022, the implementation of compensation resolution is only provided to victims of serious crimes and terrorism. As a principle of equality before the law, which is one of the characteristics of a rule of law state, witnesses and victims in criminal justice processes must be guaranteed legal protection. This principle should also be realized even if it is not related to conventional crimes, and the state provides such guarantees through the LPSK in protecting the rights of its citizens regarding crimes. The main provisions regulated in the Law on Witness and Victim Protection include: 1) Protection and rights of witnesses and victims, 2) Witness and Victim Protection Institutions, 3) Conditions and procedures for providing protection and assistance, 4) Criminal provisions.
3. Supreme Court Regulation No. 1 of 2022 Article 17 (2) states that compensation for severe human rights violations can be provided in the form of non-monetary/natura, such as educational scholarships, employment opportunities, or other forms. In the implementation of providing natura, there needs to be clear legal certainty. According to the author, it is important to establish compensation payment standards that correspond to the extent of harm suffered by victims of conventional crimes, as stipulated in Article 1 Paragraph 14. The decision of LPSK is a decision determined by the LPSK that includes the calculation of damages and the amount of restitution and/or compensation based on applications submitted by applicants in accordance with the legislation. This indicates that the calculation of damages and the amount of compensation are considerations for LPSK in determining compensation for victims. This is important as an effort to provide certainty and the state's responsibility, in this case, the government through LPSK, in protecting all victims. As stated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, every citizen of the Republic of Indonesia has the right to recognition, guarantees, protection, and a fair legal certainty, as well as equal treatment before the law. Legal certainty must have credibility both in formal aspects (correct procedures) and substantial aspects (correct content) in order to be felt by society. Thus, legal certainty must have the intended impact of justice, and for that, it needs to be supplemented and reviewed so that the law created from such certainty benefits society, especially crime victims in terms of compensation resolution.

#### IV. CONCLUSION

The state's compensation resolution provided through the LPSK institution, according to the applicable laws, so far only targets serious human rights crimes, terrorism, victims of human trafficking, victims of torture, victims of sexual violence, and victims of severe abuse. However, every crime victim, whether classified by LPSK assessment or conventional crimes, should have an equal right to receive compensation. This has been emphasized in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that "Every person has the right to recognition, guarantees, protection, and a fair legal certainty as well as equal treatment before the law." With the mandate of the Constitution, the implementation of compensation for crime victims should provide equal rights regardless of the qualification based solely on serious human rights cases, terrorism, or cases regulated in Law No. 13 of 2006 jo Law No. 31 of 2014 and Supreme Court Regulation No. 1 of 2022. This uncertainty can lead to injustice for conventional crime victims. This uncertainty is related to provisions in the implementation of compensation provided by the state through the



independent institution of LPSK in protecting crime victims. The aspect of uncertainty in the measurement of compensation amount is not explained in the legislation. This will undoubtedly hinder the implementation of compensation because it has to go through assessments based on serious human rights cases, terrorism, or assessments provided in the law. The form of compensation provided by the state through LPSK in human rights and terrorism cases is referred to as non-monetary compensation or *natura*, which means that compensation is not always in the form of money. This adds to the ambiguity of rules regarding *natura* compensation provided to crime victims, especially when compared to conventional crimes. This will undoubtedly create difficulties for LPSK in providing assistance, including compensation, due to the lack of clarity and legal framework regarding the implementation of *natura* compensation that is not clearly explained in the law.

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