

Legal Protection for Victims in Corruption Court Decisions Regarding Replacement Money

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Abstract. *This study aims to describe and analyze legal protection for victims in corruption court decisions related to substitute money. This study uses a socio-logical legal approach method that is descriptive analytical. The data used are primary data and secondary data obtained through interviews and literature studies, which are then analyzed qualitatively. Based on the study, it was concluded that (1) legal protection for victims in corruption court decisions related to substitute money is carried out by depositing substitute money to the victim's agency. The Public Prosecutor in his indictment submits a demand for substitute money to be returned to the victim's agency, to be considered in the Judge's decision. However, its implementation has not been optimal; (2) obstacles in legal protection for victims in corruption court decisions related to substitute money, among others, can be seen from the following aspects: (a) legal substance, namely: (i) the Corruption Crime Law has not provided legal certainty for victims, (ii) there are no regulations regarding the mechanism for victims to take their rights; (b) legal structure, namely: (i) there are still Public Prosecutors who have not demanded that compensation payments be paid to victims, (ii) law enforcers lack expertise and skills in handling corruption; and (c) legal culture, namely: (i) differences in views of law enforcers regarding the purpose of compensation payments and (ii) differences in understanding regarding victims of corruption. As for the resolution efforts, in terms of: (a) legal substance, namely: (i) reconstruction of Article 18 of the Corruption Crime Law and (ii) the formation of regulations on state agencies to take their rights, (b) legal structure, namely: (i) training in handling and recovering victim losses, (ii) the formation of a state loss recovery team, (iii) the formation of a discussion forum between law enforcers and representatives of government agencies, and (c) legal culture, namely: (i) public awareness education and (ii) the formation of an independent institution to ensure that the rights of agencies have been protected in every court decision.*

Keywords: Legal; Protection Victims.

1. Introduction

Crime or criminal acts are wrongful acts that affect the security or welfare of society in general, so that society has an interest in eradicating them.¹This is partly due to the losses that arise for the victims in particular, and the state in general, namely the loss of a sense of security in society.

All types of criminal acts will cause losses to the victim, including corruption. Corruption does not recognize status, position, profession, gender or even location of the incident. Corruption does not discriminate against the perpetrator and the victim. The consequences are varied depending on the level of corruption that occurs.²

Corruption occurs everywhere, involving relatives, in both democratic and communist government systems, and in religious institutions, the phenomenon of corruption can occur.³Corruption does not only occur in government, but has also reached the courts, corporations, education, and all aspects of life.⁴Barda Nawawi Arief is of the opinion that corruption is a despicable act, condemned and hated by the majority of society, not only by the Indonesian people and nation, but also by the people of nations in the world.⁵

The crime of corruption is a violation of the social and economic rights of the community, so that corruption can no longer be classified as an ordinary crime, but has become an extraordinary crime.⁶Not a small amount of people's money was taken, so the country was destroyed.⁷

¹Idris, Maulana Fahmi and Karisma Dian. (2024). Criminal Law Volume 1. Semarang: Prima Agus Teknik Foundation in collaboration with the University of Computer Science & Technology (STEKOM University), p. 16.

²Wibowo, Agus, et al. (2022). Basic Knowledge of Anti-Corruption and Integrity: Bandung Media Sains Indonesia, pp. 2-3.

³Hulman Siregar and Rakhmat Bowo Suharto, "Analysis and Review of The Implementation of Law Enforcement Operations Juridical Capture Corruption in The Criminal Justice System", in Jurnal Daulat Hukum, Volume 1 Issue 3 September 2018, p. 844, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/3412/2521>.

⁴Luk Har Syan'in, Gunarto, and Widayati, March 2019, "Criminal Investigation Polres Kudus Unit Efforts In The Prevention Of The Corruption In Village Funds Management", in Jurnal Daulat Hukum, Vol. 2 No. 1, p. 69, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/4208/2914>.

⁵Imanudin, "Handling Policy on Corruption Crime in Polres Tasikmalaya", in Jurnal Daulat Hukum, Volume 1 No. 2 June 2018, p. 543, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/3329/2460>.

⁶Lusia Sulastri, "The Legal Protection on Reporters for Corruption Crime", in Journal of Daulat Hukum, Volume 5 Issue 2, June 2022, p. 115, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/21024/6994>.

⁷Suwono and Jawade Hafidz, "Upside of Evidence by Public Prosecutor in The Case Corruption by Act No. 31 of 1999 jo. Act No. 20 of 2001 on Combating Crime of Corruption", in Journal of

Corruption is not something new in Indonesian society and corruption is widespread, planned and even structured, especially the abuse of power carried out by state officials in Indonesia in particular.⁸Corruption is clearly very dangerous for the nation because its impact is not only detrimental to state finances, but also hinders the state or government from improving the welfare of its people.⁹

The problem of corruption and dissecting the problem is something that is very urgent, because corruption is almost always related to power and authority and the people involved in it,¹⁰which brings huge losses to the country.

The form of loss experienced by the state as a victim of corruption is the loss of state assets, namely state finances. To cover the state's financial losses caused by corruption, the assets owned by the defendant must be confiscated for the state, but not only confiscated for the state but must also be beneficial for the institution that was harmed by being confiscated for the state *cq* (*casu quo*) the institution that was harmed or directly returned to the institution that suffered the loss, both for movable evidence or immovable evidence, both used or obtained from the proceeds of corruption, including companies or assets owned by the defendant who committed the crime of corruption that still have economic value must also be confiscated for the state *cq* the institution that suffered the loss.

So far, in the practice of justice in order to recover state financial losses, Judges in their decisions related to money confiscated in the case and replacement money, always emphasize the clause confiscated for the state, and the confiscation of assets stated in the court decision related to replacement criminal money is not automatically given to the agency of the victim of corruption, and as is known that the replacement criminal money is a criminal sanction imposed on the perpetrator of the crime of corruption to replace the losses suffered by the state or the party harmed by the crime of corruption. The efforts of the relevant agency to obtain replacement money, namely by submitting an application to the Ministry of Finance to obtain replacement criminal money.

Sovereign Law, Volume 1 Issue 3 September 2018, p. 773, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/3399/2508>.

⁸Abdul Haris, Umar Ma'ruf and Sri Kusriyah, "Role And Function Of Attorney In Order To Optimize The Prevention Of Corruption Through Establishment Of TP4P/D (Case Studies In State Attorney Of Grobogan), in Journal of Daulat Hukum, Volume 2 Issue 4 , December 2019, p. 449, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8287/3863>.

⁹Joko Hermawan Sulisty and Jawade Hafidz, "Application in Lieu of Money Penalty to Corruption Actors Based on Act No. 31 of 1999 jo. Act No. 20 of 2001 on Combating Crime of Corruption", in the Journal of Sovereign Law, Volume 1 Issue 4 December 2018, p. 982, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/4142/2892>.

¹⁰Cipto Dwi Leksana and Rakhmat Bowo Suharto, "Implementation of Cooperation Agreement Between the Ministry of Internal Affairs, Police, Attorney General Office (AGO) in Handling and Crime of Corruption in Indonesia", in Journal of Sovereign Law, Volume 2 Issue 1, March 2019 , p. 125, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/4217/2923>.

Victims of criminal acts have the right to receive legal protection, as do institutions that are victims of corruption, where this legal protection aims to restore losses suffered by the institution and prevent similar acts from happening in the future, thus victims receive justice. Basically, law is a set of rules and norms regulated by the government or authorized authorities in a country or society. The main purpose of law is to regulate the behavior of individuals and groups, as well as to maintain order and justice in a social system.¹¹

Judges through their decisions in corruption cases must prioritize the recovery of state financial losses in full and as quickly as possible, by returning the losses experienced by government agencies that are victims. This is important to minimize the negative impact of criminal acts and maintain public trust in law enforcement, as well as provide legal certainty as a form of legal protection for victims.

The purpose of this study is to describe and analyze legal protection for victims in corruption court decisions related to compensation for compensation.

2. Research methods

The type of research used in writing this legal journal is sociological juridical, which is descriptive analytical. The data used in this study are primary data and secondary data. According to the data that has been obtained, it is then analyzed using qualitative data analysis.

3. Results and Discussion

3.1. Legal Protection for Victims in Corruption Court Decisions Regarding Replacement Money

Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption has regulated the mechanism for returning assets resulting from criminal acts of corruption. The procedure for returning these assets can be taken through two channels, namely, civil procedure and criminal procedure.¹²

The return of assets from the criminal path is carried out through a trial process, where the Judge, in addition to imposing the main sentence, can also impose additional sentences in his capacity that correlate with the return of assets resulting from corruption, one of which is the payment of replacement money.

Additional criminal sanctions can restore state financial losses due to corruption by imposing criminal penalties in the form of returning state financial losses. Returning state financial losses is an important goal of the government's efforts

¹¹Karisma, Dian and Listyarini, Dyah. (2024). State Administrative Law. Semarang: Prima Agus Teknik Foundation in collaboration with the University of Computer Science & Technology (STEKOM University), p. 1.

¹²Jumroh, Kalimatul and Kosasih, Ade. (2015). Return of State Assets from Corruption Offenders (Study of the Law on the Eradication of Corruption and the United Nation Convention Against Corruption 2003). First Edition. Bengkulu: Zigie Utama, pp. 105-106.

to eradicate corruption. With the threat of criminal sanctions in the form of returning state financial losses, it will be easier to obtain a return of state financial losses due to corruption. In essence, the return of state financial losses is intended to obtain a return of a sum of money that has been obscured by the perpetrator of corruption.¹³

The substitute monetary penalty is one unit with the criminal verdict imposed by the Panel of Judges. The authority to execute each criminal verdict lies with the Public Prosecutor, including the substitute monetary penalty. The implementation of the confiscation of assets and the execution of the substitute monetary penalty can only be carried out if the defendant has been proven guilty. This mechanism is often difficult to implement because it is possible that the assets have changed hands, so that at the time no evidence can be found to file a claim for confiscation of assets.¹⁴

In essence, both legally and doctrinally, Judges are not required to always impose additional penalties. However, specifically for corruption cases, special attention must be given, because corruption is an act that is contrary to the law that is detrimental, or can harm state finances so that the loss must be recovered.¹⁵

In the process of imposing sanctions, including payment of compensation, the Public Prosecutor has an important role. In preparing the indictment, the Public Prosecutor must include all relevant aspects, including the amount of losses incurred due to the criminal act of corruption committed by the convict. This indictment then becomes the basis for the Judge to make a decision regarding the punishment to be imposed.¹⁶

After the Public Prosecutor reads out his/her indictment in court, the Judge will consider all the evidence and arguments presented, including the demand for compensation. The Judge will then decide whether the convict is proven guilty, as well as the amount of the principal and additional penalties, including compensation.¹⁷

Efforts that can be made by the Prosecutor as a representative of the victim, so that the agency that is the victim of the corruption crime gets the replacement money, and considering that the replacement money can be used for the victim's operational costs to carry out public services, based on the Technical Instructions

¹³Wattimena, Husin. (2017). *Implementation of the Threat of Additional Criminal Sanctions for the Restitution of State Financial Losses in Corruption Crimes*. First Edition. Yogyakarta: Deepublish, pp. 48-49.

¹⁴Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

¹⁵Ismansyah., Wahyuni, Fitri. and Muchtar, Henni. (2020). *Hacking Corruption Crimes and Law Enforcement Efforts*. First Edition. First Printing. Depok: Rajawali Pers, p. 170.

¹⁶Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

¹⁷Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

of the Attorney General of the Republic of Indonesia Number 4 of 2021, as stated above, that evidence is confiscated for the benefit of the state cq certain agencies.¹⁸

Based on this, what can be returned to the agency of the victim of the crime of corruption, is only that related to goods other than money and/or securities, as referred to in the Technical Instructions of the Attorney General of the Republic of Indonesia Number 4 of 2021, the Prosecutor as the Public Prosecutor can only provide facilities to victims of corruption based on CHAPTER II Determination of the Status of Evidence in Criminal Prosecutions, Letter C. Evidence Confiscated for the Interest of the State cq Certain Agencies, in point 3 that:

The evidence referred to in number 2 letter b may be confiscated for the benefit of the state cq certain agencies, with the following conditions:

- a. There is a written request letter to the Public Prosecutor from the agency requiring evidence, accompanied by reasons and read out in court; and/or
- b. The leader or official appointed by the agency submitting the request to attend the trial provides information, either of his own free will or at the request of the Judge because of his position.

Furthermore, the Prosecutor as Public Prosecutor poured out the injunction in his indictment, namely: "in accordance with number 2 confiscated for the state cq ... (the party in need)" or "in accordance with number 2 returned to ... (the party in need). Here it is written the party in need, not the party who suffered the loss, and there are no regulations governing this matter.¹⁹

Restitution of losses with replacement money contributes to justice for the community harmed by corruption. This reflects the responsibility of the perpetrator for the impacts caused. Payment of replacement money as a result of corruption plays an important role in providing legal protection for victims, namely agencies that are victims of corruption. Agencies that are victims of corruption are responsible for providing public services. With the payment of replacement money given to agencies that are victims of corruption, these agencies can continue programs that are beneficial to the community, so that this legal protection also contributes to public welfare.²⁰

It needs to be re-emphasized that the victim in a criminal act of corruption is the state, which can be interpreted as the state in a broad sense, and the state in a narrow sense. The state in a narrow sense includes provinces, cities, districts, ministries, agencies, sub-districts, BUMN, and BUMD. In terms of nomenclature in Article 2 paragraph (1) or Article 3 of Law Number 31 of 1999 in conjunction with

¹⁸Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

¹⁹Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

²⁰Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, only discusses the state. However, in fact, not only the state in a broad sense can experience financial losses, but the state in a narrow sense can also experience losses.²¹

However, currently there is no instrument that can be used so that replacement money can be given to state agencies (provincial, city, district, sub-district or service governments) or BUMN or BUMD as the party that has the right to the replacement money. Likewise with the status of evidence, where the Prosecutor in his indictment against evidence in the form of money or goods that have economic value, which originate from certain agencies/institutions, is stated with the statement: "confiscated for the state. or confiscated for the state cq (whichever party is desired). Specifically for replacement money, the action to enforce for certain parties or entities (cq, meaning: cum quo) replacement money, does not yet have a legal umbrella.²²

Legal protection is important to ensure that victims can recover the losses they have experienced. This includes mechanisms for obtaining compensation, such as in the case of corruption in the form of compensation payments from the perpetrator. Victims of criminal acts, such as corruption or abuse of power, experience significant financial losses, which can be in the form of loss of assets, funds or unnecessary expenses due to the actions of the perpetrator. The losses experienced by victims can also have an impact on the wider community, for example when government agencies experience losses due to corruption, public services that should be received by the community are hampered.

Recovery of losses to the victim agency of corruption crime can be seen in the corruption case with convict Mohammad Nashihan, in the case of misuse of funds for the implementation of health insurance and old-age benefits for Civil Servants (PNS) and casual daily workers of the Batam City Government, which has been decided in Decision Number: 11 / Pid.Sus-TPK / 2018 / PN Tpg jo. Decision Number: 10 / PID.SUS-TPK / 2018 / PT.PBR jo. Decision Number: 2011 K / PID.SUS / 2019. The Batam District Attorney's Office has submitted the results of the auction of confiscated state goods for convict Muhammad Nashihan to the Batam City Government (Pemko) in the amount of IDR 4,804,861,000.

Not all court decisions provide protection for the rights of institutions that are victims of corruption. Institutions that are victims of corruption do not receive direct compensation payments, but the compensation is deposited into the state treasury. As in the corruption case that was used as the analysis material in this study, namely the procurement case of the AW-101 VIP/VVIP TNI AU helicopter, with the defendant being the Director of PT. Diratama Jaya Mandiri, John Irfan

²¹Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

²²Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

Kenway, with the Decision of the Corruption Crime Court at the Central Jakarta District Court Number: 74/Pid.SusTPK/2022/PN.Jkt.Pst.

The Public Prosecutor attempts to ensure that the victim's agency receives compensation from the replacement money during the evidentiary process in court, by asking the agency (victim) about the losses experienced, then implementing it in the indictment regarding the defendant's assets and payment of replacement money to be confiscated for the state cq the victim, or directly returned to the victim based on Technical Instruction Number 4 of 2021 concerning Determination of Evidence Status in Handling Corruption Cases (however, not related to money or securities). Of course, this depends on the decision of the Judge handling the case in question.²³

Based on the above, it can be stated that legal protection for victims in this case related to the return of state financial losses due to criminal acts of corruption is not yet optimal, because in Article 2 paragraph (1) or Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, including in its Explanation, it is only related to the return of financial losses to the state in a broad sense, while in reality the party experiencing losses is not always the state in a broad sense, namely the state in a narrow sense (government agencies) therein, and there are no regulations governing the mechanism for victim agencies to take their rights, if an execution has been carried out on the convict's assets or replacement money that has been handed over to the state.

3.2. Obstacles in Legal Protection for Victims in Corruption Court Decisions Regarding Compensation and Efforts to Resolve Them.

State institutions that suffer losses due to corruption have the position of victims. Recovery of state financial losses through Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption not only benefits the institution, but also the wider community, because the recovered funds can be reused for public services and development programs.

The asset recovery process usually involves the seizure of assets by law enforcement agencies and their return to the state after a court ruling. Asset recovery is part of the punishment imposed on corruption perpetrators, for example in the additional criminal penalty of payment of compensation as mentioned above.

In reality, efforts to restore state finances due to corruption using criminal instruments, through the imposition of additional penalties in the form of payment of compensation, as stated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of

²³Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

Corruption, still face obstacles, so that they cannot provide legal protection for victims, even though this is written in the decision of the corruption court. The obstacles are:²⁴

a. Legal Substance

Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption has not provided legal certainty for victim agencies to obtain compensation for losses due to criminal acts of corruption. The law does not regulate that the results of the payment of compensation money will be handed over to the victim agency of the criminal act of corruption, but rather deposited into the state treasury. Here, the state agency as the victim does not receive the payment directly, but rather the state as a broader entity.

This is reinforced in the provisions of Article 2 of Government Regulation Number 39 of 2016 concerning Types and Tariffs for Types of Non-Tax State Revenue Applicable to the Attorney General's Office of the Republic of Indonesia, that: "All Non-Tax State Revenue applicable to the Attorney General's Office of the Republic of Indonesia must be deposited directly into the state treasury as soon as possible". The purpose of Non-Tax State Revenue, as stated in Article 1 paragraph (1) letter a of Government Regulation Number 39 of 2016, is that: "Types of Non-Tax State Revenue applicable to the Attorney General's Office of the Republic of Indonesia, include receipts from payments of compensation for corruption crimes", then in Article 1 paragraph (2) of Government Regulation Number 39 of 2016, which states that the Types of Non-Tax State Revenue, originate from and/or result from the determination of a Judge and/or court decision that has obtained permanent legal force". Furthermore, in Article 1 paragraph (3) of Government Regulation Number 39 of 2016, that the Tariff for the Types of Non-Tax State Revenue, is as much as that determined based on a court decision that has obtained permanent legal force.

It is also stated in Article 2 and Article 6 of the Regulation of the Minister of Finance of the Republic of Indonesia Number: 96/PMK.05/2017 concerning Procedures for Payment of State Revenue Return Transactions, which based on Article 2 and Article 6 of the Regulation of the Minister of Finance Number: 96/PMK.05/2017 concerning Procedures for Payment of State Revenue Return Transactions, it can be seen that replacement money is not included in the portion of state revenue returns.

Based on this, the Judge can order the payment of replacement money to be deposited into the state treasury, not returned to the relevant agency that was the victim of corruption. Although the Public Prosecutor in his/her lawsuit requested the Judge for the payment of replacement money to be directly

²⁴Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

directed to the institution that was harmed, based on the provisions of the Attorney General's Letter No.: B-28/A/Ft.1/05/2009, however, this depends on the Judge's decision, where the Judge has the freedom to make decisions independently, without pressure or influence from outside parties, including the government, institutions, or individuals.

Another weakness is the absence of a regulation from the Minister of Finance that regulates the mechanism for victims to take their rights to receive compensation from those convicted of corruption, related to the judge's decision on the assets of the convict being confiscated for the state.

b. Legal Structure

There are still Public Prosecutors who in their indictment have not asked the Judge to deposit the replacement money directly to the agency of the corruption victim. In addition, a similar thing happens to Judges who have the perspective that corruption crimes bring losses to state finances, so that the replacement money payment is directly deposited into the state treasury.

Another obstacle that is felt is that there are still law enforcement officers, both in the Police, Prosecutor's Office and the Judiciary who lack expertise and skills (human resources) in enforcing the law, both in quality and quantity. This situation will certainly affect the quality of service to the law enforcement process and protection for victims of crime.

c. Legal Culture

Different views from law enforcement officers regarding the purpose of compensation payments, that compensation must be paid to the state, not directly to the victimized agency. This can cause ambiguity and confusion about the main purpose of compensation payments is to replace state losses or simply seize the proceeds of corruption.

In general, both law enforcers and the public often view that the victim of corruption is the state as a larger entity. This view ignores the fact that certain government agencies, such as ministries or regional institutions, are direct victims of corrupt practices.

Efforts to resolve these obstacles include:²⁵

a. Legal Substance

For legal certainty for the protection of institutions that are victims of corruption, it is necessary to reconstruct Article 18 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, which regulates additional penalties in the form of payment of compensation, by adding two paragraphs in the Article, namely after being reconstructed, it becomes:

²⁵Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli District Attorney's Office, November 11, 2024.

(1) The Public Prosecutor is required to include in his/her indictment a request to the Judge for payment of compensation to be directly deposited to the institution that has suffered losses;

(2) In his decision, the judge must state the amount of replacement criminal money that must be paid by each defendant proportionally, and order the proceeds of the replacement money payment to be handed over to the victim's agency;

(3) If the convict does not pay the replacement money

No less important is the addition of an understanding of victims of corruption in the provisions of Article 1 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, so that in Article 1 of the Law, which originally consisted of Article 1 numbers 1 to 3, it was reconstructed by adding Article 1 number 4, related to the understanding of victims of corruption, so that it reads:

In this Law, the following terms are defined:

a. Victims of Corruption are parties who suffer losses due to corrupt practices, namely the state, government agencies and related stakeholders.

In addition, for legal protection for victim agencies, it is necessary to create regulations at the Ministry of Finance level that regulate the mechanism for victims (state agencies) to take their rights related to losses experienced, if the convict's assets have been confiscated for the state in order to cover compensation, and the state only takes the rights from the value of the court money and fines that have been submitted to the state, so that for now, the steps that can be taken are to ensure that victims of corruption get their rights to compensation.²⁶

b. Legal Structure

Law enforcement officers, including police, prosecutors and judges, need better training on handling corruption cases and restitution for victims. Education on victims' rights and restitution mechanisms should be part of the law enforcement officer training curriculum.

It is necessary to form a special unit or team consisting of law enforcement officers who have expertise in handling corruption cases, so that it can increase the effectiveness of law enforcement. This team can focus on recovering state losses and pay more attention to the agencies that are victims.

In addition, it can form a discussion forum between law enforcement officers and representatives of government agencies that are victims to help understand the needs and challenges faced in the process of recovering losses due to corruption.

c. Legal Culture

²⁶Putu Agus Partha Wijaya, SH, MH, Interview, as a Prosecutor at the Bangli Prosecutor's Office, November 11, 2024.

The public needs to be educated about the importance of protecting the rights of institutions as victims of corruption. Public awareness of the negative impacts of corruption and the importance of recovering losses for government institutions can encourage support for legal reform.

Civil society organizations and non-governmental organizations (NGOs) can also play a role in advocating for regulatory changes related to victim protection and restitution of losses due to corruption. In addition, they can also form an independent institution to oversee the law enforcement process in corruption cases, so as to increase the accountability of law enforcement officers. This institution can assess whether the rights of the agency as a victim have been properly protected in every court decision.

4. Conclusion

Legal protection for victims in corruption court decisions related to replacement money is carried out by depositing replacement money to the victim's agency. The Public Prosecutor in his indictment submits a demand for replacement money to be returned to the victim's agency, to be considered in the Judge's decision. However, its implementation has not been optimal. Obstacles in legal protection for victims in corruption court decisions related to compensation, among others, can be seen from the following aspects: (1) legal substance, namely: (a) the Corruption Crime Law does not provide legal certainty for victims, (b) there are no regulations regarding the mechanism for victims to take their rights; (2) legal structure, namely: (a) there are still Public Prosecutors who have not demanded that compensation payments be paid to victims, (b) law enforcers lack expertise and skills in handling corruption; and (3) legal culture, namely: (a) differences in views of law enforcers regarding the purpose of compensation payments and (b) differences in understanding regarding victims of corruption. As for the resolution efforts, in terms of: (1) legal substance, namely: (a) reconstruction of Article 18 of the Corruption Crime Law and (b) formation of regulations regarding state agencies to take their rights, (2) legal structure, namely: (a) training in handling and recovering victim losses, (b) formation of a state loss recovery team, (c) formation of a discussion forum between law enforcers and representatives of government agencies, and (3) legal culture, namely: (a) public awareness education and (b) formation of an independent institution to ensure that agency rights are protected in every court decision.

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