Position of Victims in Corruption Crime at the Medan Corruption Court

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Abstract
A victim is someone individually or jointly suffering from loss, including physical or mental injury, emotional suffering, economic loss or damage to his basic rights, which is caused by the actions of other parties who violate criminal law in a country, whether intentionally or because of negligence. So far, in handling corruption cases, the perpetrators and the law have always been highlighted, while victims are rarely paid attention. Legal protection for victims in criminal acts of corruption needs to be considered because the rights of victims who have good intentions are still being harmed. So it is necessary to discuss the position of the victim in a corruption case and the rights and obligations of the victim in a corruption case at the Medan Corruption Court. Thus, although the position of the victim in a criminal act of corruption based on the criminal justice system is still very weak, the victim has the right to apply for restitution or compensation if their social and economic rights are harmed by the occurrence of a criminal act of corruption.

Keywords:
Status of Victims, Corruption Crime, Medan Corruption Court

How to cite:
Trisna, Wessy, Ridho Mubarak, (2020). “Position of Victims in Corruption Crime at the Medan Corruption Court”, IJRS: Internasional Journal Reglement Society Vol. 1 (2), Pages 62-70.

A. Introduction
Corruption as a form of extraordinary crime as stipulated in the International Convention of the United Nations (UN) in Vienna, dated October 7, 2013, is committed by someone who is respectable, powerful, has authority and the victim is not obvious. Sociologically, the nature of corruption is also a form of violation of the trust given by society.¹ Broadly speaking, the criminal act of corruption occurs due to a weak legal system and low morale of officials, thus damaging the joints of the life of the State and paralyzing the existence of the nation, because it has been poisoned by an irresponsible attitude. In addition, there is no honesty so that they are willing to tarnish the Law and take advantage of the existing situation and facilities to enrich themselves or the interests of groups or corporations.

Victims of corruption can be separated into two, namely direct victims and indirect victims. Direct victims, namely victims of abuse of power as explicitly stipulated in Law No. 31 of 1999 is the State. Meanwhile, in-direct victims, namely the emergence of victims as a result of someone's involvement in forming direct victims or participating in preventing the emergence of victims, but he himself becomes a victim of a crime, in this case a third party, and/or them. who depend their lives on direct victims, such as their wives/husbands, children and their closest relatives. The form of the victim is a victim of abuse of power, including both individuals and collectively who suffer because of acts that cause suffering, which, although not yet included in the national criminal law, are recognized as norms relating to human rights by international provisions. These human rights include the right to life, freedom, the right to feel safe and humanity as recognized in international justice.²

Victims of crime (victimology) have a functional role in the occurrence of crime, and in a broad sense, victims of crime are not only the families and friends of the victims but also the State, legal entities and business entities, groups, organizations due to entities (corporations) or groups. can exercise their rights and obligations protected by law. Protection of victims is broadly defined as not just victims who suffer directly, but also indirectly who are also classified as victims. Protection of victims in the

¹ Marwan Mas, Pemberantasan Tindak Pidana Korupsi, Bogor: Ghalia Indonesia, (2014), p.2.
² C. Maya Indah S., Perlindungan Korban Suatu Perspektif Victimologi dan Kriminologi, Jakarta: Kencana, (2014), p.31.
criminal justice process is inseparable from the protection of victims according to the applicable positive legal provisions.

The current positive criminal law, protection of victims is more of an abstract or indirect protection. This means that with the various formulations of criminal acts in the laws and regulations so far, it means that in essence there has been indirect protection against various legal interests and the rights of victims. This is because a criminal act according to positive law is not seen as an act of attacking/violating the legal interests of a person (victim) personally and concretely, but only seen as a violation of legal norms/order in concreto, but only in abstracto. Thus, in this case the system of sanctions and criminal accountability is not aimed at direct and concrete protection of victims, but only indirect and abstract victim protection. Thus, criminal responsibility towards the perpetrator is not direct and concrete responsibility for the loss/suffering of the victim, but is more focused on personal/individual accountability. Where in individual criminal responsibility contains indirect victim protection. 3

In general, the relationship between the victim and the crime is the party who becomes the victim as a result of the crime. The party becomes the victim because there is another party who committed the crime, so the victim is the injured party. A crime victim can be defined as someone who has suffered losses as a result of a crime and or whose sense of justice has been directly impaired as a result of his experience as the target (target) of crime. There are several reasons for someone to become a victim, namely: negligence, ignorance, inadvertence, weakness of the victim or maybe the victim's bad luck. 4

Mandelson stated that the involvement of victims in the occurrence of crimes can be divided into six categories based on the degree of guilt, namely: 1) The victim is completely innocent; 2) A person becomes a victim because of his own negligence; 3) The victim is as wrong as the perpetrator; 4) The victim is more guilty than the perpetrator; 5) The victim is the only one guilty; and 6) victims of mockery and victims of imagination. 5

However, based on this, it was found that many crime victims lacked adequate legal protection, both immaterial and material protection. Victims of crime as evidence providing information, namely only as witnesses, so that the possibility for victims to gain discretion in fighting for their rights is small. This can be seen from the case of Siwaris Budi, a former Principal of SMP N-1 Lahusa-Nias Selatan, who was found guilty of committing corruption offenses in the School Operational Assistance Fund (BOS) amounting to Rp. 301,000,000.- and was sentenced to 2 years and 6 months in prison.

Related to this case, if we pay attention to the loss of corruption in the education sector, it is not only about the nominal budget that is corrupt but has a direct impact on students because it causes the quality of education to decline and even violates human rights because education is a human right (the right of citizens). So that, even though the Corruption Law states the State as the direct victim, the impact on the act of corruption is the community in which the community feels directly the corruption act. So that the legal protection of these victims in the criminal act of corruption also needs to be considered because the rights of victims who have good intentions are still being harmed.

Based on the background above, the following problems can be formulated: 1). What are the rights and obligations of victims in criminal acts of corruption at the Medan Corruption Court? 2). What is the position of the victim in the criminal act of corruption at the Medan Corruption Court? The research objective is directed to answer the problems that have been formulated, namely; to find out how the rights and obligations of victims in criminal acts of corruption at the Medan Corruption Court and to know the position of victims in criminal acts of corruption at the Medan Tipikor Court.

This study uses empirical normative legal research, namely legal research on the application of normative legal provisions (codification, law or contract) in action on any particular legal event that occurs in society. 6 The data collection techniques used were interview guidelines and literature study/document study, and to draw conclusions in order to answer the problem formulation, a qualitative analysis was carried out using inductive and deductive methods in order to obtain a comprehensive (comprehensive) conclusion from each problem under study so that In this analysis, the position of the victim will be found and the rights and obligations of the victim in the Corruption Crime Case at the Medan Corruption Court.

3 Barda Nawawi Arief, Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana, Bandung: PT. Citra Aditya Bakti, (2005), p.83-84.
4 Bambang Waluyo, Victimologi: Perlindungan Korban & Saksi, Jakarta: Sinar Grafika, (2014), p.19.
5 C. Maya Indah S, Op. Cit., p.35.
6 Abdulkadir Muhamad, Hukum dan Penelitian Hukum, Bandung: Citra Aditya Bakti, (2004), p.134.
B. Discussion

1. Rights and Obligations of Victims in Corruption Crime at the Medan Corruption Court

Concretely, the laws and regulations do not guarantee the protection of the rights of victims in not being a criminal act of corruption, either juridically, sociologically or philosophically. Juridically, in the statutory regulations in the field of corruption, there is not a single law that provides concrete legal protection to victims. The protection given to victims is only in abstracto or indirect. Article 19 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 only regulates third party victims who are harmed as a result of confiscation carried out by the court. However, protection for victims, in this case the community who has been harmed by acts of corruption that is detrimental to the State's finances, then results in the cessation of development, and results in destroyed roads, collapsed schools, etc. victims are not directly into a new law.

In practice sociologically, law and society influence each other. Shifting values as well as changes regarding what is right and wrong, appropriate and unworthy according to society will affect the development and content of the law. Meanwhile, in terms of philosophy, it is known that the view of life of a society / nation is the background for the existence and identity of the law, both those that will be appointed to the legislature and those that are already positive and binding. The legal provision seen from a philosophical (philosophical) point of view is essentially social justice for all Indonesian people as stated in the fifth principle of Pancasila which is then elaborated in the fourth paragraph of the 1945 Constitution. victims, because in practice the existing legal principles are not fully applied.

Article 5 of Law No. 13 of 2006 in conjunction with Law No. 31 of 2014 concerning Protection of Witnesses and Victims, the rights of victims (witnesses) are regulated, namely covering:

1) Obtain protection for the safety of his personal, family and property, and are free from threats regarding the testimony he will, is being, or has given;
2) Participate in the process of selecting and determining the form of security protection and support;
3) Provide information without pressure;
4) Get a translator;
5) Free from entangling questions;
6) Obtain information regarding the progress of the case;
7) Obtain information about court decisions;
8) Obtain information in case the convict is released;
9) Anonymity;
10) Got a new identity;
11) Obtaining a temporary residence;
12) Obtaining a new residence;
13) Receive reimbursement of transportation costs as needed;
14) Received legal advice;
15) Receive temporary living expenses assistance until the Protection deadline ends; and/or
16) Received assistance.

In addition, it is also necessary to know about the obligations of the victim, namely, among others:

1) Obligation not to take the law into one's own hands/take revenge against the perpetrator (act of retaliation)
2) Obligation to seek prevention from possible recurrence of criminal acts.
3) The obligation to provide adequate information regarding the occurrence of crimes to the competent authorities.
4) Obligation not to make excessive demands on the perpetrator
5) The obligation to be a witness for a crime that befell him, as long as it does not endanger the victim and his family
6) Obligation to assist various interested parties in efforts to combat crime.
7) Obligation to be willing to be nurtured or develop oneself so as not to become a victim again.

In the declaration of basic principles of justice for victims of crime and abuse of power, there are

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7 M. Solly Lubis, Politik dan Hukum di era Reformasi, Bandung: Mandar Maju, (2000), p.5.
8 Ibid
several fundamental rights for victims, namely:

1) Access to justice and fair treatment
   Victims should be treated with compassion and respect. Where they are entitled to access to mechanisms of justice and to compensate for damages. Administrative and judicial mechanisms should be established and strengthened where they allow victims to obtain redress through formal or informal procedures that are fast and efficient, fair, accessible and inexpensive. Victims must also be informed about their rights in seeking compensation through this mechanism. As for the needs of victims related to the court process, among others:
   (a) Inform victims of the role and scope, timing and progress of the manner of working the disposition of cases, especially serious crimes were involved and they have requested information;
   (b) Victims have their desire to be considered;
   (c) Appropriate assistance to victims throughout the legal process;
   (d) Treat victims well and ensure the safety of victims' families and witnesses from threats and intimidation;
   (e) Avoid delays in granting victims' decisions.

2) Restitution
   The perpetrator of the crime or a third party is responsible for compensating the victims, their families or dependents on the victim. The compensation for losses includes the return of property or payment for losses suffered and restoration of rights.

3) Compensation
   Compensation is given to the victim by the perpetrator. However, when the perpetrator is unable to pay the compensation must be paid by the State. The victims who received compensation were:
   (a) The victim who has suffered physical or psychological injuries as a result of a dangerous crime;
   (b) The victim's family.

4) Assistance
   Victims need to receive medical, social and psychological assistance. This assistance is channeled through the government or community sector. Therefore, the officials concerned must have sufficient knowledge to be able to meet the needs of victims. So that the assistance provided is optimal and professional.

   United Nations Declaration No. 40/A/Res/34 of 1985 also regulates the rights of victims to gain access to justice, especially in the judicial process, namely In relation to victims of crime, a special institution needs to be formed to handle it. As for the rights possessed by victims and their families, if in the future they experience loss or suffering as a result of the crime that befell them, namely regarding:

   1) Compassion, respect and recognition;
   2) Receive information and explanation about the progress of the case;
   3) Provide information;
   4) Providing proper assistance;
   5) Protection of privacy and physical safety;
   6) Restitution and compensation;
   7) To access to the mechanism of justice system.

   Based on the research results, victims of corruption have the right to receive compensation which is an integral part of human rights in the field of welfare and social security. According to Muladi and Barda Nawawi Arief,11 The losses suffered by the victim can be divided into two parts, namely:
   1) Material losses, in the form of losses that arise due to the condition of the victim who is in a weak condition in terms of economy (poverty), and a low level of education, it will be easy for traffickers to commit fraud, extortion, forgery, bondage, from departure to return to his hometown.

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9 Rena Yulia, Op. Cit., p.118-119.
10 Badan Pembinaan Hukum Nasional (BPHN) Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, “Laporan Akhir Tim Pengkajian Tentang Kompensasi Bagi Pihak Yang Menderita Kerugian Akibat Tindak Pidana Korupsi”, tanggal 14 November 2013, p.45.
11 Muladi dan Barda Nawawi Arief, *Muladi & Barda Nawawi Arief, Bunga Rampai Hukum Pidana*, Bandung: Alumni, (2007), p.129.
2) Immaterial disadvantages. This loss is mostly experienced by victims from the physical/physical, psychological (mental) and social sides. Victims are generally very vulnerable to violence, because they are in a weak condition (women and children), so that victims often experience inhuman treatment, both from traffickers (perpetrators/brokers/sponsors), labor recruitment companies, and employers at work.

The right of victims to obtain compensation for corruption in the form of restitution and compensation, namely:

a. Restitution

Restitution is an indication of the responsibility of the perpetrator of a criminal act including the return of property or payment for damage or loss suffered. Restitution is compensation received by a victim who has suffered losses as a result of an act of corruption given by the perpetrator of a criminal act of corruption which is fully his responsibility.12

b. Compensation

Article 1 point 4 of Government Regulation Number 44 of 2008 concerning Compensation, Restitution and Assistance to Witnesses and Victims states that compensation is compensation provided by the state because the perpetrator is unable to provide full compensation which is his responsibility. Compensation in a victimology perspective relates to the balance of the victim as a result of an evil act, because the evil act is detrimental to the victim, therefore it can be called compensation for physical, moral or property losses suffered by the victim for a crime.

The United Nations Convention Against Transnational Organized Crime / UNTOC, which has been ratified through Law Number 5 of 2009 concerning Ratification of the United Nations Convention Against Transnational Organized Crime (UN Convention Against Transnational Organized Crime) has introduced compensation for victims of corruption, as provided for in Article 14 paragraph (2) and 25 paragraph (1-2) UNTOC, which reads:

Article 14 paragraph (2) UNTOC:

"When acting upon a request from another State Party under Article 13 of this Convention, the State Party shall, to the extent permitted by national law and if requested, give priority to considering returning the proceeds of crime or property confiscated to the requesting State Party so that it may give compensation to victims of crime or return of proceeds from crime or confiscated assets to their rightful owners ".

Article 25 paragraph (2) UNTOC:

"Each State Party shall establish adequate procedures to provide access to redress and remedy for victims of offenses covered by this Convention".

The intent of the UNTOC provisions is clear that the return of assets proceeds from corruption is prioritized for being returned to the victims of crime and the state is obliged to establish appropriate procedures to provide access to compensation and restitution for victims of crimes covered by this convention (corruption and money laundering).13 This instrument explains that the state must provide access for parties who are harmed by a criminal act of corruption to claim responsibility for the losses suffered to get a compensation. As long as the loss is evident from the occurrence of a criminal act of corruption, then the party who is the victim and suffers the loss (real loss) can be compensated.

Thus, every person or corporation that commits corruption which results in losses to the victim, is obliged to provide restitution to the victim of corruption. Likewise, based on the principle of State accountability, the State is obliged to fulfill the provision of compensation to parties who suffer losses as a result of corruption.

2. Position of Victims in Corruption Crime at the Medan Corruption Court

In general, in the Indonesian criminal justice system the position of the victim is relatively disproportionate because the legal provisions still rely on protection for the perpetrator (offender

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12 Badan Pembinaan Hukum Nasional (BPHN) Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, *Op. Cit.*., p.39
13 *Ibid.*, p.57.
The position of the victim in the criminal justice system is only a complement to a judicial process. This is because the current Criminal Procedure Code is more oriented towards the perpetrator which is referred to as the concept of retributive justice (retaliation). Victims in the criminal law system are used as a system of proof in general courts, where there are things (events and so on) that are sufficient to show the truth of something (events and so on).

According to the criminological approach, there are several reasons for the need for crime victims to get attention, namely:

1) The criminal justice system is considered to pay too much attention to the problems and roles of offender-centered actors. Concrete evidence of this view is that only a few articles in the Criminal Procedure Code reflect the protection of victims. These articles, among others:

   a) Article 80 KUHAP; A request to examine whether or not a termination of an investigation or prosecution is legal can be submitted by the investigator or public prosecutor or third party concerned to the chairman of the district court by stating the reasons.

   b) Article 108 paragraph (1); Every person who has experienced, seen, witnessed and or is a victim of an incident which constitutes a criminal act has the right to submit a report or complaint to the investigator or investigator, both orally and in writing.

   c) Article 133 paragraph (1); In the event that an investigator for the purposes of justice treats victims of injuries, poisoning or death that are suspected of being due to an event which constitutes a criminal act, he is authorized to submit a request for expert information to an expert in judicial medicine or a doctor or other expert.

   d) Article 134 paragraph (1); In the event that it is absolutely necessary that for the purposes of post mortem it is no longer possible to avoid it, the investigator is obliged to notify the victim's family in advance;

   e) Article 160 paragraph (1b); The first thing the testimony heard was the victim who became a witness.

2) There is potential for information from crime victims to clarify and complement the interpretation of criminal statistics (especially statistics available on the police which are carried out through surveys of crime victims);

3) The developing society will increasingly realize that apart from victims of conventional crimes (street crimes) it is no less important to pay attention to victims of non-conventional crimes and victims of abuse of power.

The position of the victim is an important component in a case adjudicating a criminal act. There are very few articles that discuss victims in the Criminal Procedure Code, even the discussion does not focus on the existence of victims of criminal acts but only as ordinary citizens who have the same rights as citizens of other countries. The position of the victim in a criminal act is only as a witness in a criminal case solely to prove the suspect / defendant's guilt.

The very high intensity of corruption results in the lack of attention to the position of victims in criminal cases of corruption because prosecution against corruption is still law enforcement against perpetrators of corruption. Law enforcement against criminal acts of corruption is very different from other criminal acts, including because of the large number of institutions authorized to carry out judicial processes against criminal acts of corruption. This condition is a logical consequence of the predicate placed on the crime as an extra ordinary crime. As a crime that is categorized as an extra ordinary crime, the criminal act of corruption has extraordinary destructive power and damages the life aspects of a State and a nation. The impact of the criminal act of corruption can be seen from the occurrence of various natural disasters and environmental damage such as floods, even according to Nyoman United Putra Jaya saying that the negative consequences of the criminal act of corruption are very damaging to the order of life of the nation, even corruption is a deprivation of economic rights and social rights of the Indonesian people.

Victims of crimes due to abuse of State power are regulated in Article 77 - Article 83 of Law No. 8 of 1981 concerning KUHAP and PP No. 27 of 1983 concerning the Implementation of KUHAP.

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14 Romli Atmasasmita, *Sistem Peradilan Pidana, Persepektif Eksistensialisme dan Abolisionisme*, Bandung: Putra Abardin, (1996), p.17.

15 Nyoman Sarekat Putra Jaya, *Beberapa Pemikiran ke arah Pengembangan Hukum Pidana*, Bandung: Citra Aditya Bakti, (2008), p.69.
Protection of victims of crime by the authorities in KUHAP is known as pretrial institutions. PP No. 27 of 1983, in Chapter IV Article 7, states that the victim of crime can file a claim for damages as a result of a judge's decision which has permanent legal force, or the claim can also be filed at the level of investigation, or prosecution from the time determined from the stipulation. pretrial notices.16

In pretrial, victims can be categorized into third parties with an interest. The position of the indirect victim to the third party with an interest is contained in the explanation of Article 80 of the Criminal Procedure Code in which the third party with an interest is defined as the victim or reporter. In this regard there is a Constitutional Court Decision No. 76 / PUU-X / 2012 which conducts a judicial review on the meaning of the third party concerned as regulated in Article 80 of the Criminal Procedure Code. The Constitutional Court defines third parties whose interests are not only victims of criminal acts or reporters but also widely interpreted, namely covering the wider community, which in this case can be represented by groups of people who have the same interests and goals, namely to fight for public interests (public interests advocacy) such as non-governmental organizations or other community organizations.17

Based on this, victims in the Criminal Procedure Code only concern pretrial (Article 80 KUHAP) and claims for compensation (Articles 98 - 101 KUHAP) so that the system adopted by KUHAP is retributive justice, which is a policy whose protection point is the perpetrator of the criminal act (offender oriented). not restorative justice which focuses on victim-oriented protection policies. According to Lili Pintauli Siregar, stated that in relation to compensation in pretrial, if a decision has permanent legal force, it cannot be filed pretrial, but if it does not have legal force, it can still be tried pretrial. However, it is rare for indirect victims in a criminal act of corruption to use pretrial to sue for compensation, because more of these indirect victims demand compensation on a civil basis.

Perpetrators of criminal acts of corruption must be responsible for compensating for losses incurred, so that the concept of restitution which has been regulated in the criminal procedure law can be adopted and applied with adjustments. Perpetrators of corruption are the main party who must compensate for the losses incurred, by empowering the assets and all property of the perpetrators of corruption, in this case money, assets, and other valuable objects which are equivalent and able to cover "fairly" the losses incurred.18

Kedudukan hukum korban dalam suatu tindak pidana termasuk di dalamnya tindak pidana korupsi mertry to be an important component in adjudicating a criminal act. The status of victims can not only participate in the process of selecting and determining the form of protection and security support or can obtain information about court decisions or victims can find out if the convict is acquitted. However, as the injured party the victim has the right to receive compensation for what he suffered. In fact, Law No. 13 of 2006 concerning Witness and Victim Protection provides protection for the safety of witnesses and victims in the judicial process. The victim referred to is someone who has suffered physical, mental, and / or economic loss as a result of a criminal act.19

According to Lili Pintauli Siregar,20 states that the form of legal protection for indirect victims or third party victims in a criminal act of corruption cannot be provided by the Witness and Victim Protection Agency (LPSK) because the victim is not in the realm of threat, does not have important information, but if the act of corruption causes financial loss countries so that investors do not believe it, development has stalled in several sectors and the road is destroyed and so on, the victim can sue in a civil manner. However, if the indirect victim is a victim of the wider community, then he can file a Citizen Lawsuit. Citizen Lawsuit is a mechanism for citizens to sue the responsibility of state administrators for negligence in fulfilling citizens’ rights. This negligence is argued as an act against the law, so that citizen lawsuit is filed within the scope of general justice, in this case a civil case.21

The existence of citizen lawsuit gives citizens the right to sue state institutions that ignore their

16 Ibid, p.33.
17 MK: "Pihak Ketiga yang Berkepentingan" Berhak Ajukan Praperadilan Mencakup Masyarakat Luas, September, 20, 2019. Available online https://mkri.id/index.php?page=web.Berita&id=7962
18 Badan Pembinaan Hukum Nasional (BPHN) Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, Op. Cit., p.156.
19 Pasal 1 Butir 2 Undang-Undang Republik Indonesia Nomor 13 Tahun 2006 tentang Perlindungan Saksi dan Korban.
20 Hasil Wawancara dengan Lili Pintauli Siregar, SH. MH, Komisioner Komisi Pemberantasan Korupsi, pada hari Jumat, 11 September 2019
21 Susanti Adi Nugroho, Class Action dan Perbandingannya dengan Negara Lain, Jakarta: Kencana Prenada Media Group (2010), p.384.
obligations. People have the right to: life, health, security, education, food and clothing, and a constitutional-rights environment. All tasks of the state through government are absolutely oriented towards meeting the needs of its citizens. Thus, victims of corruption have the right to receive compensation if their social and economic rights are impaired.

The position of victims in criminal acts of corruption is the people of Indonesia. However, in certain criminal acts of corruption, the people around them feel the direct suffering. So that the position of the victim requires special attention and legal protection, namely through the provision of compensation and restitution from the parties most responsible. According to Arief Aminullah,22 that compensation to victims should be the personal responsibility of the perpetrator, that responsibility is basically also part of the correctional process.

The Declaration Of Basic Principles Of Justice For Victim Of Crime And The Abuse Of Power states that victims of crime must be treated with full attention and respect for their dignity and be given the right to immediately claiming compensation (if there are regulations), legal and administrative mechanisms must be formulated and legalized to enable crime victims to obtain redress. If comprehensive compensation cannot be obtained from the perpetrator of the crime, in cases of serious physical or mental harm, the state is obliged to provide compensation to the victim of the crime or his family. The state's responsibility to victims in Indonesia from the existing regulations shows that there is a difference in state responsibility to the victim in the event that the suspect is not criminally responsible or does not serve his sentence, which is limited to the victim who is stated implicitly in the statutory regulations. As stated in Law No. 13 of 2006 in conjunction with Law No. 31 of 2014 concerning Protection of Witnesses and victims, that the state provides compensation to victims of serious human rights crimes, while in Government Regulation No. 44 of 2008 concerning Providing Compensation, Restitution and Assistance to witnesses and victims, states that compensation is compensation provided by the state because the perpetrator is unable to provide full compensation which is his responsibility.

This is also in line with the criminal act of corruption, the concept of compensation as the implementation of Article 35 of UNCAC, which in its formulation states that compensation is compensation received by an entity or person who has suffered losses as a result of acts of corruption given by the State because the perpetrators of corruption are unable to provide full compensation which is his responsibility. Meanwhile, restitution is compensation received by an entity or person who has suffered losses as a result of a corruption act given by the perpetrator of a criminal act of corruption which is fully his responsibility.23

If you look at Article 35 UNCAC, it can be mapped that there are two types of roles, namely the role of the state and the role of actors. The role of the state is to take actions deemed necessary, in accordance with the principles of its national law, to determine the rights of individuals (people who suffer losses due to corruption) to be able to take action in the process of prosecution or lawsuits against the losses they have suffered. In addition, the state must also ensure that its national laws and regulations have established a mechanism that allows persons or bodies who suffer damage to initiate legal proceedings against people who commit acts of corruption.24 Thus, although the position of the victim in a criminal act of corruption based on the criminal justice system is still very weak, the victim has the right to apply for restitution or compensation if their social and economic rights are harmed by the occurrence of a criminal act of corruption.

C. Conclusion

Rights and Obligations of Victims in Corruption Crime at the Medan Corruption Court, namely according to the Law on Witness and Victim Protection provides five legal rights that can be used for legal protection to victims. First: the right to obtain security support facilities and legal assistance. Second: the right to medical assistance and psycho-social rehabilitation. Third: the right to apply for

22 Satya Arinanto & Nimik T, Memahami Hukum Dari Konstruksi Sampai Implementasi, Jakarta: Penerbit Rajawali Pers, (2009), p.138.
23 Badan Pembinaan Hukum Nasional (BPHN) Kementerian Hukum dan Hak Asasi Manusa Republik Indonesia, Op. Cit., p.38.
24 Lucinda A. Low, The Awakening Giant of Anticorruption Enforcement, makalah dalam Conference of the International Bar Association International Chamber of Commerce Organization for Economic Cooperation and Development, London: England, 4-5 Mei 2006, dalam Badan Pembinaan Hukum Nasional (BPHN) Kementerian Hukum dan Hak Asasi Manusa Republik Indonesia, Op. Cit., p.154.
compensation and restitution. Fourth: the right to testify in - absentia. Fifth: rights cannot be prosecuted before the law. And the obligations of victims, namely, among others: First: Obligation not to take justice into their own hands / take revenge against the perpetrator (acts of retaliation); Second: The obligation to seek prevention from possible recurrence of criminal acts; Third: The obligation to provide adequate information regarding the occurrence of crimes to the authorities; Fourth: The obligation not to make excessive demands on the perpetrator; Fifth: The obligation to be a witness for a crime that befell him, as long as it does not endanger the victim and his family; Sixth: The obligation to assist various interested parties in efforts to combat crime; Seventh; The obligation to be willing to be nurtured or develop oneself so as not to become a victim again. Based on the rights and obligations of victims, the declaration of basic principles of justice for victims of crime and abuse of power and the United Nations Convention Against Corruption (UNCAC) give the right to victims of corruption to file claims for compensation to the District Court if social rights are and the economy has been harmed by the perpetrators of corruption.

The position of the victim in the criminal act of corruption at the Medan Corruption Court is relatively disproportionate because the legal provisions still rely on protection for the perpetrator (offender oriented), where the victim in the criminal justice system is only a complement to a judicial process. This is because the current Criminal Procedure Code is more oriented towards perpetrators, which is referred to as the concept of retributive justice (retaliation). In cases of criminal acts of corruption, the position of the victims is less concerned because prosecution against corruption is still law enforcement against perpetrators of criminal acts of corruption. Although the position of the victim in a criminal act of corruption based on the criminal justice system is still very weak, however, the victim has the right to apply for restitution or compensation if his social and economic rights are harmed as a result of the criminal act of corruption.

References
Arief, Barda Nawawi. (2005). Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana. Bandung: PT. Citra Aditya Bakti.
Arinanto, Satya & Nini T. (2009). Memahami Hukum Dari Konstruksi Sampai Implementasi. Jakarta: Penerbit Rajawali Pers.
Atmasasmita, Romli. (1996). Sistem Peradilan Pidana, Persepektif Eksistensialisme dan Abolisionisme. Bandung: Putra Abadin.
Hasil Wawancara dengan Lili Pintauli Siregar, S.H. M.H, Komisioner Komisi Pemberantasan Korupsi, pada hari Jumat, 11 September 2019
Jaya, Nyoman Sarekat Putra. (2008). Beberapa Pemikiran ke arah Pengembangan Hukum Pidana. Bandung: Citra Aditya Bakti.
Kunarto. (1996). PBB Dan Pencegahan Kejahatan, Ikhtisar Implementasi Hak Asasi Manusia Dalam Penegakan Hukum. Jakarta: Cipta Manunggal.
Lubis, M. Solly. (2000). Politik dan Hukum di era Reformasi. Bandung: Mandar Maju.
Mas, Marwan. (2014). Pemberantasan Tindak Pidana Korupsi. Bogor: Ghalia Indonesia.
MK: "Pihak Ketiga yang Berkepentingan" Berhak Ajukan Praperadilan Mencakup Masyarakat Luas, September 20, 2019. Available online https://mkri.id/index.php?page=web.Berita&id=7962
Muhammad, Abdulkadir. (2004). Hukum dan Penelitian Hukum. Bandung: Citra Aditya Bakti.
Muladi & Barda Nawawi Arief. (2007). Muladi & Barda Nawawi Arief, Bunga Rampai Hukum Pidana. Bandung: Alumni.
Nugroho, Susanti Adi. (2010). Class Action dan Perbandingannya dengan Negara Lain. Jakarta: Kencana Prenada Media Group.
Republik Indonesia, Undang-Undang Nomor 13 Tahun 2006 tentang Perlindungan Saksi dan Korban. Republik Indonesia, Badan Pembinaan Hukum Nasional (BPHN) Kementerian Hukum dan Hak Asasi Manusia. (2013) “Laporan Akhir Tim Pengkajian Tentang Kompensasi Bagi Pihak Yang Menderita Kerugian Akibat Tindak Pidana Korupsi”, 14 November.
S, C. Maya Indah. (2014). Perlindungan Korban Suatu Perspektif Victimologi dan Kriminologi. Jakarta: Kencana.
Waluyo, Bambang. (2014). Victimologi: Perlindungan Korban & Saksi. Jakarta: Sinar Grafika.
Yulia, Rena. (2010). Victimologi: Perlindungan Hukum Terhadap Korban Kejahatan, Yogyakarta: Graha Ilmu.