

## **Juridical Analysis of Legal Protection From the Witness and Victim Protection Agency (LPSK)**

**Waliadin<sup>1\*</sup>, Liza Nofianti<sup>2</sup>**

<sup>1,2</sup>Faculty Of Law, University Of Sjakhyakirti Palembang, Indonesia.

Received: 13 April 2021, Accepted: 16 Juni 2021, Published: 01 Agustus 2021

---

### **ABSTRACT**

Law No. 31 of 2014 on witness and Victim Protection (Article 1) states that LPSK is an institution tasked and authorized to provide protection and other rights to witnesses and/or victims as stipulated in the law. And in Article 12 states LPSK is responsible for handling the provision of protection and assistance to witnesses and victims based on the duties and authorities as stipulated in the law. In certain circumstances, protection may be granted shortly after the application is submitted to LPSK. The factor of lack of socialization for people in the area is the weakness of LPSK's performance development, although currently in 2023 LPSK has stated that it has provided various channels, ranging from application applications available on Android, services via Whatsapp, email, letters.

**Keywords: Victims, Legal Protection, LPSK**

### **ABSTRAK**

Undang-Undang Nomor 31 Tahun 2014 tentang Perlindungan Saksi dan Korban (Pasal 1) menyebutkan bahwa LPSK merupakan lembaga yang bertugas dan berwenang untuk memberikan perlindungan dan hak-hak lain kepada Saksi dan/atau Korban sebagaimana diatur dalam Undang-Undang. Dan dalam pasal 12 menyebutkan LPSK bertanggung jawab untuk menangani pemberian perlindungan dan bantuan pada Saksi dan Korban berdasarkan tugas dan kewenangan sebagaimana diatur dalam Undang-Undang. Dalam keadaan tertentu, Perlindungan dapat diberikan sesaat setelah permohonan diajukan kepada LPSK. Adapun faktor kurangnya sosialisasi bagi masyarakat yang berada di daerah menjadi kelemahan berkembangnya kinerja LPSK, meskipun saat ini ditahun 2023 LPSK telah menyatakan bahwa telah menyediakan beragam kanal, mulai dari aplikasi permohonan yang tersedia di Android, layanan via Whatsapp, email, surat.

**Kata kunci: Korban, Perlindungan Hukum, LPSK**

---

*Author correspondence*

Email: [waliadin@unisti.ac.id](mailto:waliadin@unisti.ac.id)

Available online at <http://jurnal.unsyiah.ac.id/riwayat/>



## INTRODUCTION

Law No. 8 of 1981 on Criminal Procedure Law (KUHAP), which regulates the guarantee of equality for everyone before the law (*equality before the law*). In the material sense, a law is any written decision issued by an authorized official that contains rules of conduct of a general or binding nature, this is what is meant by legislation. (O.C. Callis 2002).

The importance of legal protection in Indonesia for every community is one of the reasons The government established a draft law regulating the legal protection of witnesses and victims' in Law No. 31 of 2014 on the protection of witnesses and victims, that the protection of witnesses and / or victims is all efforts to fulfill the rights and provide assistance to provide security to witnesses and / or victims that must be implemented by LPSK. With such a starting point, the criminal justice system should adjust, harmonize the quality and quantity of suffering and losses suffered by victims. (Liliik Mulyadi 2007).

Witness and Victim Protection Agency (LPSK) which was established based on Law No. 31 of 2014 on the protection of witnesses and victims, has a very important role in the framework of law enforcement and handling human rights violations, as stipulated in provisions of the law of the Republic of Indonesia number 31 of 2014 concerning the protection of witnesses and victims, Article 1 point (1) a witness is a person who can provide information for the sake of Investigation, investigation, prosecution and examination in a court hearing about a criminal case that he heard himself, he saw himself, and / or he experienced himself. Legal protection given to justice seekers, aims to provide legal certainty not only in the form of articles in the law, but

also the consistency of the judge's decision between the decision of one judge and the decision of another judge for similar cases that have been decided. (Peter Mahmud Marzuki 2008).

Victim protection in the context of still placing the interests of the victim as one of the absolute parts that are considered in the process of resolving criminal cases such as the victim allows to control a case that places itself as a victim that can make pretrial efforts, if a case is stopped investigation or prosecution. In addition, the Criminal Procedure Code also provides an opportunity for victims to file a claim for compensation combined with the criminal case concerned as the provisions of Article 98 to Article 101 of the Criminal Procedure Code.

The presence of the victim in the examination of criminal cases serves as a witness to testify in revealing crimes that are in the process of examination, both in the investigation stage, prosecution and examination in court proceedings. On the other hand, the victim's function in the criminal case process is to file a claim for compensation for the suffering and losses experienced as a result of the crime. Therefore, the government's steps in protecting witnesses and victims by passing the law of the Republic of Indonesia number 31 of 2014 on the protection of witnesses and victims, specifically in the law of the Republic of Indonesia number 31 of 2014 on the protection of witnesses and victims can be said to be a step forward in order to protect victims, and which has been laid in the preamble of the Constitution of 1945 to protect the entire nation of Indonesia and the entire Spilled Blood of Indonesia. In connection with the protection of victims of crime, it is necessary to establish a special institution to handle it concerning what rights are owned

by victims and their families, if in the future they experience loss or suffering as a result of the crime that happened to them. (Didik and Elisatris Gultom 2007).

Law of the Republic of Indonesia number 31 of 2014 concerning the protection of witnesses and victims (Article 1) states that LPSK, is an institution that is in charge and authorized to provide protection and other rights to witnesses and/or victims as stipulated in the law. And in Article 12, LPSK is responsible for handling the provision of protection and assistance to witnesses and victims based on the duties and authorities as stipulated in this law. Related to the role and function of LPSK, law enforcement is realized to avoid fragmentation, it is necessary to synchronize in law enforcement both substance, structure, and legal culture. (Muladi 1995).

## **RESEARCH METHODS**

This research method is important to obtain good research results and accurate information, therefore the authors conducted a study with the method normative juridical Law Research namely by examining the problems that arise in terms of law and-source comes from the legislation in force, legal theories and legal views as a basis. (Ammiruddin 2003).

### **Data Collection Techniques**

The collection of legal materials is carried out by identifying and inventorying legislation, researching library materials (writings and scientific works) and other sources of legal materials that have relevance to legal issues in research related to problems.

### **Data Analysis Techniques**

Data analysis used is a qualitative analysis used to examine the juridical aspects of normative through descriptive methods of analysis, which describes the picture of the data obtained and relate them to each other, to obtain a general conclusion (inductively).

### **Data Processing Techniques**

Data collected through data collection activities are processed through the processing and presentation of data by re-examining the data and then re-examined regarding the completeness, clarity, and correctness, so as to avoid deficiencies and errors. So that clarity can be obtained. Completeness and correctness of the answers to related problems.

## **DISCUSSION**

Legal protection of victims of crime and make legal efforts its existence is very important considering based on the study turned out empirik victim reaction to court decisions that are judged not in accordance with a sense of justice, protection of witnesses and victims including mechanisms and procedures and also regulates the basic duties and functions of the witness and Victim Protection Agency (LPSK). Witnesses and / or victims tend to be treated only as one piece of evidence, witnesses are always encouraged to speak in front of the court, while the victim who is usually used as a victim witness is only shown in front of the court to support the arguments of the Public Prosecutor. After that there is no adequate recovery effort to restore the position of witnesses and/or victims as before (Supriadi Widodo Eddyono 2005).



**Picture 1.** LPSK Performance in 2022  
(<https://lpsk.go.id/berita/deta-ilpers-release/3585>)

Legal protection is a form of service that must be provided by the government to provide security to every citizen. Substantially in criminal law enforcement both formally and materially with the aim of legal protection based on the principle of *Equality before the Law* in the legal system, there are several factors that determine the process of legal protection on one component will have an impact on other factors. (Satjipto Rahardjo 2009).

Criminal provisions regarding the legal protection of witnesses and victims, set out in the criminal provisions of Article 37 paragraph 1, Law of the Republic of Indonesia number 31 of 2014 on the protection of witnesses and victims, which stipulates that, “any person who imposes his will by using violence or certain means, which cause witnesses and/or victims not to obtain protection in the case of obtaining protection for the safety of his personal, family and property, and free from threats in respect of testimony that he will, is or has subsequently given the identity of the witness and the victim, obtaining a new identity, obtaining a temporary residence or obtaining a new residence, so that the witness and / or the victim do not give their testimony at any stage of the examination, shall be punished with imprisonment for a maximum of 5 (five) years and a maximum fine of Rp200, 000, 000.00 (two hundred million rupiah)”.

Criminal provisions of the law of the Republic of Indonesia number 31 year 2014 on the protection of witnesses and victims, Article 37 paragraph 2 states that, “any person who coerces the will to cause serious injury to witnesses and/or victims, shall be sentenced to imprisonment for a maximum of 7 (seven) years and a maximum fine of Rp500.000.000,00 (five hundred million rupiah). Criminal provisions of the law of the Republic of Indonesia No. 31 of 2014 concerning the protection of witnesses and victims, Article 37 paragraph 3 states that, “any person who commits coercion of Will resulting in the death of witnesses and / or victims, shall be punished with imprisonment for a maximum of life and a maximum fine of Rp500, 000, 000.00 (five hundred million rupiah)”.

Witnesses and/or victims who need protection to LPSK have an obligation to submit an application to LPSK so that they get protection from LPSK, in addition, witnesses and / or victims must meet the requirements specified by LPSK. However, from these requirements there are some provisions that are considered difficult to do by witnesses and / or victims who are in areas far from the capital city of Jakarta. Weaknesses LPSK regulated in the law of the Republic of Indonesia number 31 of 2014 on witness and Victim Protection become one of the causes of the decline in the performance of LPSK in carrying out their duties and authorities. In addition, the law of the Republic of Indonesia number 31 of 2014 on the protection of witnesses and victims has several things that are weaknesses, namely: it does not regulate how law enforcement provides protection to witnesses and victims, even to prosecutors and their own families, considering that both witnesses and victims and prosecutors in reality have difficulty securing themselves and his family. (Frans Hendra Winarta 2010).

Law of the Republic of Indonesia number 31 of 2014 on the protection of witnesses and victims, article 7A, paragraph 1, regulates the provisions regarding restitution which is part of the system of providing protection to witnesses and victims of criminal acts. Regarding the crime as intended regulated and determined by LPSK decision, restitution is compensation given to the victim or his family by the perpetrator or third party. Victims of criminal acts are entitled to restitution in the form. (Siswanto Sunarso 2012) :

- a. compensation for loss of wealth or income;
- b. compensation for losses incurred as a result of directly related suffering as a result of criminal acts; and / or
- c. reimbursement of medical and/or psychological treatment costs.

The protection of victims in the criminal justice process is certainly inseparable from the protection of victims according to the provisions of the applicable positive law. Law of the Republic of Indonesia number 31 of 2014 on witness and Victim Protection, Article 28 paragraph 1, letter (a,b,c & d) regulates the authority of LPSK protection against witnesses and / or victims is given with the following conditions :

- a. The importance of witnesses and / or victims;
- b. Threat level endangering witnesses and / or victims;
- c. The results of the medical or psychological team's analysis of witnesses and / or victims; and
- d. Track record of criminal acts ever committed by witnesses and / or victims.

In the embodiment of an abstract law, it must hold a variety of organizations that stand on their own essentially carry out the

same task, namely realizing the law or enforcing the law in society. Faktor-faktor yang mempengaruhi penegakan hukum dapat dirangkum ke dalam suatu sistem hukum (*legal system*) yang menurut Friedman meliputi substansi hukum (*legal substance*) struktur hukum (legal structure) dan budaya hukum (legal culture). These three things are components of the legal system that functions to move machines in a factory. (H.R. Abussalam and D.P.M. itompul 2007).

## CONCLUSION

The witness and Victim Protection Agency (LPSK), which was established under Law No. 31 of 2014 on witness and Victim Protection, has a very important role in law enforcement and handling human rights violations. In carrying out its duties, functions, and authority, protection of personal safety with respect to testimony which he will, is or has given, testifying without pressure and free from entangling questions". In certain circumstances, protection may be granted shortly after the application is submitted to LPSK. As for the other factors that are the weaknesses of the development of LPSK's performance is the lack of socialization for people in the area, although currently in 2023 LPSK has stated that it has provided various channels, ranging from application requests available on Android, services via Whatsapp, email, mail, or can come directly to our office, in East Jakarta.

## BIBLIOGRAPHY

- Abussalam, H.R. dan. Sitompul, D.P.M. (2007). Criminal Justice System. Great Blessing. Jakarta.
- Ammiruddin. (2003). Introduction To Legal Research Methods. Raja Grafindo Persada. Jakarta.
- Didik and Gultom, Elisatris. (2007). *urgency of the protection of victims of crime be-*

- tween the norm and reality. Raja Grafindo Persada. Jakarta.
- Eddyono, Supriadi, Widodo. (2005). Protection of witnesses and victims of gross human rights violations, ELSAM, Jakarta
- Hendra Winarta, Frans. (2010). Legal aid in Indonesia (the right to be accompanied by Legal Counsel for all citizens). PT Elex Media Komputindo. Jakarta.
- Kaligis, O.C. (2002). Sundries interesting case. Alumni. Bandung.
- Mulyadi, Lilik. (2007). *Capita Selecta Criminal Law, Criminology and victimology*. Djambatan. Jakarta.
- .Introduction To Legal Science. )Mahmud Marzuki, Peter. (2008 Kencana. Jakarta.
- Muladi. (1995). *Capita Selekt Criminal Justice System*. Diponegoro University. Semarang
- Rahardjo, Satjipto. (2009). Law Enforcement: A Sociological Review, Genta Publishing. Jakarta
- Sunarso, Siswanto. (2012). *Victimology in the criminal justice system*, Ray Grafiika. Jakarta.

## Legislation

- Basic norms or Basic Rules (Pancasila)  
Constitution Of The Republic Of Indonesia  
In 1945.
- Criminal Code (KUHP)
- Law No. 8 of 1981 on Criminal Procedure  
Law (statute book of the Republic of  
Indonesia of 1982 No. 76).
- Law No. 31 Of 2014 On The Protection Of  
Witnesses And Victims.