

Rights to Restitution of Victims of Criminal Actions According to Article 7 Section (1) Law Number 13 of 2006 Junction Law 31 of 2014 Concerning the Protection of Witnesses and Victims

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Abstract

Several research problems that need to be answered are as follows. First, can the granting of victims' restitution rights based on Article 7A paragraph 1 (one) of Law Number 31 of 2014 be carried out by the aims and objectives of the legal principle of "fair legal protection" as regulated in Article 28D paragraph (1) of the 1945 Constitution? Second, is it necessary to reconstruct the arrangement for granting restitution rights in Article 7A paragraph (1) of Law Number 31 of 2014 so that the legal principle of "fair legal protection" as referred to in Article 28D paragraph (1) of the 1945 Constitution can be realized in the Indonesian welfare law state? The research method used is the juridical-normative research method. The conclusions that can be put forward are as follows. First, the granting of restitution rights to victims of criminal acts based on Article 7A paragraph 1 (one) of Law Number 31 of 2014 cannot be carried out by the principle of "fair legal protection" in Article 28D paragraph (1) of the 1945 Constitution because of the legal vacuum regarding the perpetrators. Able to pay restitution. Second, the granting of restitution rights to victims must involve the state when there is a legal vacuum so that the principle of "fair legal protection" based on Article 28D paragraph (1) of the 1945 Constitution can be realized in the Indonesian criminal justice system and the Indonesian welfare law state.

Keywords

restitution rights; state social responsibility; state liability



I. Introduction

Indonesia is a democratic law country like the Netherlands, Belgium, and others. Article 1 paragraph (3) of the 1945 Constitution stipulates, "The State of Indonesia is a state of law." The consequences of Indonesia as a state of law lead to 2 (two) aspects, namely (1) limiting the power of the rulers and (2) protecting the rights of citizens and human rights. The constitution (UUD 1945) provides several forms of legal protection to citizens. First, the position of every citizen is equal in law and government (Article 27 paragraph (1) of the 1945 Constitution). Second, recognition and proper legal protection for every citizen (Article 28D paragraph (1) of the 1945 Constitution). The two forms of legal protection guaranteed by the constitution are general legal principles (legal principles). The legal principles in Article 28D paragraph (1) of the 1945 Constitution cannot be operationalized directly on cases (events). Consequently, legal principles need to be spelled out in in-laws to be more detailed and operational. The elaboration of legal principles in the law must not conflict with the contents of the legal principles.

One aspect of the principle of legal protection for citizens as an elaboration of one part of Article 28D paragraph (1) of the 1945 Constitution is the principle of "fair legal protection." The focus of adequate legal protection is the right of every citizen. The party

who is obliged to carry out "fair legal protection" is the government (the state) due to the state of Indonesia as a state of law. The proper legal protection that must be given to every citizen is part of the social responsibility of the state (government). Franz Magnis Suseno commented as follows "So, the social state does not only organize a school system, finance hospitals, and build traffic lanes, but also provides special facilities for underprivileged groups of society to help themselves." Compensation and compensation for witnesses and victims of criminal acts are part of special facilities that must be provided by the government (the state) as a consequence of the Indonesian welfare state law. Special facilities include everything needed to provide adequate legal protection. Hotmail P. Sibuea and Dwi Seno Wijanarko commented as follows "Agencies responsible for implementing "state social responsibility" in the reality of state life are borne on the "shoulders" of the government."

The principle of "fair legal protection" as regulated in Article 28 paragraph (1) of the 1945 Constitution as the constitutional basis of the Indonesian state is concreted in the form of legal protection for (a) witnesses to criminal acts and (b) victims of criminal acts. All legal and financial consequences must be given to witnesses and victims, such as security protection, and costs for witnesses and victims are the social responsibility of the state. Legal protection for witnesses and victims of criminal acts is further regulated in Law Number 13 of 2006 in conjunction with Law Number 31 of 2014 concerning Protection of Witnesses and Victims. The forms of legal protection for witnesses and victims as regulated by law are as follows. First, legal protection for witnesses and victims of criminal acts of a general nature as handled in Article 5 paragraph 1 (one) of Law Number 31 of 2014. Second, legal protection for victims of criminal acts of a specific nature is regulated in Article 7A, paragraph 1 (one) of Law Number 31 of 2014. As a form of legal protection, victims have the right to (1) compensation in cases of gross human rights violations and (2) restitution for other criminal acts that are the responsibility of the perpetrator of the crime. The focus of this paper is focused on the right of restitution for victims of criminal acts. However, granting restitution rights to non-criminal victims as an elaboration of the legal principle of "fair legal protection" cannot consistently be implemented due to several obstacles.

Since LPSK was formed, the number of victims who applied for the right of restitution has increased from year to year. In 2018 there were 41 (forty-one) defendants received the privilege of restitution for crime victims. In 2019, the victims of crimes who received the right of restitution were 125 (one hundred and twenty-five) respondents. In 2020, 194 (one hundred and ninety-four) defendants were the victims of criminal crimes who received the right of restitution. However, the number of victims who received the right of restitution is only a tiny part of the victims of crimes. The majority of victims still have not received the privilege of a refund for various reasons. One of the victims who did not get the right to restitution was Minardi. The victim is Minardi, a child under 13 (thirteen) years. The victim was raped by her stepfather, Sugiarto bin Suyoto. The victim was raped in the plantation area of a company in Menggala district, Lampung. The perpetrator was sentenced by the Menggala District Court (Lampung) to 12 (twelve) years in prison and cut off the prison term. The decision of the Menggala District Court, Lampung, only stipulates the punishment for the perpetrators of rape. However, the court did not mention Minardi's right to restitution. Martin did not get the privilege of restitution (compensation) which was the perpetrator's responsibility. The legal facts of the Minardi rape case are listed in the Menggala District Court Decision, Lampung Number 225/Pid.B/2008/PN.MGL.

Why did Minardi not get her rights as a victim of a crime? Some of the factors that prevent victims like Minarti from getting restitution rights are as follows. First, victims do not know their rights, namely the right to restitution. Suppose the victim knows the right to reimbursement as regulated in Article 7A paragraph 1 (one) of Law Number 31 of 2014. In that case, other factors make the victim not intend to apply for restitution rights to LPSK. Second, the requirements and procedures for obtaining compensation are convoluted, causing the victim confusion. Third, the court's decision that imposes the perpetrator to pay restitution does not have the power to bind and coerce the perpetrator. Fourth, the perpetrators of criminal acts cannot pay restitution. If the perpetrator of the crime cannot pay restitution, will the victim receive the right to reimbursement? Who is responsible for paying the right of restitution so that adequate legal protection in the constitution can be realized in the Indonesian welfare law state?

Formulation of the Problem

Several problems can be identified in connection with the explanation and legal facts above. Some of the research problems are as follows:

1. Can the granting of victims' restitution rights based on Article 7A paragraph 1 (one) of Law Number 31 of 2014 be carried out by the aims and objectives of the legal principle of "fair legal protection" as regulated in Article 28D paragraph (1) of the 1945 Constitution?
2. Is it necessary to reconstruct the arrangement for granting restitution rights as regulated in Article 7A paragraph (1) of Law Number 31 of 2014 so that the legal principle of "fair legal protection" as referred to in Article 28D paragraph (1) of the 1945 Constitution can be realized in the Indonesian welfare law state?

II. Research Method

The law is processed by legal reasoning (legal logic) using several interpretation methods. The research method used is the juridical-normative research method. The materials studied are legal materials consisting of legal norms (laws and regulations), books, journals, dissertations, theses, and others. Legal materials are divided into 3 (three) classifications, namely primary legal materials (laws and statutory regulations, secondary legal materials (books, journals, dissertations, theses), and tertiary legal materials (legal dictionaries, encyclopedias).

III. Results and Discussion

3.1 The Right to Restitution of Victims of Crimes Based on Law Number 13 of 2006 Junction Law Number 31 of 2014 as an Embodiment of the Legal Principles of Fair Legal Protection according to Article 28D paragraph (1) of the 1945 Constitution Law

The Indonesian constitution, namely the 1945 Constitution, provides several types of guarantees of legal protection to every citizen. One aspect of legal protection provided by the state is regulated in Article 28D paragraph (1) of the 1945 Constitution, namely (1) recognition, (2) guarantees, (3) protection, (4) fair legal certainty, and (5) equal treatment before the court. One aspect of legal protection discussed in this paper is the "guarantee of legal protection." The element of legal protection regulated in Article 28D paragraph (1) of the 1945 Constitution is "fair legal protection" for every citizen. Every citizen's adequate legal protection is joint in welfare law countries like Indonesia. As referred to in Article

28D paragraph (1) of the 1945 Constitution, Adequate legal protection is further elaborated in Law Number 13 of 2006 in conjunction with Law Number 31 of 2014 concerning Protection of Witnesses and Victims. Legal protection regulated in Law Number 13 of 2006 in conjunction with Law Number 31 of 2014 is legal protection relating to and relating to criminal acts given to witnesses and victims of criminal acts as the right of every Indonesian citizen.

Legal protection forms generally accepted for witnesses and victims are regulated in Article 5 paragraph (1) of Law Number 31 of 2014. Several types of legal protection for witnesses are (a) protection of personal security and (b) participation in selecting and determining the form of protection. And security support, (c) legal protection to provide information without pressure, (d) get an interpreter, (e) free from entangling questions, (f) get reimbursement for transportation costs, (g) get a new place of residence and others. These types of legal protection are given to witnesses and victims. However, in addition to general legal protection, Article 7A paragraph 1 (one) of Law Number 31 of 2014 regulates special protection for victims. Victims who receive special protection are (1) victims of gross human rights violations and (1) victims of criminal acts according to LPSK's considerations. Both types of legal protection have differences regarding the subject responsible for paying compensation or restitution. Compensation is the state's responsibility, while restitution is the responsibility of the perpetrator of the crime. Differences in issues of who is responsible for compensation or restitution to victims of criminal acts result in the ability or inability to provide compensation or restitution rights to victims.

In this paper, the legal protection discussed is legal protection related to and relating to the right of restitution for victims of criminal acts. In particular, Article 7A paragraph (1) of Law Number 31 of 2014 regulates the rights of victims of criminal acts, namely as follows "Victims of criminal acts have the right to receive restitution in the form of (a) compensation for loss of wealth or income, (b) compensation for losses caused by suffering directly related as a result of a criminal act; and (c) reimbursement of medical and psychological treatment costs." The elaboration of the provisions regarding the rights of victims' restitution is stated in Government Regulation Number 7 of 2018 concerning the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims. According to PP Number 7 of 2018, several compensation components can be given to victims of criminal acts. Some of the compensation components are (a) compensation for loss of property or income, (2) compensation for losses caused by suffering directly related to the crime, and (3) reimbursement for medical and psychological treatment costs.

An application for compensation is submitted by the victim, family, or legal representative of the victim. Applications can be submitted in 2 (two) ways, namely as follows. First, the request for restitution is submitted by LPSK to the public prosecutor in his claim before the court's decision has permanent legal force. Second, a request for restitution is submitted by LPSK to the court to obtain a determination after the court's decision has permanent legal force. However, the victim's right to restitution is not obtained due to several factors. Both types of procedures for applying for victim restitution have their respective weaknesses, resulting in the victim not getting their right to compensation. In such conditions, the restoration of victims' rights to their original state as a legal principle in the protection of a fair law in the Indonesian criminal justice system cannot be realized in reality. Whereas ". . . if there is a crime that brings the victim, then it becomes the state's responsibility in fulfilling the rights of the victim."

One of the factors that prevent the right of restitution from being granted to the victim is the financial capacity of the perpetrator who is unable to afford it. After the court determines reimbursement, the perpetrator of the crime is obliged to pay restitution to the victim. However, the perpetrator was unable to pay the restitution. Will the victim get the right to a refund if the perpetrator cannot pay the restitution? Of course, the victim can't obtain the freedom of reimbursement if the perpetrator cannot pay compensation. The laws and regulations governing the right of restitution, namely Law Number 31 of 2014 and Government Regulation Number 7 of 2018, do not regulate the conditions (conditions) if the perpetrator of a crime cannot pay the right of restitution. In the state where the perpetrator cannot pay the refund, there is a legal vacuum (wet vacuum). The emptiness of the law resulted in the application and granting of victims' restitution rights based on Law Number 13 of 2006 in conjunction with Law Number 31 of 2014. Government Regulation Number 7 of 2018 could not be realized in reality. This means that the laws and regulations governing the right of restitution do not benefit the victim if the perpetrator is unable to pay the restitution. As a result, the victim of a crime will never get a refund (compensation) even though the victim applies the LPSK and the court stipulates the obligation of the perpetrator to pay restitution. Losses for loss of wealth or income, losses caused by suffering directly related to criminal acts, and medical and psychological treatment costs will never be obtained by the victim if the perpetrator cannot pay restitution. The criminal justice system is "lame or disabled" because it cannot function to maintain a balance in protecting the rights of citizens and especially the balance in protecting the rights of victims and the rights of perpetrators.

Suppose the perpetrator is unable to pay restitution. In that case, victims such as Minardi and other victims that may occur in the future will never receive "fair legal protection" from the Indonesian criminal justice system that does not side with the victim. Victims will experience double jeopardy if their rights as victims are not guaranteed and protected by the Indonesian criminal justice system. The principle of "fair legal protection" in Article 28D paragraph (1) of the 1945 Constitution places a "burden of obligation on the state" to provide adequate legal protection to every citizen and victim of a crime. Victims who do not get the right of restitution because the perpetrator is unable to pay imply the impartiality of the Indonesian criminal justice system to the victim. The weakness of the Indonesian criminal justice system also reflects the fault of the Indonesian nation's legal protection system. The criminal justice system's disadvantage shows that the criminal justice system and the criminal law protection system are not sensitive (unresponsive) to the rights of victims. This insensitivity can also be seen as the impartiality of the two systems towards the weak and poor victims. As a result, the legal principle (principle) of restitution in integrum cannot be implemented. However, only shadows of hope and grandiose slogans that are not "grounded" do not touch the needs of the victims. The principle of restoration to its original state (restitution in integrum) as the basis for the two ideal systems is not beneficial for victims who do not receive refunds. Legal protection for victims to get a reimbursement is an integral part of social rights in the welfare sector and a social security system that the government must carry out (state). The principle of proper legal protection for every citizen and the victim cannot be realized in the reality of social, national, and state life as required by Article 28D paragraph (1) of the 1945 Constitution. In the end, the purpose of the criminal justice system is to protect the community and enforce the law. Achieved.

3.2 Construction of the Regulation of Victims' Restitution Rights Based on Article 7A paragraph (1) of Law Number 31 of 2014 in the Framework of Fair Legal Protection for Victims of Criminal Acts as referred to in Article 28D paragraph (1) of the 1945 Constitution in the Indonesian Welfare Law State

a. Reconstruction of Article 7A paragraph 1 (one) of Law Number 31 of 2014 to Prevent Law Vacancies (wet vacuum) and Fair Legal Protection for Victims of Crime

Legal voids are an essential issue in legal research. Legal problems that prevent victims of criminal acts from getting the right to restitution as regulated in Article 7A paragraph 1 (one) of Law Number 31 of 2014 because the perpetrator cannot pay restitution have been discussed in the first part. These legal facts prove the vacuum of law (wet vacuum) in the Indonesian criminal justice system and the legal protection system for citizens. The reasons for the legal vacuum as an essential issue in legal research are as follows. The void of the law always has the potential to cause harm to certain parties, which can be avoided. Potential losses need not occur if there is no legal vacuum. Potential losses for certain parties also do not need to occur if the legislators have accuracy and prudence when forming laws. On the other hand, a legal vacuum also does not need to occur if the activities of legislators are faster than the development of society. With thoroughness and sense, the rules created by the legislature will be able to anticipate trends in changes and developments in social phenomena, such as a legal vacuum in granting restitution rights. However, one of the "natural defects" of the law is its weakness and its slowness in following the development of society.

Of course, there is no legal vacuum in the Indonesian criminal justice system and legal protection system in the future. No more victims of criminal acts suffer double jeopardy. Victims are raped, and their rights cannot be obtained because of a legal vacuum. The main questions that need to be raised are about the legal vacuum in the criminal justice system and the legal protection system for the rights of victims of crime. Who is responsible (responsible for) paying the victim's restitution if the perpetrator of the crime is unable to pay the restitution? Suppose the perpetrator of a crime cannot pay restitution, and there is no party responsible for the refund. In that case, the victim will become a "victim" of the criminal justice system that cannot protect the victim's rights. Who is accountable (responsibility) for paying the victim's restitution so that law enforcement, based on the legal principle of "just legal protection," reaches a balance (equality) point between the legal protection of the victim's rights and the perpetrator's rights? Who is responsible (responsible) for paying victim restitution so that the principle of "fair legal protection" as referred to in Article 28D paragraph 1 (one) of the 1945 Constitution can be realized in the Indonesian criminal justice system in the Indonesian welfare law state? What efforts need to be made so that there is no legal vacuum (wet vacuum) in granting victims' restitution rights in the future so that legal protection of victims' rights can be concreted in reality?

Some of the questions above lead to efforts to reorganize victims' restitution rights so that there is no legal vacuum that results in victims' rights. To answer the questions above, the author can put forward the following ideas. Efforts to reorganize legal protection for victims' rights as regulated in Article 7A, paragraph 1 (one) of Law Number 31 of 2014 need to be carried out immediately so that there is no legal vacuum. Re-arrangement of the protection of victims' rights needs to be done directly so that victims' rights get better legal guardians in the Indonesian criminal justice system, which still needs to be perfected. Aspects of Law Number 31 of 2014 need to be amended depending on its focus and priorities. First, Law Number 31 of 2014 can be amended to add articles to prevent a void in the law in fulfilling the rights of victims' restitution. Second, Law Number 31 of 2014

can be amended to change the requirements for restitution rights so that they are more straightforward so that victims do not need to be subjected to the additional burden of handling heavy requirements and complicated procedures. In this paper, the subject of discussion is the amendment of Law Number 31 of 2014 relating to the right to restitution to prevent a legal vacuum.

Indonesian criminal law and the legal protection system for citizens. The first action that must be taken to prevent a void in the law so that the granting of the victim's right to restitution can be granted even though the perpetrator cannot pay restitution is the reconstruction of Law Number 31 of 2014. The articles governing the right of refund in Law Number 13 of 2006 in conjunction with Law Number 31 of 2014 need to be reconstructed to prevent a void in the law. In particular, the articles that need to be rebuilt are Article 7A paragraph (1) of Law Number 31 of 2014. Article 7A paragraph (1) of Law Number 31 of 2014 needs to be reconstructed because there is a balance in regulating victims' rights and perpetrators of criminal acts in the justice system. The reconstruction of the regulation of victims' restitution rights aims to balance the protection of the community's human rights, victims, and perpetrators of criminal acts. Consequently, victims of criminal acts receive adequate legal protection as Indonesian citizens. In the Indonesian criminal justice system, as required by Article 28A paragraph 1 (one) of the 1945 Constitution, legal recognition and protection of the rights of citizens and human rights, including legal protection of the rights of victims and perpetrators of criminal acts, must receive a flat portion and attention. Equality). However, the balance of legal protection arrangements for the rights of victims and perpetrators of criminal acts is not contained in Law Number 31 of 2014. The reason is that the void in the law occurs because Law Number 31 of 2014 does not regulate the conditions or circumstances if the perpetrator of a crime is unable to pay the victim's restitution. . In the requirements as stated above, the victim does not get their rights because the law does not provide a "way out" when there is a "stalemate" due to the perpetrator being unable to pay restitution.

b. Social Responsibility of the State in Fulfilling the Right of Restitution for Victims of Crime Based on the Principle of Responsibility (State Liability)

Efforts to reconstruct Article 7A paragraph 1 (one) of Law Number 31 of 2014 can be started by exploring the main ideas regarding the nature and characteristics of the Indonesian state as a welfare state. The Indonesian welfare law state aims to provide social welfare for all Indonesian people. Social welfare contains a broad understanding and scope covering the material and spiritual aspects of the life of the Indonesian people in various fields of life. Efforts to implement social welfare for all Indonesian people are the state's burden (government). Consequently, the government's duties are not limited to tasks regulated in-laws and regulations based on legality. The scope of government duties covers all not regulated functions in-laws and regulations. The content of the government's commitments includes all matters relating to the needs or interests of the Indonesian people, which are regulated and not regulated by law and can arise at any time and immediately by community developments such as when natural disasters occur, such as floods, tsunamis, and others.

The consequences of the Indonesian rule of law aim to implement social justice for all Indonesian people and give birth to state social responsibility, namely the responsibility to organize social welfare for all Indonesian people. The state (government) has a social responsibility to realize and implement social justice for all Indonesian people in the reality of life in society, nation, and form. The state (government) bears the "burden" of social responsibility as a consequence of the rule of law, which makes the state (government)

responsible for all the products of every action taken by the state (government). The form (government) also bears social responsibility for all consequences arising from immediate circumstances that are not planned and regulated by laws or regulations, such as natural disasters such as floods, earthquakes, tsunamis, etc. The state also bears the burden of responsibility regarding the actions of citizens that cause harm to other parties, such as the pollution experienced by neighboring Singapore as a result of forest burning by Indonesian citizens. Losses suffered by neighboring Singapore due to forest or land burning by citizens are the absolute responsibility or responsibility of the state (government). The form (government) is obliged to bear responsibility for actions that are not carried out by the state but by citizens like parents who are responsible for the actions of their children. Like parents who are responsible for the actions of their children, the presence of the state in the example presented above is the embodiment of the social responsibility of the Indonesian state (government) as a legal welfare state in the reality of social, national, and state life.

In regulating victims' rights, especially the rights of restitution and the rights of perpetrators, which are held in laws and regulations, the state needs to be present and demonstrate the realization of its social responsibility as a legal welfare state. The presence of the state fills the legal vacuum to provide restitution to victims if the perpetrator is unable to pay restitution, like parents who bear responsibility for the actions of their children. The state's presence aims to create a balance point of adequate legal protection for victims' rights, especially the rights of victims' restitution. The consequences of the company of the state filling the legal vacuum in granting the right of restitution to victims if the perpetrator is unable to do so can be done by adopting absolute responsibility known in civil law. The theory of fundamental responsibility known in civil law can be applied in granting the right of restitution to victims of criminal acts based on and guided by the principle of "fair legal protection" for every citizen as required by Article 28A paragraph 1 (one) of the 1945 Constitution. Adoption of the theory of absolute responsibility Civil law in granting victims' restitution rights for the sake of "fair legal protection" for all and every citizen can be carried out if viewed from the point of view of the state's (government) social duties and responsibilities to administer social justice for all Indonesian people as the goal of the Indonesian state (nation).

In the context of the Indonesian state as a legal welfare state, the state must be present to carry out all the needs and or interests of every person and people of Indonesia. In particular, the legal vacuum enhanced by the state's presence embodies the state's social responsibility based on the principle of "good parents," as stated above. Perpetrators of criminal acts who cannot pay the victim's restitution rights can be "liked" as "naughty children who have not been able to take responsibility for their actions." In the context of social, national, and state life in a welfare law state guided by the ideals of the Pancasila law, the state (government) is like a "parent" for all Indonesians and citizens. If an Indonesian citizen bears the obligation to pay a sum of money or debt due to his actions in criminal law, that citizen must carry out his obligations. However, suppose the citizen cannot carry out his duties. In that case, the state must be present based on social responsibility and accountability of the state to every element of the nation and citizens of Indonesia. The presence and commitment of the state to pay the restitution rights of victims are taken over by the state based on the principle of absolute responsibility as in civil law.

From a legal point of view, the Indonesian state is an organization of the Indonesian nation that unites and realizes the state's goal of social justice for all Indonesian people. Social justice is a phrase that contains a broad understanding covering material and

spiritual aspects and various fields of life. The phrase social justice is a phrase that reflects the ideals of the Indonesian nation, which is a source of motivation and, at the same time, the star of the Indonesian nation's travel guide. Motivation comes from the Latin word *move* which means drive or driving force (Purba and Sudibjo, 2020). As a state goal, social justice serves as a guiding star that guides the journey of the Indonesian government towards a better future. As the goal of the state (nation), social justice also functions as an ideal type of state to be achieved by the Indonesian country in the future. However, social justice places a heavy social responsibility on the shoulders of the state (government). The government (state) burdens organizing social welfare, which gives birth to state social responsibility (government) with an unlimited scope of national life. One of the embodiments of the government's (state) social responsibility in the legal field is the social responsibility of paying the restitution rights of the victims of a crime if the perpetrator cannot pay the restitution rights.

IV. Conclusion

By the explanation stated above, several conclusions can be made. Some of the findings put forward are as follows:

- a. The granting of restitution rights to victims of criminal acts based on Article 7A paragraph 1 (one) of Law Number 31 of 2014 cannot be carried out by the principle of "fair legal protection" as regulated in Article 28D paragraph (1) of the 1945 Constitution due to a legal vacuum in terms of the perpetrator is unable to pay restitution.
- b. The granting of restitution rights to victims must involve the state when there is a legal vacuum so that the principle of "fair legal protection" based on Article 28D paragraph (1) of the 1945 Constitution can be realized in the Indonesian criminal justice system and the Indonesian welfare law state.

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