

## **LEGAL PROTECTION POLICY FOR WITNESSES IN THE CRIMINAL JURISDICTION PROCESS**

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**Abstract.** In writing this scientific paper, the main focus is how a criminal justice process in effect in Indonesia, as regulated in the Criminal Procedure Code (CPC) has accommodated witness protection issues. The birth of the Witness Protection Law, as well as the author's observations on the criminal court process, have become concepts of thinking about the importance and need for witness protection in the criminal justice process. The problems in this scientific paper are how the legal formulation of witness protection in the criminal justice process, how the implementation of legal protection policies for witnesses in the criminal justice process, and how the legal formulation policies regarding witness protection in the criminal justice process in the future. On the basis of these observations, research was carried out by selecting the type of descriptive analytical research. The formulation of the witness protection law is a phenomenon of Indonesian criminal procedural law as a sub-system of criminal justice, where enforcement always intersects with law enforcers. In enforcing the law in the protection of witnesses, it was found that witnesses often did not receive legal protection and were even made suspects. Thus in the policy formulation of law regarding witness protection in the future, it is necessary to harmonize the law, both the Criminal Code, the Criminal Procedure Code which is formed in one legal system, so as to facilitate the implementation of the law. The witness and victim protection law is the nation's newest work in the development of Indonesian criminal law which has inspired a legal ideal that protects all human rights. the Indonesian nation, especially the rights of witnesses and victims in the criminal justice process. Thus witness protection law is a guideline in formulating criminal law in a standard legal system, namely in a legal formulation of the Indonesian criminal justice system.

**Keywords: criminal justice process, witness protection.**

### **1. Introduction**

In the process of disclosing a criminal case starting from the investigation stage to the verification at trial, the existence and role of witnesses is highly expected. It has even become a determining factor and success in disclosing the criminal case concerned. Without the presence and role of witnesses, it is certain that a case will become "DARK NUMBER" considering that in the prevailing

legal system in Indonesia, the reference for law enforcers is TESTIMONY which can only be obtained from witnesses or experts. In contrast to the legal system prevailing in America which prioritizes "SILENT EVIDENCE" (evidence). Understanding the importance of the position of a witness (including an expert), lawmakers have actually thought about the need to provide protection for witnesses, for example in article 34 of Law Number 26 of 2000 concerning Human Rights Courts, it is stated as follows:

Article 34: 1. Every victim and witness in a gross violation of human rights has the right to physical and mental protection from threats, harassment, terror and violence from any party. 2. Protection as referred to in paragraph (1) must be implemented by law enforcers and security forces free of charge. 3. Provisions regarding procedures for protection of victims and witnesses shall be further regulated by Government Regulations.

Furthermore, the provisions contained in Article 34 of Law Number 26 of 2000 are further elaborated in Government Regulation Number 2 of 2002 concerning Procedures for the Protection of Victims and Witnesses in Serious Human Rights Violations, which in more detail regulates the following matters:

Article 4: Protection of victims or witnesses in gross human rights violations, including: a) Protection of the personal safety of victims or witnesses from physical and mental threats; b) Confidentiality of the identity of the victim or witness; c) Providing information during examination in court without meeting the suspect face to face.

Protection of witnesses in a criminal justice process is actually a manifestation of Human Rights Issues which are currently international issues and are a very prominent topic of discussion. This requires serious attention, because the dimensions of its influence in international and national life are very large.

The state of Indonesia as a rule of law also needs to understand the world situation which has begun to pay more attention to human rights, so that in the reform era a large agenda demands a change in the order of life in the nation and state. One of the changes that stands out is the protection of citizens' rights in relation to Human Rights itself.

In the protection of human rights, there have been many protections that have been clearly and firmly regulated in a statutory regulation such as those stipulated in the law on child protection, women's protection, domestic violence and so on, which only then is that witness protection is almost forgotten on the reform agenda. This proves that there is discrimination in legal protection, especially considering the process of the birth of the Witness Protection Law itself which was delayed for five years.

One of the legal means of evidence in the criminal justice process is the testimony of witnesses and/or victims who have heard, seen, or personally experienced the occurrence of a criminal act in an effort to seek and find clarity about the criminal act committed by the criminal act. Law enforcers in seeking and finding clarity about criminal acts committed by criminal offenders often experience difficulties because they are unable to present witnesses and/or victims due to threats, both physical and psychological from certain parties. In this regard,

it is necessary to provide protection for witnesses and / or victims whose existence is very important in the criminal justice process.

The problem that is sometimes encountered in the criminal justice process is, in the practice of criminal cases, sometimes a person who is confronted at trial is the only witness. Whereas in criminal justice the principle of *unus testis nulus testis* applies, which means that one witness is not a witness, so if it is not supported by other evidence, the judge's decision will be in the form of a decision that is free from all charges.

The position of witnesses in the criminal justice process occupies a key position, as seen in Article 184 of the Criminal Procedure Code. As the main evidence, of course the impact can be felt if witnesses are not found in a case. The importance of the position of witnesses in the criminal justice process has started since the beginning of the criminal justice process. It must be admitted that the disclosure of cases of legal violations is largely based on information from the public. Likewise in the subsequent process, at the level of the prosecutor's office until finally at the court, the testimony of witnesses as the main evidence becomes the judge's reference in determining whether the defendant is guilty or not. So it is clear that witnesses have a very large contribution in the effort to uphold law and justice.

Such an important position of the witness seems far removed from the attention of the public and law enforcers. It turns out that this attitude is in line with the attitude of the legislators, which did not specifically provide protection, to witnesses and victims in the form of granting a number of rights, such as those of the suspect/defendant. In the Criminal Procedure Code, as a provision of criminal proceeding law in Indonesia, a suspect / defendant has a number of rights which are regulated in a firm and detailed manner in a separate chapter. On the other hand, for witnesses including victim witnesses, there are only a few articles in the Criminal Procedure Code that give rights to witnesses, but their giving is always linked to the suspect/defendant. So the rights of the witness are less than the rights of the suspect/defendant.

The interest or right of witnesses protected in the Criminal Procedure Code is only one article, namely Article 229, so that in practice there is a disappointing thing, namely where the witness's right to reimburse costs after attending the summons in the judicial process cannot be fully implemented on the classical grounds, namely no funds.

The condition of the witnesses, including the victims who are in a weak position, is precisely the Criminal Procedure Code and even threatens punishment if the witness does not come to provide information after receiving a summons from law enforcement. Furthermore, the Criminal Procedure Code requires witnesses to take an oath and promise before giving a statement. The objective is that the witness can give testimony seriously with what he knows, whether seen, heard or experienced by the witness. Talking about obligations in law, of course, is closely related to human rights, in this case the rights of witnesses, thus the law provides rights for witnesses in the form of protection for the witnesses themselves.

Furthermore, it can be explained that while witnesses as members of the community, as well as victims, are parties whose interests are harmed, because they have been represented by the state, which acts as executor of the legal process, it is deemed that they no longer need to have a number of rights that provide protection for them in the judicial process. In fact, if we look closely in reality, the witness's condition is not much different from the suspect/defendant, they both need protection, because: 1. For witnesses (especially those who are legal laymen), giving testimony is not an easy thing. 2. If the information given is found to be untrue, there is a criminal threat for him because he is considered to be under perjury. 3. The information given will allow him to receive threats, terror, intimidation from the injured party. 4. Provide information about wasting time and costs. 5. Law enforcement officials often treat witnesses like a suspect/defendant.

With the description above, of course there is a dilemma for witnesses at this time, on the one hand they must fulfill their obligations, but on the other hand their rights are not fulfilled and are even harmed by the interests of examination in every criminal justice process. Damage suffered by witnesses is a right that is violated by law, because sometimes it is not just the right to cost but more than that it is the right not to get a good threat. physically and mentally, so that under such circumstances it is not uncommon for witnesses to object to providing information or testimony in the criminal justice process.

Based on the research title, namely "Legal Protection Policy for Witnesses in the Criminal Justice Process", in this study the problems to be examined are: a. How is the legal formulation of witness protection in the criminal justice process? b. How is the implementation of legal protection policies for witnesses in the criminal justice process? c. What is the policy formulation of law regarding witness protection in the criminal justice process in the future?

Based on these problems, the objectives of this study are: a. This is to find out the legal formulation for witness protection in the criminal justice process. b. This is to determine the implementation of legal protection policies for witnesses in criminal justice processes. c. To analyze the policy formulation of law on witness protection in future criminal justice processes.

## **2. Literature Review**

Evidence is part of stating that the phrase electronic criminal case examination information and/or electronic documents has a very important role, this is in Article 5 paragraph (1) and paragraph (2) and is related to the judge's conviction in Article 44 letter b of the Law. ITE issues a decision that is contrary to law on at least two pieces of evidence. The basic procedural law of the Republic of Indonesia The criminal year regulates a minimum of two 1945 and does not have the strength of evidence based on binding legal convictions, as long as the judge does not make a decision, which is interpreted in particular the phrase Information is regulated in Article 183 of the Electronic Law and/or electronic documents. Number 8 of 1981 concerning Law as evidence is carried out in the framework of Criminal Procedure (hereinafter referred to as law enforcement at the request of the Criminal Procedure Code) .1 Furthermore, regarding the tools of

the police, prosecutors and/or institutions of evidence in criminal procedural law, other law enforcers as stipulated in Article 184 paragraph (1) Criminal Procedure Code based on law as stated that the valid evidence is determined in Article 31 paragraph (3) witness statements, expert statements, letters, ITE Law. Instructions and descriptions. Furthermore, in the defendant's decision, the development of the criminal act of the Constitutional Court Number 20/PUU which goes hand in hand with the development of XIV/2016, also states that the phrase science and technology already electronic information and/or documents should be followed by electronic renewal in Article 26A of the legal instruments [1].

A witness is someone who hears, sees and experiences for himself something that happened. This witness plays an important role in revealing a problem that occurs, including legal issues. In Law Number 8 of 1981 concerning the Criminal Procedure Code (hereinafter abbreviated as CPC), Article 1 point 26 states: A witness is a person who can provide information for the purposes of investigation, prosecution and trial regarding a criminal case that he or she hear for yourself, he saw for himself and he experienced it himself [2].

The commitment of the state to protect its citizens, including children, can be found in the preamble of the 1945 Constitution. This is reflected in the sentence: "... Then from that to form an Indonesian government that protects the whole Indonesian nation and all the blood. Indonesia and in order to advance the general welfare, to make national life independent, and to take part in implementing world order based on independence, eternal peace and social justice, national independence is compiled... ". The state's juridical commitment to protect its citizens, which is mentioned in the fourth paragraph, is further described in Chapter X A on Human Rights (HAM). Especially for legal protection for children, Article 28 B paragraph (2) of the 1945 Constitution states: "Every child has the right to live, grow and develop and has the right to protection from violence and discrimination. The rights stated in Article 28 are of course not only the monopoly of adults, but also of children [3].

The victim is the loser as a result of a mandatory criminal act get compensation, one of which is in the form of restitution. Restitution was granted victims to reduce the victim's suffering as a result of a criminal act committed by behavior, Regarding this restitution has also been regulated in Law Number 31 Year 2014 concerning Protection of Witnesses and Victims. Effectiveness related to providing restitution for victims of these crimes are also a form of state responsibility as an effort to protect its citizens. This study aims to analyze the effectiveness of giving restitution to victims of crime and analyze the obstacles faced by the Institution Protection of Witnesses and Victims (IPWV) in the implementation of providing restitution based on Law Number 31 of 2014 concerning Witness Protection and Victim. Based on the research results, it is known that the provision of restitution for victims This criminal act is said to be effective, up to the process of granting restitution from the perpetrator to the victim, but regarding how it is given as well as the monitoring carried out by IPWV to victims after receiving restitution, it is said to be less effective, because there is no data related to this. Then, related to the obstacles faced by IPWV in facilitating the provision of assistance to victims of criminal acts are due to lack of



human resources and the lack of it budget in the process of facilitating the provision of restitution [4].

In comparison with national laws regarding protection against whistleblowers, in Article 10 paragraph (1) and (2) of Law Number 31 of 2014 concerning Protection of Witnesses and Victims set as the following, "Article 10 paragraph 1 Witnesses, Victims, Witnesses Offenders, and/or Reporters cannot be prosecuted legally, either criminal or civil testimony and/or reports that will be, are being, or have been given, except the testimony or report was given not in good faith well. Paragraph 2, namely in the event that there is a lawsuit against a Witness, Victims, Witnesses and/or Reporters for their testimonies and/or reports that will, is, or has been given, the legal claim must be postponed until the case he reports or testifies has been decided by the court and has obtained permanent legal force [5].

In the process of law enforcement, especially criminal justice in Indonesia, evidence of witness testimony is one of the very decisive evidence to find material truth in something criminal acts, therefore the importance of protecting witnesses and victims in the judicial process. It needs serious attention, the birth of the witness and victim protection law has not fully address the issue of witness protection itself. The birth of the protection law witnesses and victims are considered very important in the framework of protecting witnesses and victims of their rights the individual. The formulation of the law on witness and victim protection is a phenomenon of procedural law criminal justice as a subsystem of criminal justice, where enforcement always intersects with law enforcers. Law enforcement in the protection of witnesses and victims, in the process it was found that witnesses were often denied legal protection and were even made suspect. This is the case in the legal formulation regarding the protection of witnesses and victims in the future legal harmonization is needed, be it the Criminal Code, the Code of Law Criminal Procedure which is formed in a legal system, making it easier to implement the law. The witness and victim protection law is the nation's newest work in legal development Indonesian criminal law which inspires a legal ideal that protects the human rights of all Indonesian people, especially the rights of witnesses and victims in the criminal justice process. Thus the law of protection witnesses and victims are guidelines in formulating criminal law in a legal system which is standard, namely in a legal formulation of the Indonesian criminal justice system [6].

Starting from the above ideas, for the National Police Republic of Indonesia (NPRI) as regulated in Law Number 8 1981 concerning the Criminal Procedure Code (CPC) with the term action put forward the typical duties of the National Police serve as the main investigator Criminal Justice Criminal Procedure Code The system must be integrated and capable of performing to be able to protect and take sides to victims of sexual violence in household that will create justice especially for women and child where expected order process law enforcement works accordingly Legislative, so what is be the hope of the community implemented by the Police in accordance with his job is as protector, protector and servant for his upright statutory provisions. In line with the duties and functions of the Police then the Chief of the State Police Republic of Indonesia

has issued the Chief of Police Regulation Number 10 of 2007 concerning Organization and Work Procedure for the Women's Service Unit and Children in the neighborhood Police. The Organization and Work Procedure for the Women's Service Unit and Children is in charge of providing services in the form of protection against women and children who are become victims of crime and law enforcement against women and children who are the perpetrators criminal [7].

In law enforcement corruption, the role of the witness in every corruption law cases has a very large role and significant in uncovering cases the case that happened. The judge of course will have points of view and references wider to get various kinds of evidence that can used to ensnare the suspects and defendants. Often in the trial, these witnesses feel threatened for his safety as well as those closest to him if they exposed the facts they see and who they are know. Especially when that was the case happens involving a great man have power and have that financial strength strong [8].

Article 184 of Law Number 8 of 1981 concerning Criminal Procedure Law, in which various kinds of evidence are valid in the criminal justice process, namely witness statements, expert statements, letters, instructions and preached statements. Article 185 of Law Number 8 of 1981 concerning Criminal Procedure Law relating to the testimony of witnesses and/or victims who heard, saw or experienced the occurrence of a criminal act themselves and its existence is useful for seeking and finding clarity on the criminal act committed by the criminal act. In connection with the allegation that a criminal act has occurred, the presence of witnesses and victims as well as complainants/complainants requires regulation because so far they have prioritized the interests of the suspect, defendant and convicted person [9].

The definition of a welfare state or welfare state cannot be separated from the concept of welfare itself, the meaning of welfare contains at least 4 meanings: as well being; as social services; as social benefits; and as a planned process carried out by individuals, social institutions, communities and government bodies to improve the quality of life through the provision of social services and social benefits [10].

The legal problems in this research are in accordance with the provisions of Article 184 paragraph (1) In the Criminal Procedure Code, Closed Circuit Television recordings of the occurrence of a criminal act or crime do not have legality or illegitimate, so that in general courts it cannot be used as evidence, because in Article 184 Paragraph (1) of the Criminal Procedure Code, legally limited evidence has been stipulated. so that the video recordings are only used as a complement to other evidence or evidence instructions, which the judge's strength assessment shall be carried out as explained by Article 188 of the Criminal Procedure Code. In other words, Closed Circuit Television footage was basically non-filable as evidence based on Article 184 paragraph (1) of the Criminal Procedure Code, and there are no regulations regarding the legality of the print or print out as evidence or the procedure for submitting evidence in the form of electronic information. Thus, for general crimes there is no direct regulation specifically regarding the validity of the Closed Circuit Television recordings as one of the evidence [11].

### **3. Methods**

#### *3.1. Approach and Type of Research*

##### **1. Approach Method**

The main problems in this research include the problem of the Criminal Justice System with the main issues regarding legal protection for witnesses in the criminal justice process, which is oriented towards the policy of the criminal justice system. Therefore, the approach cannot be separated from legal research in the sense of statutory regulations. Thus this research will have consequences for the use of a normative juridical approach.

##### **2. Type of Research**

This research is descriptive analytical, which provides an overview of legal protection for witnesses in the criminal justice process and analyzes these issues carefully and objectively.

#### *3.2. Management of Role as Researcher*

The target of this research is research aimed at policy issues in determining and formulating legal protection for witnesses in the criminal justice process, so the approach uses a normative juridical approach. Therefore, the role of the researcher is the participant observer, where the participation of the researcher is more focused on observing the normative juridical basis that regulates legal protection for witnesses in the criminal justice process.

#### *3.3. Research Location*

This research focuses on the legislative policies that have been stated in the law, as well as the implementation and application of these laws by the judiciary, so to facilitate this research, researchers limit the location of the research to the Baubau Class II A District Court.

#### *3.4. Types and Sources of Data*

The type of data in this study is secondary data, regarding laws and regulations and other supporting documents that can be obtained from literature sources on legal theories and opinions of legal experts. as stated by Indah Kusuma dewi, Hardin and Faais Mufaasir Ramadhan that secondary data is data that we trace through literature review whether sourced from books, magazines, journals, or electronic media and mass media that we consider relevant to the issues discussed [12].

#### *3.5. Data Collection and Analysis Techniques*

Based on the approach and data in this study, the data collection methods used are: Literature Study and Document Study, which examines primary and secondary legal materials related to policies in witness protection.

The data obtained through literature study and observations are processed by identification, classification, systematic and analysis. In accordance with the normative juridical approach which emphasizes secondary data, the strategy or approach used in analyzing the data is the qualitative analysis method.



Qualitative analysis is used to use descriptive and perspective, that is, it will try to provide existing data and evaluate it then analyze the existing problems related to the Protection Policy for Victim Witnesses in the Criminal Justice Process and contribute in the form of solutions to overcome these problems.

### *3.6. Data Analysis Methods*

In this study, the author uses this type of qualitative research. Qualitative research is a process of solving problems that are investigated by describing the object of research clearly and in more detail (Confidence), as well as to draw generalizations that explain the variables that cause a symptom or social reality [13]. so are opinions The data analysis method used is qualitative analysis, where the data that has been obtained from the results of research are selected and systematized based on the quality and correctness in accordance with the research material, to then be associated with existing theories [14]. Data from the first source were directly analyzed by trying to find a comprehensive explanation of the activities that occurred in witness protection during the judicial process.

### *3.7. Research stages*

This research can be broken down into seven stages which are interdependent and interconnected. In other words, each stage influences and is influenced by other stages. The seven stages are as follows:

a. Planning.

Planning includes determining the objectives to be achieved by a study and planning a general strategy for obtaining and analyzing data for that research. This should start with paying special attention to concepts and hypotheses that will direct the researcher concerned and review the literature, including research that has been done by people previously related to the title and research problems involved. concerned. This stage is the stage of preparing the "term of reference" (TOR).

b. Careful assessment of the research plan.

This stage is the development of the planning stage. Here again presented the research background, problems, research objectives, hypotheses and methods or procedures of analysis and data collection. This stage also includes determining the types of data needed to achieve the main objectives of the study. This stage is the stage of preparing a research project proposal.

c. Sampling.

This is the process of selecting a certain number of elements/parts of a population to represent the entire population. This means that there will be no sample if there is no population [15]. In this stage the researcher must carefully define or formulate the population to be studied. The sampling plan consists of procedures for selecting elements of the population and procedures for generating or changing data from the sample results to estimate the properties of the entire population. The challenge that must be faced in the preparation of this sampling plan is how we can follow in such a way that we

have procedures with local conditions and with available resources while still maintaining the benefits or benefits of the sample survey.

d. Compilation of a list of questions.

This is the process of translating study objectives into the form of questions to obtain answers in the form of information needed. Actually this is a trial and error process which takes a long time. Things that need to be considered are the number and types of questions and the order of each question. Also not left behind is the effort to make the people interviewed (respondents) happy to answer the questions asked and still be happy to provide answers.

e. Field work.

This stage includes the selection and training of interviewers, guidance in interviews and conducting interviews. This may include various tasks related to selecting sample sites and pretesting the questionnaire. This fieldwork will not be required when using the telephone or letter interview method.

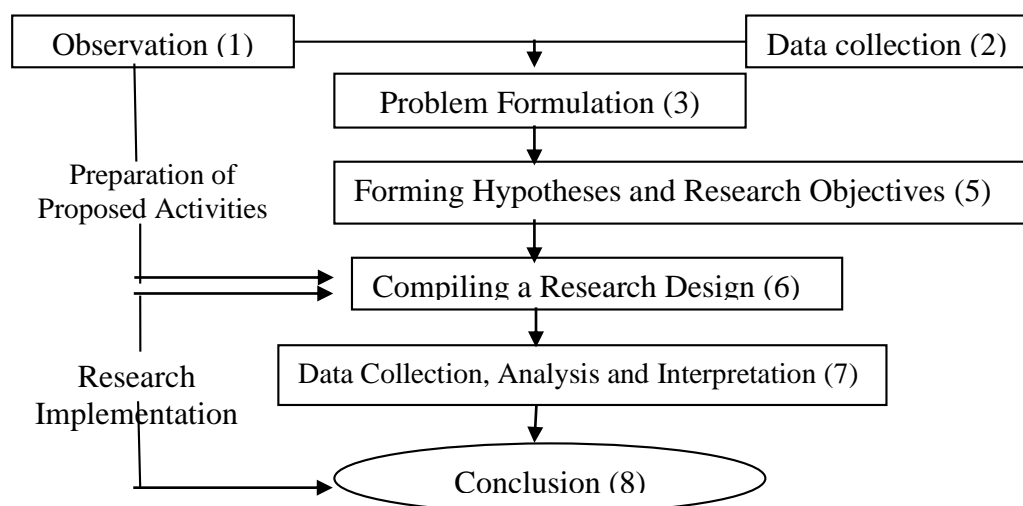
f. Editing and coding.

Coding is the process of transferring the answers listed in a list of questions into various groups of answers which can be arranged in numbers and tabulated. Editing is usually done before coding so that coding can be as simple as possible. Editing also examines the list of questions that have been filled in whether what is written on it is correct or according to what is intended.

g. Analysis and reports.

This includes a variety of tasks that are interconnected and most importantly in a research process. A research result that is not reported or reported but in an unfavorable manner is of no use. The task at this stage is to present the tables in the form of frequency distribution, cross tabulation or it can be a list that requires complex statistical methods and then the interpretation of the findings on the basis of the theory we already know.

Schematically, the stages of this research can be illustrated as follows:



Picture 1. Research Process Scheme

#### **4. Results and Discussion**

##### *4.1. Implementation of Legal Protection Policies for Inner Witnesses Criminal Justice Process*

###### *4.1.1. Implementation of witness protection*

The implementation of witness protection is inseparable from several problems, namely; enforcing witness protection laws, when to witness protection, forms of witness protection and procedures for witness protection in the criminal justice process.

###### **1. Law Enforcement for Witness Protection**

One of the legal means of evidence in the criminal justice process is the testimony of witnesses and / or victims who have heard, seen, or personally experienced the occurrence of a criminal act in an effort to seek and find clarity about the criminal act committed by the criminal act; Law enforcers in seeking and finding clarity about criminal acts committed by criminal offenders often experience difficulties because they are unable to present witnesses and / or victims due to threats, both physical and psychological from certain parties. In this regard, it is necessary to provide protection for witnesses and/or victims whose existence is very important in the criminal justice process.

Given that the protection of the Criminal Procedure Code does not reflect the principle of equality before the law, witnesses/victims need a legal instrument to protect them. The legal instrument is to form the Witness and Victim Protection Act. This effort must be implemented by the government immediately. Because without protection from the government, more victims and witnesses will be reluctant to give testimony in front of the court because of the many pressures they have experienced. In fact, information from victim witnesses and witnesses who saw or heard the criminal incident directly is very important in order to find and find a bright spot for the crime committed by the perpetrator. This protection is not only for the individual witness but also for relatives, family (children and wife), even people working with/for the witness. Testimony is needed in every criminal court, including military court. Witnesses who are questioned during investigations and trials are basically very helpful in the running of the series of judicial processes. Moreover, the results expected from the process of gathering witness testimony to ensure a fair trial.

###### **2. Forms of Witness Protection**

According to Yenti (accessed at <http://hukumonline.com/detail.asp? Id = 17767 & cl = Berita - 49k>) there are two forms of protection models that can be provided to witnesses and victims, namely the procedural rights model and the second the service model.

###### **1) Procedural rights model**

This model allows victims to play an active role in the criminal justice process. "Victims are given broad access to request immediate prosecution, victims also have the right to request that their statements be presented or heard in every trial where the victim's interests are related to it. This includes notification when the perpetrator is released. This model requires substantial costs with the large involvement of victims in the judicial process, so that the administrative

costs of the courts are even greater because the trial process can be long and not simple.

2) The service model.

This model determines standard standards of service to victims by the police, prosecutors and judges. For example health services, assistance, providing compensation and compensation and restitution. The large number of services that must be provided to witnesses and victims means that the work efficiency of law enforcers is not achieved. Another effect is that it is difficult to monitor whether the service is actually received by witnesses and victims. The model that can be applied in Indonesia is a combination of the two, because in Indonesia the most difficult is in terms of coordination. Therefore, both models must be adapted to the situation in Indonesia, it must be measured to what extent witnesses and victims can be involved in the judicial process. Likewise regarding the fulfillment of rights that can be given to witnesses and victims. Law Number 13 of 2006 concerning Witness and Victim Protection contains the protection that must be provided to witnesses and victims. However, in this case there must be more detailed provisions, such as those stipulated in Law Number 23 of 2004 concerning Domestic Violence, for example regarding special handling related to the confidentiality of victims. The Witness and Victim Protection Agency as *lex specialis* should determine the form and scope of the case being protected.

According to Law Number 13 of 2006 concerning Witness and Victim Protection, the forms of witness protection are as follows:

- 1) Protection of personal safety, family and property and free from threats related to testimony that will be, is being or has been given.
- 2) Participate in the process of selecting and determining the form of protection and security support
- 3) Provide information without pressure
- 4) Got a translator
- 5) Free from entangling questions
- 6) Get information about the progress of the case
- 7) Obtain information about court decisions
- 8) Notified when the convict is released
- 9) Get a new identity
- 10) Acquiring a new residence
- 11) Reimbursement of transportation costs
- 12) Obtain legal advisor
- 13) Receive temporary living expenses until the end of the protection period.

The target of protection provided by the Witness and Victim Protection Act for witnesses and victims is regulated in Article 5 that the right is given to witnesses and/or victims of criminal acts in certain cases in accordance with the decision of the Witness and Victim Protection Agency. Victims of serious human rights violations are also entitled to:

- 1) Medical assistance;
- 2) Psycho-social rehabilitation assistance.

Victims through the Witness and Victim Protection Agency have the right to submit to court in the form of:

- 1) The right to compensation in cases of human rights violations
- 2) The right to restitution or compensation which is the responsibility of the perpetrator of a serious human crime;

Decisions regarding compensation and restitution are given by the court, and further provisions regarding the provision of compensation and restitution are regulated by a Government Regulation. The protection and rights of witnesses and victims are given from the start and end of the investigation stage.

Witnesses and/or victims who feel that they are under enormous threat, with the approval of the judge can give testimony without being directly present at the court where the case is being examined. Witnesses and/or victims can testify in writing which is submitted in front of the competent authority and affix their signatures on the minutes containing the testimony. Witnesses and/or victims may also have their testimonies heard directly through electronic means accompanied by an authorized official.

Witnesses, victims and whistleblowers cannot be prosecuted by law, either criminal or civil, for reports, testimonies that they will, are being, or have given. A witness who is also a suspect in the same case cannot be exempted from criminal charges if he is proven legally and convincingly guilty, but his testimony can be used as a consideration for a judge in commuting the sentence to be handed down. This provision does not apply to witnesses, victims and whistleblowers who testify not in good faith.

### 3. Terms and Procedures for Witness Protection

According to Article 28 of the Law on Witness and Victim Protection, the agreement for the protection of the Witness and Victim Protection Agency for witnesses and / or victims of criminal acts is granted by considering the following conditions:

- 1) the importance of the testimony of witnesses and/or victims;
- 2) the level of threat that endangers witnesses and/or victims;
- 3) the results of the medical team or psychologists' analysis of witnesses and/or victims;
- 4) track records of crimes that have been committed by witnesses and/or victims.

Article 29 of the Witness and Victim Protection Law states that the procedures for obtaining protection are as follows:

- 1) Witnesses and/or victims concerned, either on their own initiative or at the request of the authorized official, submit a written application to the Witness and Victim Protection Agency;
- 2) The Witness and Victim Protection Agency will immediately conduct an examination of the application;
- 3) The decision of the Witness and Victim Protection Agency is issued in writing no later than 7 (seven) days after the application for protection is submitted.

Witnesses and/or victims who want protection from the Witness and Victim Protection Agency, witnesses and/or victims either on their own initiative or at the request of an authorized official, submit a written application to the Witness and Victim Protection Agency.



The Witness and Victim Protection Act more concretely states that in the event that the Witness and Victim Protection Agency accepts a witness and / or victim's request, the witness and/or victim signs a statement of willingness to follow the terms and conditions for witness and victim protection. The statement of willingness to follow the terms and conditions for witness and victim protection contains:

- 1) The willingness of witnesses and/or victims to give testimony in the judicial process;
- 2) The willingness of witnesses and/or victims to obey the rules regarding their safety;
- 3) The willingness of witnesses and/or victims not to have a relationship in any way with other people other than with the approval of the Witness and Victim Protection Agency, as long as he is under the protection of the Witness and Victim Protection Agency;
- 4) The obligation of witnesses and/or victims not to inform anyone about their existence under the protection of the Witness and Victim Protection Agency; and
- 5) Other matters deemed necessary by the Witness and Victim Protection Agency.

Witnesses and Victims Protection Agency has the obligation to provide full protection to witnesses and/or victims, including their families, since the statement of willingness to comply with the requirements in Article 30 is signed. Protection for the safety of witnesses and/or victims can only be terminated based on the reasons as stated in Article 32, namely:

- 1) Witnesses and/or victims request that their protection be stopped if the application is submitted on their own initiative;
- 2) At the request of the competent official in the case of a request for protection of witnesses and/or victims based on the request of the official concerned;
- 3) Witnesses and/or victims violate the provisions as written in the agreement; or
- 4) The Witness and Victim Protection Agency is of the opinion that witnesses and/or victims no longer need protection based on convincing evidence.

The termination of security protection for a witness and/or victim must be done in writing. The Witness and Victim Protection Act also regulates assistance for witnesses or victims as regulated in Article 33 to Article 36 as the authors explain as follows.

Assistance is provided to a witness and/or victim at the written request of the person concerned or a person representing him or her to the Witness and Victim Protection Agency and determines the appropriateness of providing assistance to witnesses and / or victims. In the event that witnesses and / or victims deserve assistance, the Witness and Victim Protection Agency determines the time period and the amount of costs required. Further provisions regarding the feasibility as well as the period and amount of fees are regulated in a Government Regulation.

The decision of the Witness and Victim Protection Agency regarding the provision of assistance to witnesses and/or victims must be notified in writing to the concerned party within 7 (seven) working days from the receipt of the request.

In carrying out the provision of protection and assistance, the Witness and Victim Protection Agency can cooperate with the relevant authorities and carry out protection and assistance, relevant agencies in accordance with their authority are obliged to implement the decisions of the Witness and Victim Protection Agency in accordance with applicable regulations.

#### *4.1.1. Witness protection institutions*

This Law on Protection of Witnesses and Victims also creates a new institution as stipulated in Article 1 point 3, namely the Witness and Victim Protection Agency which is an institution that has the duty and authority to provide protection and other rights to witnesses and/or victims as regulated in the Law this invite. Witness and Victim Protection Agency is an independent institution in the sense of an independent institution, without interference from any party. The Witness and Victim Protection Agency is also domiciled in the capital city of the Republic of Indonesia and has representatives in the regions as needed.

The Witness and Victim Protection Agency is responsible for handling the provision of protection and assistance to witnesses and victims based on their duties and authorities, and is responsible to the President. The Witness and Victim Protection Agency makes regular reports on the implementation of the duties of the Witness and Victim Protection Agency to the House of Representatives at least once a year.

The members of the Witness and Victim Protection Agency consist of 7 (seven) people who come from professional elements who have experience in the fields of advancement, fulfillment, protection, law enforcement and human rights, police, prosecutors, Ministry of Law and Human Rights, academics, advocates, or non-governmental organizations. The term of office of members of the Witness and Victim Protection Agency is 5 (five) years. After the end of their term of office, members of the Witness and Victim Protection Agency can be re-elected to the same position, only for the next 1 (one) term.

The Witness and Victim Protection Agency consists of the Head and Members, the Head of the Witness and Victim Protection Agency consists of the Chairperson and the Deputy Chairperson who are also members. The head of the Witness and Victim Protection Agency is elected from and by members of the Witness and Victim Protection Agency, further provisions regarding the procedures for selecting the Head of the Witness and Victim Protection Agency are regulated by the Witness and Victim Protection Agency Regulations

The term of office of the Chairperson and Deputy Chairperson of the Witness and Victim Protection Agency is 5 (five) years and thereafter can be re-elected to the same office, only for 1 (one) subsequent term of office. In carrying out its duties, the Witness and Victim Protection Agency is assisted by a secretariat in charge of providing administrative services for the activities of the Witness and Victim Protection Agency. The Secretariat of the Witness and Victim Protection Agency is headed by a Secretary who comes from a Civil Servant. The Secretary is appointed and dismissed by the Minister of State Secretary. (2) Further provisions regarding the position, composition, organization, duties and

responsibilities of the secretariat as referred to in paragraph (1) shall be regulated in a Presidential Regulation. The Presidential Regulation is enacted no later than 3 (three) months from the establishment of the Witness and Victim Protection Agency.

In connection with this Law on Witness and Victim Protection, there is no supporting legal component to be implemented, for the first time the selection and selection of members of the Witness and Victim Protection Agency is carried out by the President, and in carrying out the selection and election the President forms a selection committee. The selection committee consists of 5 (five) people, with the following structure:

- 1) 2 (two) people come from elements of the government; and
- 2) 3 (three) people come from elements of society.

Selection committee members cannot be nominated as members of the Witness and Victim Protection Agency. The composition of the selection committee, the procedures for conducting the selection, and the selection of candidates for members of the Witness and Victim Protection Agency are regulated by a Presidential Regulation. The selection committee proposes to the President a total of 21 (twenty one) candidates who have met the requirements. The President chooses as many as 14 (fourteen) people from a number of candidates to be submitted to the House of Representatives. The House of Representatives then selects and approves 7 (seven) people.

The House of Representatives gives approval within a maximum period of 30 (thirty) days from the date the submission of candidate members for the Witness and Victim Protection Agency is received. In the event that the House of Representatives does not approve a candidate or more nominated by the President, within a period of no later than 30 (thirty) days from the date of receipt of the submission of candidate members of the Witness and Victim Protection Agency, the House of Representatives must notify the President along with with reasons, and the President nominated replacement candidates 2 (two) times the number of candidate members who were not approved. The House of Representatives is obliged to give approval to a replacement candidate within 30 (thirty) days from the date the replacement candidate is received.

The President determines the members of the Witness and Victim Protection Agency who have obtained the approval of the House of Representatives, within 30 (thirty) days from the date the approval is received by the President. The members of the Witness and Victim Protection Agency are appointed by the President with the approval of the House of Representatives. To be eligible for appointment as a member of the Witness and Victim Protection Agency must meet the following requirements:

- 1) Indonesian citizens;
- 2) Physically and mentally healthy;
- 3) Have never been sentenced for committing a criminal offense with a minimum penalty of 5 (five) years;
- 4) At least 40 (forty) years of age and no more than 65 (sixty five) years old at the time of the election process;
- 5) Educated at least S 1 (undergraduate);

- 6) Having experience in the field of law and human rights for at least 10 (ten) years;
- 7) Have integrity and a personality beyond reproach; and
- 8) Has a taxpayer identification number.

Members of the Witness and Victim Protection Agency were dismissed because:

- 1) Passed away;
- 2) His term of service has ended;
- 3) At his own request;
- 4) Physically or mentally ill which results in not being able to carry out tasks for 30 (thirty) days continuously;
- 5) Committing disgraceful acts and / or other matters which based on the Decree of the Witness and Victim Protection Agency concerned must be dismissed because it has tarnished the dignity and reputation, and / or reduced the independence and credibility of the Witness and Victim Protection Agency; or
- 6) Was convicted of having committed a criminal offense with a minimum penalty of 5 (five) years.

Further provisions regarding procedures for the appointment and dismissal of members of the Witness and Victim Protection Agency are regulated by a Presidential Regulation.

The decision of the Witness and Victim Protection Agency is taken based on deliberation to reach consensus, in the event that a decision cannot be reached, the decision is taken by majority vote. The costs needed to carry out the duties of the Witness and Victim Protection Agency shall be borne by the State Revenue and Expenditure Budget.

#### *4.2. Policy Formulation of Law Regulations on Legal Protection for Witnesses in the future.*

##### *4.2.1. Some Notes on the Witness Protection Act.*

Before arriving at the discussion regarding the policy formulation of laws and regulations regarding legal protection for witnesses in the future, the author tries to critically examine the legal protection for witnesses in the criminal justice process.

The Criminal Procedure Code defines the witness himself as someone who "saw, heard, or experienced" a criminal act. The same meaning is found in the Law on Protection of Witnesses and Victims in Article 1 paragraph (1). In some cases, people are still afraid to report a crime. A person who is aware of a crime and even has important evidence but does not fall into the category stipulated in the law, will not receive witness protection, which means that they may be subjected to forms of intimidation and threats. The security of someone who comes forward and publishes information is still limited, considering that not everyone can report a crime or provide evidence of protection, such as in cases of human rights violations, the main issues include the need to protect non-governmental organizations and other civil society groups activists.

In particular, a person who because of providing information without good faith does not receive the protection regulated in Article 10 paragraph (3). By

avoiding clarification as to who is entitled to make such judgments and on what basis one can be included in this category, the text leaves a considerable gap in interpretation for the interests of the offenders. The international community welcomes the inclusion of family members of witnesses and victims in the witness protection scheme of the Witness and Victim Protection Agency, however, in addition, all witnesses who can provide evidence, regardless of their connection to the case, should also be included. into this law.

A person who is included in the witness protection program of the Witness and Victim Protection Agency, must receive assurance that they will be processed in a timely manner, where the Witness and Victim Protection Agency is given 7 (seven) days to respond, but no provisions are issued. to expedite these requirements in cases of an emergency nature, such as human rights violations involving killings by military or police personnel. Another thing that needs attention is that the right to medical assistance and psychological rehabilitation can only be applied to victims of human rights violations, while victims of domestic violence are not included for such assistance and protection.

Protection in the law is understood in vague language, such as "providing a sense of security" as regulated in Article 1 point 6 of the Law on Protection of Witnesses and Victims, including "all kinds of threats related to testimony". Article 5 regulates specific provisions including the right of witnesses or victims to obtain a new identity, relocation, legal advice, and temporary living expenses, but does not absolutely require relocation abroad or obtain a new job for witnesses or victims as is common in jurisdictions. other countries. None of the uncertainties in the list of forms of protection were clarified by procedural explanations or implementation instructions. In fact, the implementation of protection itself becomes an important key for the Witness and Victim Protection Agency, it is not even touched on in the Law and thus opens all kinds of interpretations of it and its arbitrary implementation.

Furthermore, the layout in the Indonesian courtroom that places the victim, symbolically, trapped in a position between the public prosecutor and the accused, while facing the Panel of Judges, has more or less affected his "sense of security", and can, as in the cases- cases in other countries, have an impact worthy of consideration for the willingness of witnesses to testify at trial. In fact, with or without the Witness Protection Act, most witnesses are not willing to testify at trial. The image of testifying in the courtroom was quite "frightening" for witnesses, they would think twice if they wanted to testify in the criminal justice process.

No provision exists to provide protection for witnesses from armed forces to ensure physical security, nor is there any indication as to who is authorized to take such steps. Only Article 36 paragraph (1) mandates the Witness and Victim Protection Agency to "cooperate with other relevant authorities", however, such agencies are only required to implement decisions by the Witness and Victim Protection Agency, in accordance with their authority. The agencies in question include the police, armed forces, certain departments such as the Minister of Home Affairs and the Minister of Law. In Indonesia, there is no clear indication of this kind. The current witness protection law only avoids clarifying



communication procedures and duties between agencies. Therefore, prolonged bureaucracy and convoluted procedural problems will almost certainly be encountered.

The requirements stated in the law for members of the Witness and Victim Protection Agency also do not exist in terms of professional training, even though Article 11 paragraph (3) states that the Witness and Victim Protection Agency will have representatives in the regions as needed. If this leads to the police being involved in the protection required by law, the safety of the witnesses can almost certainly not be guaranteed, in particular where most of the perpetrators in cases of human rights violations are the police. The establishment of branch offices is, above all, necessary in certain areas where serious human rights violations are frequent, such as Aceh, West Papua, Maluku and Sulawesi.

Nor does the law refer to any right for victims or witnesses to choose another division within the police to carry out protective measures, nor is the police assigned to carry out protective duties. This is important in cases where local police officers are usually the perpetrators of human rights violations. Witness protection is carried out by the Hong Kong Independent Commission against Corruption (ICAC), for example, is carried out by a separate special division.

Article 13 paragraph (1) determines that the Witness and Victim Protection Agency is accountable to the President, so that with the authority for first-time selection and also the appointment of members as regulated in Article 19, the only official who is given the authority to issue regulations regulating the appointment and dismissal of member. Thus, under this provision, the President himself can even dismiss members of the Witness and Victim Protection Agency based on his discretionary authority. Considering that the President is given the power to determine the holder of the mandate of the Witness and Victim Protection Agency, this Law clearly contains weaknesses when faced with cases where the President or other senior officials have a conflict of interest, under his protection.

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#### *4.2.2. Legal formulation policies regarding witness protection in future criminal justice processes.*

Understanding the birth of the Witness and Victim Protection Law in Indonesia, which has the background of the importance of witness protection as a form of protection of human rights for all people who testify in the criminal justice process, if viewed from the course of the Witness and Victim Protection

Law it is not much different if Compared to the deliberation process of this Law, it is also very much debated.

In the policy formulation of the Law on Protection of Witnesses and Victims in the future, it can be done by various methods, either through the comparison method or the evaluation method.

The comparative method, for example, can be done by comparing it with other legal provisions, while the evaluation method is by evaluating the implementation of a law. When viewed from the two methods above, that the Law on Protection of Witnesses and Victims, when compared with laws in other countries and by conducting an evaluation, the authors will describe below.

Citing the previous discussion, that the attention of the international community towards crime victims was shown by holding congresses such as in Milan from 26 August to 6 September 1985, namely the VII United Nation Congress on the Prevention of Crime and the Treatment of Offenders with the theme "Crime Prevention, for Freedom. , Justice, Peace and Development ", one of the topics discussed in depth was the problem of crime victims. On that occasion, a draft Declaration was produced which contained a recommendation that victims of crime be given the right "to be present and to be heard at all critical stages of judicial proceedings".

In 1963 in New Zealand there was also a regulation which provided the basis that people who were victims of violent crimes could get compensation, namely the "Criminal Injuries Compensation Act". In the State of Ontario, for example, there is the "Ontario Criminal Injuries Compensation Scheme". In the Netherlands the "Wet voorlopige schandefonsgeweld-misdrijven" was promulgated. This regulation establishes a fund that pays an amount of money as an antidote to those who are victims of violent crimes committed on purpose or if the victim dies to his family. The fund is a legal entity and becomes a burden in the budget for the Ministry of Justice. The Dutch Minister of Justice gave reasons why society as a whole has responsibility for victims of violent crimes. This responsibility is based on three things:

1. This responsibility is related to the condition that the authorities declare certain actions to be serious offenses and as a serious attack on law order. As a continuation of threats with penalties against these acts, it can be thought of a duty from the authorities to alleviate or eliminate the consequences of said acts.
2. Be more philosophical; society can be seen as a subtle network of human actions, so that everyone in a humane sense is generally "guilty" of what ultimately turns out to be the fault of a person who commits a criminal act. In short there is solidarity with people who are victims of crime.
3. Considerations that are important for legal politics; This regulation is seen as having the effect of reconciling or resolving conflicts ("conflicting"): if there is special treatment for the victims of criminal acts, the social-psychological climate is good for treating the maker in the most advantageous way from the point of view of social intervention.

The Asian Human Rights Commission Indonesia stated that (1: 2011) In the courts of Asian countries, giving more emphasis on witness testimony, and the protection of witnesses and victims is crucial when dealing with corruption and

police torture and other human rights violations. People who are offered protection by the police are usually worried because they will not know whether the good or bad cops will protect them. In some instances, the police apparatus is seen as bad and police activity may present a threat rather than protection

In Indonesia, the presence of the witness protection law is a matter of joy for witnesses, considering that there are still many complaints from the public regarding the need and importance of witness protection. However, the problem at this time is that the presence of this law appears to be just a figment, this can be proven that since the enactment of Law Number 13 of 2006 concerning Protection of Witnesses and Victims on August 11, 2006, however, until the time this thesis was compiled, it has not been able to answer. community problems due to the absence of other legal components related to witness protection.

How can the public be informed about the access and provisions regarding the new institution? The law that has been passed only provides written requests that can be considered by the witness protection agency, even though the witness protection agency itself has not been established and is effective in every region.

The President as the holder of power in determining how this institution will work and operate, specifically in terms of appointing and dismissing its members. The witness protection agency which is so close to the presidential power certainly needs control from all parties. To prevent abuse of power, a deeper oversight mandate should be given to shareholders from among non-governmental organizations.

Under Article 27 of the Law on Witness Protection Funding must be financed from the State budget, for now there are no resources available for the institution to start its work. The Corruption Crime Court, for example, has experienced several problems in its work due to minimal funding from the government and therefore has not been able to optimally carry out its duties, as expected by the community. If the Witness and Victim Protection Agency faces the same problem, it will only add to the long line of problems for a regulation that is not implemented.

The formulation policy that needs to be done with due observance of the issue of the Witness and Victim Protection Law which has been promulgated or established as a legal umbrella in enforcing witness protection is by taking into account the current formulation of the Law on Witness and Victim Protection. In addition, we must understand that law is a system that affects each other in one system or a legal entity. Legal reform is part of a legal system itself, so that the legal reform of witness protection itself should be accompanied by the provision of a legal component in the framework of implementing the legal formulation of witness protection.

The legal formulation policy regarding witness protection in the criminal justice process in the future, of course, cannot be separated from how the prevailing laws and regulations are. In this case it is related to the Law on Protection of Witnesses and Victims that currently applies. Law Number 13 Year 2006 regarding Witness and Victim Protection as a legal umbrella regarding witness protection cannot be said to be able to provide maximum protection. This is based on the ineffectiveness of the legal components that must be provided such

as the Witness and Victim Protection Agency and the implementing regulations of this law.

Law Number 13 of 2006 concerning Protection of Witnesses and Victims, formally also does not maximal in regulating the protection of witnesses and victims because there are still many weaknesses here and there. This is not surprising given that the passage of the law was very tough and seemed only to fulfill the demands of the community and the deliberation process which had "stalled" in the House of Representatives which took about five years.

Based on the records, in 2006 at least there were still witnesses and victims who had to undergo criminal proceedings because they were reported back because they had defamed or were sued in a civil law. Some of them are still being processed after the issuance of Law Number 13 Year 2006, apart from that, several witnesses who have been physically abused are still recorded.

Another thing to note is that in the Witness and Victim Protection Act, there is no attempt to force compensation from the perpetrator to the victim, namely it does not regulate the payment of compensation from the perpetrator to the witness or victim, even though the victim is a witness who has been harmed as a result of the violation. someone's law, but it's unprotected. For this reason, the Law on Protection of Witnesses and Victims should refer to the Concept / Draft Law on the Criminal Code which includes the payment of compensation from the perpetrator against the victim as a form of protection. Likewise, there is a change in the current paradigm of criminal law which is oriented towards the perpetrator but based on the development of this paradigm, it is starting to be abandoned to a victim-oriented paradigm.

In preparing, making, and formulating good criminal legislation so that it can be implemented, it is possible to use Marc Ancel's opinion as quoted by Barda Nawawi Arief, stating that "modern criminal science" consists of three components "Criminology", "Criminal Law", and "Penal Policy". He argued that "Penal policy" is both a science and an art which ultimately has a practical aim to enable positive legal regulations to be better formulated and to provide guidance not only to legislators, but also to courts implementing laws, and also to the organizer or implementer of the decision (Nyoman Sarikat Putra, 57: 2006).

The basis for such an understanding, Sudarto further stated, that implementing "criminal law politics" means holding elections to achieve the best outcome of criminal legislation in the sense that it meets the requirements of justice and efficiency.

Thus, seen as part of legal politics, criminal law politics contains meaning, how to prepare, make and formulate good and enforceable criminal legislation.

With regard to the Witness and Victim Protection Agency, because it is an institution regulated by law Number 13 of 2006, the law should provide a clear framework for the form of the Witness and Victim Protection Agency so that members of the Witness and Victim Protection Agency are not confused in carrying out their duties. .

From the above description, it shows that in making legal formulation, one should still pay attention to a legal system as a legal entity so that there is no legal disharmony.

## 5. Conclusion

The conclusion of this research is: (1) The legal formulation of witness protection in the criminal justice process is a phenomenon of Indonesian criminal procedure law, in which the enforcement will always intersect with the law enforcers themselves. The protection of human rights for witnesses and victims is given priority here, so that with the importance of protecting witnesses and victims in the criminal justice process, the Witness and Victim Protection Act is formed; (2) The policy of legal protection for witnesses in the criminal justice process is very necessary, especially those victims or witnesses in the criminal justice process who so far feel that they have not received protection by law, and sometimes even witnesses in criminal cases are eventually made suspects. With Law Number 13 of 2006 concerning Protection of Witnesses and Victims, the public has high hopes, especially in cases of domestic violence, violence against children, cases of corruption, human rights violations and cases of other rights violations protected by law this invite; (3) The policy formulation of law regarding witness protection in the criminal justice process in the future is an ideal in the national legal system which touches all people and is impartial. In order to achieve these legal ideals, a harmonization of law is needed so that it is manifested in one legal entity in a legal system, thereby making it easier for the people or society to understand and implement the law itself. In this way, the community's legal awareness is created, which is always obedient and obedient to the applicable law because they feel protected by the law. Likewise, the policy formulation of witness protection law should still be in a unity of criminal law, both material criminal law and formal criminal law.

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