

FORGIVING OF THE VICTIM AND/OR FAMILY TOWARDS THE PERPETRATOR AS A CONSIDERATION IN IMPOSING CRIMINAL AND PUNISHMENT ACCORDING TO THE LAW NUMBER 1 OF 2023 CONCERNING THE CRIMINAL CODE

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ABSTRACT

Forgiveness of the victim and/or the victim's family is one of the basic considerations in imposing a sentence on the perpetrator of a crime as stipulated in Article 54 paragraph (1) letter j of Law No.1/2023 concerning the Criminal Code. Forgiveness from victims and/or their families towards perpetrators does not mean negating and/or eliminating the perpetrator's criminal responsibility. However, in imposing punishment on perpetrators, the victim's forgiveness can be a consideration for the judge in determining the severity of the criminal decision to be imposed, in addition to other considerations. against the accused.

Keywords: *Victim Forgiveness, Consideration, Dropping Punishment*

ABSTRAK

Pemaafan korban dan /atau keluarga korban merupakan salah satu dasar pertimbangan di dalam menjatuhkan pidana terhadap pelaku tindak pidana sebagaimana diatur dalam Pasal 54 ayat (1) huruf j UU No.1/2023 tentang KUHP. Adanya pemaafan dari korban dan/atau keluarganya terhadap pelaku, tidaklah berarti meniadakan dan atau menghapuskan pertanggungjawaban pidana pelaku. Akan tetapi, dalam penjatuhan pidana terhadap pelaku, pemaafan korban dapat menjadi pertimbangan bagi hakim dalam menentukan berat ringannya putusan pidana yang akan dijatuhkan, di samping pertimbangan lainnya. Adanya pemaafan dari korban terhadap pelaku tindak pidana dapat menjadi pertimbangan yang meringankan bagi hakim dalam menjatuhkan putusan pidana terhadap terdakwa.

Kata Kunci : *Pemaafan Korban, Pertimbangan, Menjatuhkan Pidana*

1. INTRODUCTION

It is known that the previously applicable Criminal Code was a product of Dutch Colonial law, namely *Wetboek Van*

Strafrecht (W.v.S) which was enacted based on the principle of condonance, and after the independence of the Republic of Indonesia it was still enforced as a positive

criminal law by being passed as Law Number 1 of 1946 concerning the Criminal Code.

In 2023, the state and nation of Indonesia should be proud and at the same time appreciate the performance of the legislative institutions which together with the executive institutions have succeeded in formulating the final concept of the Criminal Code Bill which has been going on for quite a long time, which was marked by the passage of the Criminal Code Bill as a law on December 6, 2022 in the plenary meeting of the DPR RI into a Criminal Law (KUHP), which was then promulgated on January 2, 2023 as Law Number 1 of 2023 concerning the Criminal Code.

As a provision of the new Criminal Law, the substance of Law No. 1/2023 concerning the Criminal Code has brought several paradigm shifts in Indonesian criminal law and criminal law enforcement, when compared to the provisions of the previous criminal law. If the legal substance of the Criminal Code previously had a monistic paradigm and prioritized legal certainty based on the principle of legality, then the substance of Law No. 1/2023 concerning the Criminal Code is oriented towards a *dualistic* flow based on balance by prioritizing reformative, progressive and also responsive concepts that are in accordance with the solutive character of Indonesian law.

The 3rd part of the Book of the General Explanation of Law No.1/2023 on the Criminal Code, states that Another fundamental thought that influenced the drafting of this Law was the development of science about victims of crime (victimology) that developed after World War II, which paid attention to the fair treatment of victims of crime. So that the philosophy of *dader strafrecht* and victimology will greatly influence in determining the three main problems of criminal law, namely the formulation of acts that are unlawful, criminal liability or guilt and criminal sanctions that can be imposed and the underlying principles.

In relation to the application of criminal and conviction, it cannot be separated from the problem of criminal liability. In the new Criminal Code, it still adheres to the principle of no criminal offense, so that guilt remains the main and first element in holding a person who is suspected of having committed a criminal act. However, in terms of criminal convictions of perpetrators of crimes, judges not only consider aspects of the perpetrator's *guilt (schuld)*, but also other aspects that can relieve the perpetrator, including looking at the relationship between the perpetrator and the victim, where forgiving from the victim and / or family towards the perpetrator can also be used as a basis for consideration for the

judge in imposing a sentence on the perpetrator of the criminal act.

The forgiving of the victim and/or family as the basis for the judge's consideration in sentencing the defendant can be seen in the judge's verdict in passing judgment on defendant Richard Eliezer who was found guilty of participating in the crime of serial murder against Joshua Hutabarat, who the panel of judges sentenced to one year and six months in prison. The judge's verdict was much lighter than the prosecution's charge that charged defendant Richard Eliezer with 12 years in prison.

The verdict (verdict) handed down against Defendant Richard Eliezer by most of the public is felt to have fulfilled a sense of justice, as it has met the expectations of most of society. However, it must be admitted that there are also parties who oppose the judge's ruling, particularly regarding the lightness of the verdict handed down by the judge against defendant Richard Eliezer which is inversely proportional to the charges filed by the public prosecutor.

Based on the brief background above, in this study, several problems were formulated that became the object of study and discussion, namely: 1) How is the forgiving arrangement of the victim and / or the victim's family as a basis for consideration for the judge in imposing a

sentence and punishment? 2) What are the legal implications for the perpetrator's criminal liability for the use of the victim and/or his family towards the perpetrator?

3) What is the legal effect of the judgment handed down by the judge regarding the forgiving of the victim and/or his family to the criminal verdict handed down by the judge?

2. BIBLIOGRAPHY REVIEW

The use of the victim as a basis for judges in passing judgments on perpetrators of criminal acts is one of the new concepts known in the renewal of criminal law, which has been normatively regulated and mentioned in the provisions of Article 54 of Law N.o. 1/2023 concerning the Criminal Code. In this case, what is used as a basis for consideration for the judge is the relationship between the perpetrator and the victim, where the interests of the victim and the perpetrator in it are then accommodated and stated in the verdict.

Forgiving from the victim to the perpetrator is also the basis for the judge in forgiving the perpetrator of the so-called crime (*rechterlijk pardon*). *Rechterlijk pardon* is one of the new concepts emerging in criminal justice practice that authorizes judges under certain conditions to grant forgiveness or exclusion to the perpetrator of the act, even though the perpetrator has been found guilty of the

criminal act charged. The forgiving is expressed in the form of a verdict which is conceptually different in character from several types of judgments regulated and known in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP), namely in the form of convictions, free verdicts and verdicts free from all lawsuits.

Criminal is an affliction that is deliberately given and imposed on a person who is proven to have committed a criminal act or violation of a prohibition or order required by the criminal law.

Punishment can be interpreted as punishment. The sentence referred to here relates to the criminal conviction and *justification* reasons for the conviction of a person based on a judgment that has permanent legal force (*incracht van gewijsde*) which the judge finds guilty of committing a criminal offence as per the articles and acts charged by the public prosecutor.

Criminal and criminal justice in it has several goals to be achieved, one of which is to maintain community solidarity. Therefore, punishment must always be directed to maintain and maintain the unity of society. The criminal and convictions stipulated in the criminal law should not be directed or oriented only towards humans (*daad strafrecht*), because such a criminal law will cause the law to be inhumane and

prioritize the offender's retaliation. However, criminal law should not only be oriented towards the perpetrator, because such a criminal law seems to be too indulgent to the perpetrator of the crime and does not pay attention to broad interests, namely the interests of society, the interests of the state, and the interests of victims of criminal acts.

The purpose of giving a criminal or conviction essentially requires 2 (two) main aspects, namely:

1. Aspects of community protection

Aspects of community protection include: prevention of the community from various crimes, protection and security of the community and restoration of community balance as a result of crime so as to bring peace and security.

2. Aspects of protection and guidance for criminal offenders include the following:

- a. re-socializing the convicted by rehabilitating, educating and resocializing so that the convict can be accepted again in the community and take responsible actions.
- b. Acquitted the convict of guilt.
- c. Protecting the offender from the imposition of arbitrary sanctions or retaliation is inhumane, since

the criminal is not intended to suffer and degrade human dignity.

Criminal and criminal matters are basically the object of study in the field of criminal law, namely penitensier law (*penitensier recht*). Therefore, penitensier law in the narrow sense is also referred to as positive legal regulations governing the criminal system (*strafstelsel*). As for in a broad sense, it can be interpreted as part of the criminal law that regulates sanctions (sanction system), be it criminal sanctions in the form of imprisonment, fines, or in the form of actions and policies. Criminal existence and suppression are essentially to protect the rights of the community from all forms of rape as a result of the occurrence of a crime in order to maintain order and peace in the community and at the same time authorize the state to impose criminal, acts or wisdom against perpetrators of violations of the criminal law.

According to Simons, a *crime (straf)* is a suffering inflicted on a person, which is based on a violation of a norm that has been regulated in the law, which by a judge's decision has been imposed on a person who is proven to have committed an offense. Andi Hamzah defines the criminal and criminal system as a criminal law system that regulates and determines the criminal structure and procedures for sentencing and carrying out criminal proceedings. Meanwhile, M. Sholehuddin

said that criminal sanctions are central in the object of criminal law study, because they often describe the socio-cultural values (*culture*) of a society or nation.

3. RESEARCH METHODS

Legal research can basically be distinguished into two groups, namely normative legal research and sociological (empirical) research. This type of research is included in normative legal research, namely research on the rule of law (laws and regulations) and legal principles. In this case, Law No. 1/2023 concerning the Criminal Code relates to the forgiving of victims and/or victims' families as a basis for consideration of criminal convictions and convictions of perpetrators of criminal acts.

Judging from the object, this research is a study of legal systematics, which aims to identify basic points in law, such as: legal subjects, legal events, legal relations and legal objects. In relation to research, research was conducted on Law No. 1/2023 concerning the Criminal Code regarding the rules and principles that are the basis for the application of the law on the use of victims as a basis for imposing criminal convictions and convictions on perpetrators of criminal acts. When viewed from its nature, this research is exploratory, that is, research that aims to deepen knowledge

about a certain symptom or to get new ideas about a certain symptom.

This research data is sourced from secondary data, namely data obtained from the results of literature research, in the form of legal materials consisting of primary, secondary and tertiary legal materials. The data analysis used in this study is a qualitative analysis with a hermeneutic method (interpretation). In this case grammatical (linguistic) interpretations, systematic interpretations, and historical and comparative interpretations are used. In this study, conclusions were drawn from a general one to a conclusion of a special nature (deductive – inductive) with no intention of generalizing the general situation.

4. RESULTS AND DISCUSSION

a. Forgiving arrangements from victims and/or victims' families as a basis for consideration for judges in imposing criminal convictions and convictions

The purpose of punishment in Law No. 1/2023 concerning the Criminal Code is based on the idea that the criminal law system is a unified *purposive* system or *teleological system*, where criminals are seen as a means to achieve goals. Therefore, in the new Criminal Code, it is formulated that the purpose of punishment departs from the balance of two main objectives, namely: community protection

(*general prevention*) and individual development (*special prevention*).

The renewal of criminal law regarding criminal and criminal punishment in Law No. 1/2023 concerning the Criminal Code has undergone a shift in orientation, where in the settlement of a case no longer only focuses on giving negative rewards that are considered appropriate to the perpetrator as a means of retribution.

The purpose of punishment in Law No. 1/2023 concerning the Criminal Code, in addition to aiming to prevent criminal acts and community protection, also aims to socialize convicts by holding guidance and resolving conflicts as well as restoring balance so as to bring a sense of security, peace in the community and foster a sense of settlement and release guilt in convicts.

Based on the purpose of the punishment mentioned above, then in Article 54 of Law No. 1/2023 concerning the Criminal Code determines several things that are the basis for consideration for judges in imposing a sentence, namely:

- a. Forms of guilt of criminal offenders
- b. Motive and purpose of committing a criminal act;
- c. The inner attitude of the perpetrator of the criminal act;
- d. Criminal acts are committed premeditatedly or unplanned;
- e. Carfa committed a criminal offence;

- f. The attitude and actions of the perpetrator after committing a criminal act;
- g. Curriculum vitae, social circumstances, and economic circumstances of the criminal offender;
- h. The influence of crime on the future of the criminal offender;
- i. The effect of the crime on the victim or the victim's family;
- j. Forgiving of the victim and/or the victim's family;
- k. The value of law and justice that lives in society.

The foregoing matters must be the basis for consideration for the judge in imposing a criminal conviction and conviction of the perpetrator of the criminal act. In judicial practice, the aforementioned matters are basically the basis for consideration or mitigating and burdensome matters for the defendant bago that are considered for the judge in passing a criminal verdict.

The previous Criminal Code, regarding matters on which the defendant's sentence was based was not explicitly regulated. However, Law No. 1/2023 on the Criminal Code has introduced mitigating and burdensome matters that are commonly used by judges as a basis for consideration for passing criminal judgments on defendants, so that

consideration of mitigating and burdensome matters in the new Criminal Code has become a juridical (normative) consideration and must be used by judges to impose criminal and criminal convictions on defendants.

If observed carefully, forgiving from the victim and/or their family as stipulated in Article 54 paragraph (1) of Law No. 1/2023 concerning the Criminal Code, which is one of the basis for consideration in imposing punishment on criminal offenders, is not the only thing that is taken into consideration, but there are several other things that must also be considered and must be used as consideration in imposing a sentence. This means that the judge in sentencing the perpetrator must also pay attention to and consider other considerations, in addition to the forgiving of the victim and/or his family.

The criminal and criminal system in the New Criminal Code which is oriented towards 3 (three) main issues of criminal law, namely regarding unlawful acts, criminal liability, criminal and punishment has changed the principle of the single and main principle in criminal law enforcement, namely the principle of legality which in the previous Criminal Code only adhered to the principle of formal legality. In the provisions of Law No. 1/2023 concerning the Criminal Code, it has included the principle of material legality to

accommodate unwritten legal values or laws that live in society (*living law*).

The regulation of the principle of formal and material legality in Article 2 of Law No.1/2023 concerning the Criminal Code shows that the application of the New Criminal Code law reflects the principle of balance in determining criminal acts. Furthermore, in criminal and criminal matters, more humanist legal principles have also been placed. The principle of formal and material legality formulated in Article 1 of Law No.1/2023 concerning the Criminal Code is the main foundation of the principles of criminal law in Book 1 to be applied in enforcing criminal provisions contained in the articles in Book II that have been violated.

The provisions of the two types of legality principles formulated in Chapter I of the New Criminal Code, then followed by other principles formulated in the 1st Book of the New Criminal Code, such as: the principle of proportionality and the principle of justice, the principle of criminal justice and the principle of subsidiarity, the principle of propriety, the principle of criminal individualization, the principle of the use of judges (*rehteklijk pardon*), the principle of *culpa in casu* and the principle of minimizing conflicts against insignificant acts and irrelevant and other errors.

The principle of utilizing judges (*rehteklijk pardon*) is regulated in Article 54 Paragraph (2) of Law No. 1/2023 concerning the Criminal Code, which states: "The lightness of the act, the personal circumstances of the perpetrator or the circumstances at the time of the criminal act and what occurs then can be used as a basis for consideration not to impose a crime or impose actions taking into account aspects of justice and humanity".

The presence of several principles such as the principle of forgiving judges that have been formulated in Article 54 Paragraph (2) of Law No. 1/2023 concerning the Criminal Code as a spouse of the principle in causa formulated in Article 55, can only then be applied after the judge considers the matters that are the basis for sentencing as stipulated in Article 54 Paragraph (1) of Law No. 1/2023 concerning the Criminal Code.

In essence, the essence of the principle of forgiving judges (*rechtelijk pardon*) as formulated in Article 54 paragraph (2) of Law No. 1/2023 concerning the Criminal Code contains 3 main things, which are considered for judges, namely: lightness of actions, personal circumstances of the perpetrator, or circumstances at the time of the criminal act and what happened later.

When connected with the case of Richard Eliezer, who was found guilty of premeditated murder of Joshua Hutabarat, the principle of forgiving of judges cannot be applied, because this principle is only intended for crimes of a minor nature. This is in accordance with the explanation of Article 54 paragraph (2) which explains that:

The provisions of this paragraph are known as the principle of *reclterlijlce* pardon or judicial pardon which authorizes a judge to apologize to a person who is guilty of committing a criminal act of a minor nature. This apology is contained in the judge's ruling and it must still be stated that the accused is found to have committed a Criminal Act against him.

However, when referring to Article 54 paragraph (1) which specifies several things that are the basis for consideration in imposing a sentence, then the judge's decision to impose a verdict (conviction) that is much lighter than the prosecution's demands, by imposing a sentence of imprisonment for 1 year and 6 months is legally correct. Considering the inclusion of matters regulated in Article 54 paragraph (1) of Law No. 1/2023 concerning the Criminal Code is as a guideline that assists judges in considering the severity of the crime to be imposed.

Taking into account the matters detailed in Article 54 paragraph (1), it is hoped that the criminal verdict imposed is proportional and can be understood by the public and the convict.

Referring to the provisions of Article 54 paragraph (1) of Law No.1/2023 concerning the Criminal Code, which regulates at least 10 things that are the basis for consideration in imposing a criminal offense, then based on the evidentiary results proven at trial it is quite reasonable for the judge to impose a very light verdict on the defendant Richard Eliezer, considering that the defendant's inner attitude at the time of committing a criminal act shows the existence of coercive power to commit a criminal act, in addition to a sense of abuse after committing a criminal act with an apology submitted to both parents of the victim (Joshua Hutabarat) accompanied by forgiving from both parents of the victim, plus the value of justice living in society demands justice for defendant Richard Eliezer by imposing a light sentence, even if necessary to release the defendant from prosecution.

b. Legal implications of criminal liability of perpetrators for the use of victims and / or their families against perpetrators

In accordance with the explanation of Article 54 paragraph (1) of Law No. 1/2023, the matters formulated as considerations in imposing a sentence are not intended to exempt criminal offenders from criminal liability, but as considerations for judges in measuring the severity of criminal judgments that will be imposed on criminal offenders.

Article 36 paragraph (1) of Law No.1/2023 on the Criminal Code states that: "Everyone can only be held accountable for criminal acts committed intentionally or because of negligence. In paragraph (2) it is stated that an act that can be punished is a criminal act committed intentionally, while a criminal act committed because of negligence can be punished if expressly specified in the laws and regulations.

Law No.1/2023 concerning the Criminal Code, specifies matters that negate criminal charges or convictions, which are based on 3 things, namely the existence, justification reasons, forgiving reasons and reasons for the elimination of criminal charges or the loss of authority to prosecute.

The New Penal Code, there is a separation between justifying reasons and forgiving reasons, which is stated in Book 1, Chapter II on Criminal Prosecution and Criminal Liability. Although it is still arranged in one Chapter, but the

justification reason and the forgiving reason are arranged in different subsections.

The reasons for the justification are set out in Chapter II Part I paragraph 8, starting from Articles 31-35. Meanwhile, the reason for forgiving is regulated in the Second Part of the second paragraph, namely Article 40-44 of Law No. 1/2023 concerning the Criminal Code.

Furthermore, the reasons for the elimination of criminal charges are regulated in the 1st Book of Chapter IV regarding the loss of the prosecution authority, which is regulated in Article 132 paragraph (1), which specifies 8 (eight) reasons that cause the loss of the prosecution authority or the reasons for the elimination of criminal charges.

If examined carefully, then from the three reasons mentioned above, there is no provision that stipulates that the victim's forgiving of the perpetrator will lead to the emergence of criminal omissions and the elimination of criminal charges. This means that the perpetrator, even though there has been forgiving from the victim and/or his family, must still be criminally accountable for the actions he has committed. It's just that, in the case of sentencing the perpetrator, the forgiving of the victim can be used as a consideration for the judge in determining the severity of the criminal

verdict to be imposed, in addition to other considerations.

c. Legal consequences of the judgment handed down by the judge regarding the forgiving of the victim and/or the victim's family

The judgments handed down by judges in the sentencing system in the New Criminal Code have different characteristics from the types of judgments regulated in the Criminal Procedure Code, namely: Free verdicts, Waiver Decisions from All Legal Claims, and Criminal Awards. In addition to the aforementioned criminal verdicts, judges can also impose judgments in the form of actions.

Convictions, in the form of imprisonment in the new criminal code system wherever possible, should be avoided, after considering the provisions referred to in Articles 51 to 54 and finding the circumstances:

- 1) The Defendant is a Child;
- 2) The defendant was over the age of 75;
- 3) The defendant committed a felony for the first time;
- 4) The loss and suffering of the victims is not very great;
- 5) The defendant has paid damages to the victim;

- 6) The defendant was unaware that the criminal act committed would cause great harm;
- 7) Criminal acts occur because of very strong incitement from others;
- 8) The victim of the crime is harassing or driving the occurrence of the crime;
- 9) The crime is the result of a circumstance that is unlikely to be repeated;
- 10) The defendant's personality and conduct convinced him that he would not commit a criminal offence;
- 11) Imprisonment will inflict great suffering on the defendant or his family;
- 12) Out-of-prison coaching is expected to work for the defendant;
- 13) A lesser criminal conviction will not reduce the severity of the criminal act committed by the defendant;
- 14) Criminal acts occur among families; and /or
- 15) Criminal acts occur because of negligence.

As a result of the aforementioned provisions, in imposing a sentence on a criminal offender who is threatened with imprisonment and a fine, but the threat of imprisonment on Acts that have been committed by the defendant for less than 5 (five) years or more, nor are they criminal acts that are threatened with a special

minimum crime or criminal acts certain that is very likely to be or detrimental to society, or also a criminal offense that is detrimental to the country's finances or economy, if the judge thinks there is no need to impose a criminal offense imprisonment after the judge considers the purpose of the sentence and the guidelines for sentencing as provided in Articles 51 to 54, the judge may impose a fine.

Paragraph 2 states that a fine can only be used as an alternative to imprisonment, if the following circumstances are found in the crime:

- a. No casualties
- b. The victim didn't mind; or
- c. It is not a repetition of a criminal act.

Fines that can be sentenced as an alternative to imprisonment, namely fines of at most category V and at least category III.

From the above provisions, it can be understood that there is forgiving from the victim, if the criminal act committed falls into the criminal category of fines at most category V and at least category III, then in sentencing the perpetrator the judge can apply a fine as an alternative to imprisonment.

Furthermore, for criminal acts that are threatened with crimes that fall into the category of serious crimes, namely exceptions in the application of fines as an alternative to imprisonment as stipulated

in Article 70 paragraph (2) of Law No. 1/2023 concerning the Criminal Code, forgiving from victims and/or families can still be used as a consideration for judges in passing a verdict of conviction.

However, if you look at the provisions of Article 51 to Article 54, as well as the provisions of Article 70 paragraph (2), and then connected with the judgment handed down by the judge against the defendant Richard Eliezer, then It can be seen that the verdict handed down by the judge is very unfair, because the sentence of imprisonment of 1 (one) year and 6 months is felt to be too light from the charges filed by the public prosecutor, that is 12 years in prison.

This is because the criminal threat charged to Richard Eliezer is the provision of Article 340 of the Criminal Code, where the threat of punishment is the death penalty or life imprisonment or imprisonment for a maximum of 20 (twenty) years. The same provisions are also regulated in Article 459 of Law No.1/2023 concerning the Criminal Code.

However, when referring to the provisions of Article 22 of Law No.1/2023 concerning the Criminal Code which states that the personal circumstances of the perpetrator as referred to in Article 20 or the helper as referred to in Article 21 can remove, reduce, or aggravate the crime.

According to the explanation of Article 22, what is meant by the personal state of the offender is a state in which the offender or helper is older or younger, has a certain position, is in a certain profession, or has a mental disorder.

When it is connected with Richard Eliezer's participation in the crime of premeditated murder committed by Ferdy Sambo, then the personal circumstances of Ricahard Eliezer are that of the perpetrator younger than the perpetrator advocate (Ferdy Sambo), then judging from his position, Ferdy Sambo's influence is so great on Richard as a subordinate, while judging from the mental aspect, Richard's existence is under Ferdy Sambo's power, psychologically stressed, which caused Richard to have no power and an attempt to refuse Ferdy Sambo's order to carry out the murder (execution) of the shooting against the victim (Joshua Hutabarat).

Based on the aforementioned considerations, an apology from the perpetrator to the victim which is then accompanied by forgiving by the victim for the misconduct of the perpetrator of the criminal act can be affects the criminal verdict to be handed down by the judge. The use of the victim against the perpetrator of the criminal act can be a mitigating consideration for the judge in imposing a sentence of conviction against

the defendant. Which is the case with Richard Eliezer, who was sentenced to a criminal conviction that was much lighter than the charges filed by the public prosecutor.

5. CONCLUSION

- a. Forgiving of victims and / or families of victims is one of the basis for consideration in imposing punishment on perpetrators of criminal acts as stipulated in Article 54 paragraph (1) letter j of Law No.1/2023 about the Criminal Code.
- b. The existence of forgiving from the victim and/or his family towards the perpetrator, does not mean negating and or abolishing the criminal liability of the perpetrator. However, in sentencing the perpetrator, the forgiving of the victim can be a consideration for the judge in determining the severity of the criminal verdict to be imposed, in addition to other considerations.
- c. The use of the victim against the perpetrator of the criminal act can be a mitigating consideration for the judge in imposing a sentence of conviction against the defendant.

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