

Entrepreneurship Behaviour In The Millennial Generation At Pondok Pesantren Darull Mutaqien 1 Sepatan Tangerang

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KEYWORDS

Entrepreneur, Santri,
Santriawati, Honesty,
Diligent, Character,
Institution.

ABSTRACT

To open a mindset, form a character, instead a sense of independence and cooperation in students and students, and give entrepreneurial material at the Darul Muttaqien 1 Islamic Boarding School, researchers provided material on behavior, or manners that needed to be built in establishing entrepreneurship. This information is being made available to students and students at the Darull Mutaqien 1 Islamic boarding school so that they can participate in creating an entrepreneurial venture and meet the challenges of the increasingly competitive working world. The character traits that should be developed to succeed as an entrepreneur like integrity, perseverance, self-assurance, responsibility, and, perhaps most importantly, the willingness to take risks. To become an entrepreneur or to start a business, a person must have the courage to take risks to compete and spread the gospel of entrepreneurship in the community.

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Introduction

In Indonesia, Islamic boarding schools are well-established, traditional educational establishments. On July 23, 1989, Darull Mutaqien 1 Islamic Boarding School was established. It currently holds Tangerang Regent Operating Permit Number 451.4412382/Kesra/1991. The vision of the Darull Mutaqien 1 Islamic Boarding School is to become an institution that excels in quality, both in the areas of faith, knowledge, and morality. The school also has a mission statement. The Darul Mutaqien 1 Islamic Boarding School's goal is to create official and informal leaders who are devout Christians, pious Muslims, and people of moral character. The Ministry of Religion curriculum and the (local) Islamic Boarding School curriculum are incorporated into the curriculum used by Darull Mutaqien 1 Islamic Boarding School, with a learning ratio of 100% Islamic boarding school subjects and 100% general subjects. Islamic boarding schools are also not known as learning places to increase Islamic religion, but pesantren can also be a place to foster character and form Islamic behavior in pesantren. This is why the Darul Muttaqien Islamic Boarding School has two majors, Science and Social Studies, in the hopes that it will provide sufficient provisions for students to play in society later. Islamic boarding schools are also recognized as educational establishments that impart to

their sisters a variety of skills and talents, including entrepreneurship, art, music, athletics, and others.

According to Airlangga Hartanto, minister of industry, Indonesia requires at least 4 million new business owners to support the development of its economy in order to become a developed nation. A nation's economy will be more developed the more businesses there are there. We also require future generations of high caliber. Since last June 2015, the defense of a 12-year compulsory education has been in effect, but it appears that additional measures are still necessary, one of which is to foster an entrepreneurial spirit and knowledge base from a young age.

According to KBBI, starting is a combination of the terms "entrepreneurship" and "effort." The word business refers to actions taken by expending thought and effort in order to accomplish specific goals, and the word "wira" indicates hero or man. Entrepreneurship is simply described as a financially successful endeavor. One of the first steps in increasing the number of businesspeople in Indonesia is to teach the younger generation, including female students at the Darul Muttaqien modern Islamic boarding school, the fundamentals of how to identify and develop their individual talents while also discouraging them from developing an aggressive mindset (Al Mamun et al., 2016).

By supplying information on how to recognize one's interests and talents and how to manage their emotions. While the desire to become an entrepreneur can be characterized as a deliberate state of mind in which a person aspires to launch a new company or develop a core value for the survival of an organization. In this instance, the materials offered at the Darul Muttaqien Islamic Boarding School are in addition to the materials needed to launch an entrepreneurial career using the talent held. In this instance, the information was provided in order to entice Santri and Wati, who were boarding students at Darul Muttaqien 1, to open a business and utilize their ability to launch a business (Maryati et al., 2020).

The development of character in beginning entrepreneurship is to shape the character of students and students who later after graduating want to pioneer and build small businesses with their skills. One must have a good spirit and character in order to start or build a company. The development of character and behavior in this situation involves more than just starting a company; it also entails developing students' mental faculties and their capacity for healthy competition in the workplace and among entrepreneurs (Oktaria et al., 2022).

An entrepreneur should essentially possess an entrepreneurial spirit, which originates from personality and has been realized through entrepreneurial values for people who engage in small business activities, as evidenced by someone's ability. People with high levels of creativity and innovative company startup and expansion ideas tend to have entrepreneurial souls (Nofiaturrahmah, 2014). Entrepreneurial spirits, which must be ingrained in the personality of a person who has just begun a business and will be built, can instill and build an action from creative ideas as values, likes to try, resilient in various challenges, self-confidence, have self-determination or locus of control, and the capacity to manage risks (Pihie & Akmaliah, 2009).

The need for success, which is a key component in the development of entrepreneurial behavior, shapes how people behave when starting a company (Remeikiene et al., 2013). On the basis of this, he then proposed the following as some of the primary characteristics of entrepreneurial behavior: "Risk taking is being a function of skills not coincidence; grief; Energetic and / or new instrumental activities; individual responsibility; Knowledge of the results of the decision; Anticipate the possibility of the

future; Organizing expertise." Several principles must be taken into account when adopting or implementing entrepreneurial character education. The material about entrepreneurial values is not standard teaching material (Ismail & Zain, 2015). These principles are as follows:[2]

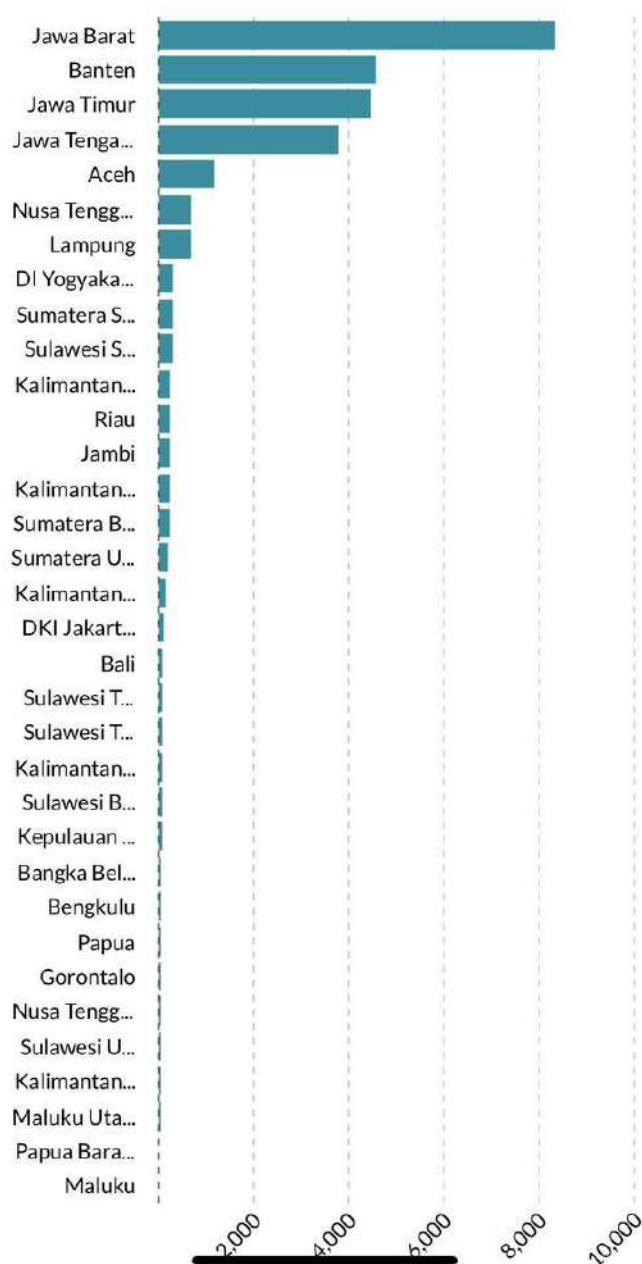
- a. The process of developing character values in starting entrepreneurship in developing entrepreneurial character values has a long process and has a goal for santri in pesantren having ideas. The material about entrepreneurial values is not ordinary teaching material. This means that these values are not used as a subject, as if teaching a concept, theory, procedure, or facts like in subjects. Integration into subjects can be through material, method, and assessment. The process of planting values in entrepreneurship in carrying out the process of planting values in entrepreneurship, students in building small businesses can apply values implanted in entrepreneurship.
- b. Education in Indonesia to Islamic boarding school. Islamic boarding schools are known as its education system that teaches Islam. In the case of Islamic boarding schools also teach other things to train the independence of the santri and Islamic boarding schools, as an Islamic education institution that has a strong influence in the community, can play an important role in developing talent and entrepreneurial interests in the santri. In the case of Islamic boarding schools also teach other things to train the independence of Santri and Islamic Boarding Schools, as Islamic educational institutions that have a strong influence in society, can play an important role in developing entrepreneurial talents and interests in students.

This is because Islamic boarding schools usually have a culture that supports the formation of entrepreneurial character, such as a spirit of competitiveness and independence (Akbar et al., 2022). In this case the education system at the Darul Mutaqien 1 Islamic boarding school is not inferior to the education system at public schools because the Darul Mutaqien 1 Islamic boarding school has 2 programs, in the 2 programs owned by the Darul Mutaqien 1 Islamic boarding school there is a development program and a flagship program. In developing the Darul Mutaqien 1 Islamic boarding school, it develops facilities and infrastructure as well as the physical potential and quality of the students (Makmun, 2016).

The Darul Mutaqien 1 Islamic Boarding School has progress that can be seen in terms of physical and non-physical, progress that can be seen from a physical perspective, namely the construction of various facilities that support the activities of students/students, this development is continuous without stopping, while from a non-physical perspective, Darul Mutaqien Islamic Boarding School develop the various disciplines of Islamic boarding schools and madrasahs which are managed by the students/students themselves in a forum called the Daarul Mutaqien Santri Association (IKSDAM) which is under the auspices of the Organizational Consideration Council (MPO) which consists of a council of teachers. In the superior program that was built at the Darul Mutaqien 1 Islamic Boarding School, namely in carrying out the ability to speak foreign languages, both Arabic and English (Baharun & Mahmudah, 2018). also teaches to have independent behavior and dare to take risks in starting a business. By having different characteristics, Islamic boarding schools are centers of Islamic education that persist in preserving the traditions of boarding schools in the midst of an increasingly modern era (MCCLELLAND, 1967).

A special characteristic of Islamic boarding schools is the cost of a curriculum that focuses on religious knowledge such as Islamic law, interpretation, hadith, sashuf, rhetoric, dating, the Islamic fiqh system, and also Islamic theology. In this case, Islamic boarding schools have a working mechanism in building character. Darul Muttaqien boarding school is unique compared to other educational institutions in general. The following is the number of Islamic boarding schools spread throughout Indonesia.

Jumlah pesantren menurut provinsi, 2020



Graph of the number of Islamic boarding schools in the territory of Indonesia
 Source : Database of Islamic boarding schools in the territory of Indonesia

According to the aforementioned graph, West Java, which contains up to 8,000 Islamic boarding schools, has the widest dispersion of such institutions. In this situation, there will be more competition if the students in Islamic boarding schools do not alter their perspectives and develop their talents to begin their own businesses, and the unemployment rate in the Indonesian region will rise if the students do not get ready and do not develop themselves to make original ideas after graduating from Islamic boarding schools.

Research methods

The following steps are taken including;

1. Preparatory stage

- a. Surveys

A survey of the potential sites for the community service projects was first conducted in Cadas Village, Sepatan District, Tangerang Regency. The survey's goal is to examine the needs surrounding student creativity programs and the degree to which the level of need is met by those taking part in these activities.

- b. Establishment and determination of locations and targets.

Creating counseling and outreach materials, such as materials for pupils and women at the Darul Muttaqien Modern Islamic Boarding School using PowerPoint media.

2. The activity implementation stage

The activity's implementation step is carried out after preparation. The first step in this stage is an explanation of the importance of education for the students, followed by observation sessions. This outreach focuses on educating, motivating, and inspiring the students to improve their quality of life and the quality of the nation by starting their own businesses.

3. Research method

To carry out these activities, several training methods are used, namely:

- i. The Lecture Method was chosen to provide knowledge and explanation about the importance of education for students; provide knowledge about entrepreneurship, recognize their potential to become an entrepreneur, and motivate them to maximize that potential.
 - ii. The observation method was chosen to survey how much entrepreneurial potential a student has.

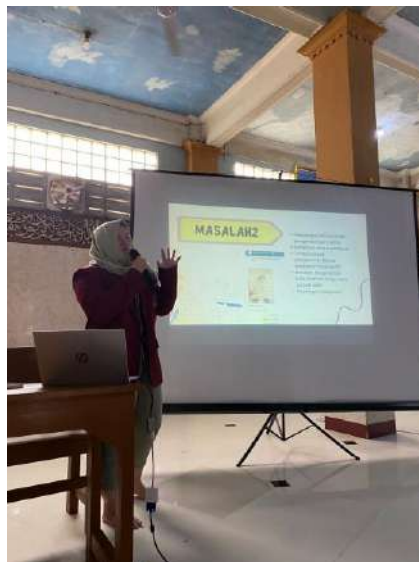
Results and Discussions

These volunteer endeavors include the following: PKM activities start with a survey to determine their hobbies and talents as well as how to control the emotional state of the santri and wati. After the students and female students completed a survey about their talents and interests and how to control their emotional state, they were given information about these topics as well as information about the relationship between the

survey that the students and female students completed before beginning the core material, namely Entrepreneurship. Therefore, in order to run a business that will be built afterward, it is important to first identify your talents and interests before starting one (Rozikin & Astutik, 2021). The Islamic boarding school's common area served as the training location. To facilitate the training process and enable the students and wati who are in the hall to hear the given material, the room is furnished with a projector, LCD, table, and microphone.



The Darul Muttaqien Islamic Boarding School is depicted in the first of the two images above, where students are asked to fill out a survey about their skills and interests as well as information about how to control their emotions. Figure 2 shows a photograph that was taken during the moderator's explanation of the survey's findings, which had been completed by students who intended to continue their education or launch a company after leaving Islamic boarding schools.



In the picture above is our colleague explaining material about entrepreneurship for students who are in Islamic boarding schools. in the material explains that in starting a business one must dare to take risks and have an independent spirit. In building a

business for students or the millennial generation who want to build a business there is no need to be afraid because in building a business one must have a strong and independent attitude and be ready to take any risks.



In the picture above is a photo taken after explaining the material presented by our team. In the photo above, there are several gifts given by the team to younger siblings at the Darul Muttaqien Islamic Boarding School as a memento given by our team. and hopefully the knowledge that we have conveyed can open the mindset for the students at the Darul Muttaqien Islamic Boarding School and develop the talents possessed by everyone by finding creative and innovative ideas.

Conclusion

The inference that can be made from the articles that have been written is that Islamic boarding schools are an establishment designed to help students develop their character and learn about the Islamic faith. When it comes to studying entrepreneurship at Darul Muttaqien 1, Islamic boarding schools also study and instruct students in other disciplines. Islamic boarding schools educate their students on how to develop a business-building mentality once they graduate. In this instance, supplying information on the qualities that company owners who want to launch or expand a small business must possess.

If someone who wants to become an entrepreneur must have a character that is responsible, confident, able to share time, and the most important point if someone wants to build a business is the courage to take risks under any circumstances. A person who wants to become an entrepreneur must have the courage to take risks because to train one's mentality and courage in starting entrepreneurship and training to be able to compete later.

We would like to express our gratitude to LPPM Universitas Tarumanagara for the opportunity given by our team, be that I also thank the principal of Darul Muttaqien 1 Islamic Boarding School Tangerang so that this activity can be held very well, smoothly and has provided good facilities.

References

- Akbar, M., Suhrah, S., Wahid, A., & Afnir, N. (2022). Islamic Boarding School as a Role Model for Character Education. *KnE Social Sciences*, 623–632.
- Al Mamun, A., Nawir, N. B. C., & Shamsudin, S. F. F. B. (2016). Examining the effects of entrepreneurial competencies on students' entrepreneurial intention. *Mediterranean Journal of Social Sciences*, 7(2), 119.
- Baharun, H., & Mahmudah, M. (2018). Konstruksi Pendidikan Karakter Di Madrasah Berbasis Pesantren. *Jurnal MUDARRISUNA: Media Kajian Pendidikan Agama Islam*, 8(1), 149–173.
- Ismail, V. Y., & Zain, E. (2015). The portrait of entrepreneurial competence on student entrepreneurs. *Procedia-Social and Behavioral Sciences*, 169, 178–188.
- Makmun, H. A. R. (2016). Pembentukan Karakter Berbasis Pendidikan Pesantren: Studi di Pondok Pesantren Tradisional dan Modern di Kabupaten Ponorogo. *Cendekia: Jurnal Kependidikan Dan Kemasyarakatan*, 12(2), 211–238.
- Maryati, M., Suhandi, T. K., & Permana, H. (2020). Character Education Program for Student in Islamic Boarding School. *KnE Social Sciences*, 638–647.
- MCCLELLAND, D. (1967). *The achieving society free press*. Martino Fine Books, New York (United States of America).
- Nofiaturrehman, F. (2014). Metode pendidikan karakter di Pesantren. *Jurnal Pendidikan Agama Islam*, 11(2), 201–216.
- Oktaria, A., Khoirul, K., Fitriyenni, S., Paiman, P., & Irfan, M. (2022). Peran Pesantren dalam Era Digital. *Scaffolding: Jurnal Pendidikan Islam Dan Multikulturalisme*, 4(3), 432–444.
- Pihie, Z. A. L., & Akmaliah, Z. (2009). Entrepreneurship as a career choice: An analysis of entrepreneurial self-efficacy and intention of university students. *European Journal of Social Sciences*, 9(2), 338–349.
- Remeikiene, R., Startiene, G., & Dumciuviene, D. (2013). Explaining entrepreneurial intention of university students: The role of entrepreneurial education. *International Conference*, 299, 307.
- Rozikin, M. C., & Astutik, A. P. (2021). Implementation of Character Education in Islamic Boarding Schools. *Academia Open*, 4, 10–21070.

MINDSET TRAINING IN ENTREPRENEURSHIP AT PONDOK PESANTREN DARUL MUTAQIEN 1

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Abstract: *To open a mindset, form a strategy in doing entrepreneurship, have a sense and spirit of independence and cooperation for students and students, and provide material about entrepreneurship at Darul Muttaqien 1 Islamic Boarding School. This information is given to students and students at the Darul Mutaqien 1 Islamic boarding school so that they can participate in creating entrepreneurial businesses and have a challenge in the world of work which is increasingly competitive and has high responsibility. In carrying out an entrepreneurial strategy that must be known by students who want to start entrepreneurship, namely having a strategic location such as on the side of the road, close to a factory, and which must be developed to be successful as an entrepreneur such as integrity, perseverance, self-confidence, responsibility. To become an entrepreneur or to start a business, one must be willing to take risks to compete and spread the gospel of entrepreneurship in society.*

Keywords:

Entrepreneurship, Researchers, Strategic Location

Introduction

In carrying out community service activities at the Darul Mutaqien 1 Islamic boarding school, we chose the theme of entrepreneurship. Pondok Pesantren Darul Mutaqien 1 was established on July 3, 1989, and was founded by Drs. KH Ahmad Shonhaji at Darul Muttaqien Islamic Boarding School is a cadre institution that is ready to dedicate itself to the people, homeland, and nation. Therefore, the curriculum design still maintains good classical values and accommodates better modern deals (Budi, 2020).

The process of teaching and learning activities is full-time with an active, creative, and practical approach. In carrying out activities, there are twelve activities, namely: Tahfidz Al-Qur'an, Study of the Yellow Book, Hadroh/Marawis Arts, Choir, Music Arts, Khitobah, Calligraphy Course, Computer Course, Scouts, English Club, Mading, Entrepreneurship: Learning Computers, Computer Engineering in the

activities organized by Islamic boarding schools Darul Muttaqien 1 there is entrepreneurship in carrying out entrepreneurial activities at Islamic boarding schools, there are two namely learning computers and computer engineering. The actions were already present at the Darul Mutaqien 1 Islamic Boarding School (Akbar et al., 2022).

The material to be delivered relates to the activities held at the Darul Mutaqien 1 Islamic Boarding School. In developing entrepreneurship, one must have a progressive mindset. In entrepreneurship, an advanced attitude can realize the dream of someone who is about to start entrepreneurship; changing attitudes occur in all walks of life, but everyone can feel a change in attitude very quickly, both positively and negatively. In doing an entrepreneur entrepreneurial mindset, as follows:

1. Have a sense of enthusiasm and want to seek new opportunities
2. Explore various opportunities by taking an approach
3. They effectively only explore the best opportunities with unusual discipline.

Linkage mindset in entrepreneurship.

A mindset or commonly called a mindset, is: a collection of beliefs that shape or build in organizing ways of thinking to understand oneself and understand the world. Mindset is a person's position or mental view that influences the person's approach to dealing with a phenomenon. Mindset consists of a set of assumptions, methods, or records that are owned by a person or group that are very firmly entrenched. According (Kirkley, 2016) mindset is beliefs that affect somebody's attitude; a set of beliefs orang a way of thinking that determine somebody's behavior and outlook. As an entrepreneur who wants to progress, an entrepreneur must have a quick mindset and be able to understand the situation in running a business. 3An entrepreneur carries out a managerial role in his activities, but routine management of ongoing operations is not classified as entrepreneurship when forming a trade to be carried out. In setting the mindset of the students to do business that will be built, the students are given directions and given material regarding the introduction of the concept of entrepreneurship. Entrepreneurship also means opening jobs for the wider community. It's just that, in practice, not everyone understands the concept of entrepreneurship and chooses to look for work or become unemployed until they get a job. This can be seen from the data on entrepreneurial interest based on the education level below.

Method

In carrying out research methods for PKM activities, a qualitative descriptive

research method is used to find out and describe the innovative ideas that have been made. In conducting this research using the Preparation stage (Gunawan, 2022).

a. Survey

The first survey of potential locations for community service projects was conducted in Cadas Village, Sepatan District, Tangerang Regency. The study aimed to examine the needs surrounding student creativity programs and the degree to which these needs were met by those participating in these activities. Determination and determination of locations and targets. Making counseling and counseling materials, such as material for students and mothers at Darul Muttaqien Modern Islamic Boarding School, using PowerPoint media.

b. Stage of implementation of activities

The stages of implementing activities are carried out after preparation. The first step in this stage is an explanation of the importance of education for students, followed by an observation session. This socialization focuses on educating, motivating, and inspiring students to improve their quality of life and the nation's quality by starting their own businesses.

Result

1. The lecture method was chosen to provide knowledge and explanation about the importance of education for students, give entrepreneurial ability, recognize their potential to become entrepreneurs, and motivate them to maximize this potential.
2. The observation method was chosen to survey how much entrepreneurial potential students have

Based on the results section that has been discussed regarding this research, namely regarding the mindset in entrepreneurship. These results will be explained as follows:

A. Fill talents and interests

At the stage of filling in the talents and interests of the students, the aim is to conduct a survey regarding talents and interests to train and find out the skills and interests of the students and develop the mindset of the students in developing a business that the students will build.



In using the stages to fill out a survey regarding the talents and interests of the students, the aim is to provide motivation and change the mindset of the students after graduating from Islamic boarding schools.

B. Presenting entrepreneurial material

In the stages of explaining the material presented about entrepreneurship in the PowerPoint, it contained the scenes of entrepreneurship, success factors, weaknesses in entrepreneurship, and the implementation stages (Remeikiene et al., 2013).



In the material that has been presented regarding entrepreneurship, that entrepreneurship is an activity that brings profits in doing business, and in entrepreneurship has the following objectives:

- Support the emergence of small businesses
- Foster a spirit of innovation
- Increasing the talents of millennials.

In the presentation of this material, is not about the explanation of entrepreneurship that is discussed but discusses the stages in entrepreneurship; these stages include:

- Trigger stage
- Innovation stages
- Implementation stages

Discussion

This research was conducted offline in February by inviting the Darul Mutaqien 1 Islamic Boarding School in the Tangerang area. The results of the material that has been made, have been presented offline to the students who are at the Darul Mutaqien 1 Islamic Boarding School. From the results of the presentation that was delivered, several students asked questions regarding the material that had been presented. with this research, it can be helpful for students to change their mindset after finishing from Islamic boarding schools.

Conclusion

In carrying out an entrepreneurial strategy that must be known by students who want to start entrepreneurship, namely having a strategic location such as on the side of the road, close to a factory, and which must be developed to be successful as an entrepreneur such as integrity, perseverance, self-confidence, responsibility. To become an entrepreneur or to start a business, one must be willing to take risks to compete and spread the gospel of entrepreneurship in society.

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Bibliography

- Akbar, M., Suhrah, S., Wahid, A., & Afnir, N. (2022). Islamic Boarding School as a Role Model for Character Education. *KnE Social Sciences*, 623–632.
- Budi. (2020). *Pesantren Daarul Mutaqien Tangerang*. <https://www.laduni.id/post/read/69000/pesantren-daarul-muttaqien-tangerang>
- Gunawan, I. (2022). *Metode Penelitian Kualitatif: teori dan praktik*. Bumi Aksara.
- Kirkley, W. W. (2016). Entrepreneurial behaviour: the role of values. *International Journal of Entrepreneurial Behavior & Research*, 22(3), 290–328.
- Remeikiene, R., Startiene, G., & Dumciuviene, D. (2013). Explaining entrepreneurial intention of university students: The role of entrepreneurial education. *International Conference*, 299, 307.

Dilemma of Hostage Diplomacy by the Papuan KKB: Perspectives on Supremacy of Law and Humanism



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ABSTRACT: The issue of separatism remains heavily debated and poses a threat to the sovereignty of the Republic of Indonesia, specifically with regards to the KKB (Armed Criminal Group) in Papua. Cases of human rights violations committed by the Papuan KKB have been increasingly brutal, leading to their designation as a terrorist group under Terrorism Law 5/2018. The demand for a referendum on Papuan independence, weapon supplies and ransom as conditions for releasing hostages, has generated mixed responses from government institutions and society. This research aims to examine the perspective on hostage diplomacy for ransom in light of the Papuan KKB's terrorist designation, considering both supremacy of law and humanism. The chosen method for this study is normative-qualitative, which involves a descriptive analytical approach. The findings indicate that redefining the actions of the Papuan KKB as terrorism has had a domino effect on law enforcement and measures taken to address the group. In practice, the enforcement of positive law often intersects with the values held in society. Based on the supremacy of law perspective, the ransom system is deemed unacceptable in terrorist hostage diplomacy and is considered contrary to the law. However, the humanistic perspective justifies the use of ransom money to save the lives of hostages. Resolving the complex and multidimensional conflict in Papua can be pursued through a collaborative approach rooted in humanism, sociology, and anthropology.

KEYWORDS: hostage diplomacy, The Papuan KKB, ransom system, supremacy of law, humanism

I. INTRODUCTION

A. Background of The Study

Conflict between law enforcement and humanism may arise in certain situations. The law must be enforced in order to function, and its purpose is to operate effectively^[1]. Law enforcement is generally carried out to protect public interests, while humanism focuses on individual dignity and freedom. In some cases, law enforcement can conflict with the principles of humanism^[2]. When law enforcement is implemented in a repressive manner, perceptions of human rights violations often arise. Examples include the application of the death penalty, exile, discrimination, or the use of violence in prosecuting extraordinary crimes.

The threat of separatism to the integrity of the Republic of Indonesia is not news^[3]. History records that separatist rebellions have occurred in various regions since independence, such as the RMS (Republic of South Maluku) in South Maluku, GAM (Free Aceh Movement) in Aceh, and OPM (Free Papua Organization) in Papua^[4]. While their backgrounds vary, their goal remains the same: independence for their territory and separation from Indonesia. They tend to employ radical methods, often resulting in casualties. Separatism in Indonesia can be seen as a complex phenomenon, involving various aspects as causes and effects. The qualifications for separatism are specifically regulated in TNI Law 34/2004 and Mass Organization Law 16/2017^[5]. The Indonesian government is taking this issue seriously, as it poses a threat to sovereignty, and is actively seeking to address it using various approaches, both non-repressive and repressive.

The seeds of the separatist movement in Papua began to grow during the Dutch colonial period. The Papuan separatists emerged as a result of the Papuan people's dissatisfaction with the outcome of the 1969 Pepera, in which the Netherlands and Indonesia agreed to a resolution that ended the Dutch colonial era in Papua and transferred it to Indonesian administration^[6]. The Netherlands broke its promise to liberate Papua, which, along with several other factors, sparked a surge of rebellion. These factors include cultural and ethnic identity, human rights, natural resources, KKN (corruption, collusion, and nepotism), and foreign intervention^[7]. Feeling that they were being treated unfairly and desiring sovereignty, some Papuans took the initiative to form a separatist group known as the OPM.

In its development, OPM has experienced social dynamics^[8]. A series of crimes has been carried out by the OPM armed group in their efforts to achieve political goals. Various attacks, including destruction, hostage taking, and murder, have been carried out brutally and on a large scale. The number of fatalities is decreasing and continuing to increase. As a result of these actions, OPM

Dilemma of Hostage Diplomacy by the Papuan KKB: Perspectives on Supremacy of Law and Humanism

changed its name to KKB (Armed Criminal Group) and was officially classified as a terrorist organization, as intended by the Terrorism Law 5/2018 by the government^[9].

At the broader spectrum of violence, one of the disturbing tactics used by the Papuan KKB is hostage-taking, which has occurred in various instances. These incidents include the taking of wildlife researchers in 1999, construction workers in 2018, water supply pilots in 2022, and BTS workers in 2023^[10]. These actions are often accompanied by a number of demands. Apart from the referendum on Papua's independence, the KKB also often demands weapons and money as ransom. This raises pros and cons regarding the government's efforts to free the hostages, considering that the determination of the status of the Papuan KKB as terrorists, applies *mutatis mutandis* to its treatment.

B. Formulation of The Problem

How is the perspective on hostage diplomacy for ransom in light of The Papuan KKB's terrorist designation by the Indonesian government, according to the supremacy of law and the principles of humanism?

II. METHOD

The author completed this article using normative research methods. The writing is based on secondary data, which consists of primary legal materials such as the Terrorism Law, the TNI Law, the Police Law, and other related regulations, as well as secondary legal materials such as scientific articles that have been published in relation to the discussed issues, books, and so on. Data collection, processing, and analysis techniques are carried out qualitatively through hermeneutic interpretation, which is correlated with the raised issues. This approach aims to produce a descriptive narrative that leads to an explanatory nature.

III. RESULT AND DISCUSSION

A. Diplomacy as An Alternative to Release The Hostage

Diplomacy is the art and practice through which a country employs a series of non-coercive policies to secure its interests while maintaining peaceful relations with other countries. Its role is of great importance in international politics and is frequently utilized as the primary method for resolving disputes, fostering cooperation, and advancing global interests. Throughout the years, diplomacy has evolved and adapted to the ever-changing dynamics of the world, becoming increasingly intricate and multidimensionally versatile^[11].

Hostage diplomacy can be considered one of the most complex forms of diplomatic efforts due to its coercive nature^[12]. This kind of diplomacy is carried out by certain countries or groups to free hostages who have been held by unknown parties or terrorist groups, while at the same time anticipating ongoing conflict that risks increasing the number of victims. It is carried out without physical violence, requiring careful strategy, foresight, and strong cooperation between various related parties. Basically, the goal of hostage diplomacy is to secure the safety of the hostages and bring them back to their country or to a place considered safe. This diplomacy involves various aspects and dimensions in order to achieve success.

Some of the key elements involved in hostage diplomacy include negotiations with the party holding the hostages, making offers, meeting specific demands, international diplomacy, and special operations conducted by the country's security forces. During negotiations, each party aims to accommodate their respective interests. In this situation, the hostage takers will defend their interests and demands, while the party releasing the hostages will strive to ensure their safety and fulfill the conditions for their release. This negotiation process typically takes place in secret and requires a well-trained team with strong communication skills, an understanding of the hostage takers' demands, and the ability to build trust between the two parties. Each step in hostage diplomacy plays a crucial role in determining the final outcome.

Hostage diplomacy has become a transnational polemic. This act of hostage-taking, carried out under the guise of law and politics, has now transformed into a mission to manipulate foreign policy. The victims of hostage-taking are often innocent individuals who are not involved in the conflict^[13]. This phenomenon is common in Iran, China, and other authoritarian countries. Creative negotiation strategies spearhead the safe return of hostages, and there is some explicit evidence showing how hostage-taking is used as a game of chess by major powers. Hostage-taking concessions not only exist but also have a mastermind behind them^[14].

Like other hostage-taking actions in general, the Papuan KKB has also submitted a number of demands as conditions for the release of the hostages. Currently, there are three main demands that dominate their list, namely a referendum on an independent Papua, ransom money, and weapons supplies. The police have firmly stated that they will not fulfill the demands for freedom and weapons, as it goes against Indonesian sovereignty. However, they are willing to accept the ransom demand^[15]. Fulfilling the ransom money is accompanied by the condition that the money will not be used to support acts of terror. This context has sparked debate among various parties. Some parties approve of the ransom method initiated by the government for the safety of the hostages, while others tend to disagree with the decision. The contradiction arises from the assessment that ransom money is not a solution, but

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rather a precursor to new problems. If this continues, it is not impossible for the separatist rebellion to become more rampant. It should also be emphasized that the quality of Indonesian diplomats in the defense sector is still far from ideal levels, and significant improvement is needed in terms of bargaining skills^[16].

If examined more deeply, it must be admitted that negotiations over ransom demands put forward by the hostage takers are relatively more controllable in their consequences compared to demands for a referendum on independence and weapons. However, the ransom demands need to be negotiated with a high level of technique so that the amount of currency requested by the hostage taker can be met, without disrupting the finances of the relevant institutions. Furthermore, if possible, the use of these funds should be monitored so that various possibilities can be anticipated.

B. Legal Consequences of Determining the Papuan KKB as Terrorists

The real source of national threats is injustice. Concrete examples, such as the never-ending Papua conflict, show that injustice has been ignored. The Papuan people who are fighting back feel that their rights have been denied. Papua's natural wealth, which should belong to its citizens, is being drained for the sake of the egos of the elite and capitalists. Not only that, regional oligarchs are also taking over Papua's development budget. The quantity and quality of education that are not in harmony are considered discrimination. The profile of the Papuan people has not been separated from backwardness and poverty and still remains as "The People That Time Forgot". This has become the pioneer of the radical separatist movement in Papua^[17].

The Papuan separatist movement is a pro-independence movement initiated by local and educated nationalist figures^[18]. Their understanding of the concepts of independence and autonomy arises from the colonial government's training during preparations for an independent Papua. It is possible that foreign parties have infiltrated and mobilized troops using local desertions as a cover. This allegation gains support from the escalating and widespread attacks by the KKB. According to Connie Bakrie, the prolonged series of Papuan KKB rebellion actions could only be accomplished with the assistance of supporters^[19]. It is the same as other political activities, where the masses are the main base. It is impossible to run without fundraisers or donors because the budget is too large. The series of crimes and brutal human rights violations by KKB soldiers cannot be tolerated any longer. According to Kompas TV reports, as of June 2023, there were at least 75 cases, and 17 people died as a result of KKB attacks in various regions of Papua^[20]. This problem continues to pose a significant challenge for the central and regional governments, as well as security and law enforcement officials. The methods employed thus far have proven ineffective, necessitating the search for a suitable and optimal conflict resolution concept.

The authority of state officials to handle the Papua KKB is guided by applicable positive law. The responsibility for dealing with separatists rests with the military, while the police can only take action if a criminal act has occurred that meets the elements of the articles in the Criminal Code. This refers to the legal regulation of separatism, which is contained in the TNI Law but not in the Polri Law. The government's declaration of the redefinition of the Papuan KKB as a terrorist group is not merely a justification for repressive actions. This is because the actions of the Papuan KKB and all its affiliates are no longer just acts of radical separatism that threaten state sovereignty. They are now included in the category of "extraordinary crime" which fulfills the elements of acts of terrorism as stated in the Terrorism Law.

The implementation of the Terrorism Law as *lex specialis*, applies *mutatis mutandis* to every aspect of handling the KKB in Papua. Cooperation between government institutions and legal synchronization is essential in the process of handling terrorism cases. Officials must coordinate with each other because the task of law enforcement no longer rests on one party but is a shared responsibility. The terrorist label is only aimed at KKB perpetrators with *mens rea*, as defined in the Terrorism Law. In practice, it is very possible to carry out repressive actions from the police and military with violence, limited to certain situations that are deemed necessary and still based on human rights principles. The redefinition of KKB actions as acts of terrorism automatically leads to the implementation of other laws and regulations pertaining to the Terrorism Law, including the Terrorism Financing Law and its corresponding regulations, among others. To effectively combat terrorism, repressive measures alone are insufficient. The government must also focus on preventive measures as mandated by the Terrorism Law. These measures include fostering counter-radicalism and deradicalization to address the issue at its core, right down to the grassroots level.

C. The Supremacy of Law Perspective on Hostage Diplomacy Using a Money Ransom System

"*Fiat justitia, et pereat mundus*", is one of the appropriate creeds to analogize the supremacy of law. Laws are formed by their creators to achieve the desired social conditions by limiting everyone's basic rights and obligations. In a rule of law state, the law exists to be positioned at the highest hierarchy, and the law is enforced if there are discrepancies or deviations from the law itself^[21]. Law without law enforcement will be useless. The Republic of Indonesia as a legal state adheres to the positivism paradigm, upholds every written norm and uses law enforcement instruments for the sake of laws that are just and beneficial.

The redefinition of the KKB's actions as terrorism automatically repositions the enforceability of the law in dealing with this group. All criminal acts committed can no longer be merely considered as ordinary national political crimes, but rather transnational crimes at an exceptional level. In the case of hostage-taking by the KKB, several demands were made as conditions for release.

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Hostage diplomacy must be executed with strategic calculations and guided by applicable regulations, taking into account the group's status as a terrorist organization. The use of ransom as a negotiating tool can no longer be tolerated. This prohibition is in line with Law 9/2013 and UNSC Resolution 2462. In other words, according to the SOP, providing ransom money is deemed 'haram' when engaging in diplomacy with terrorists, even if the goal is to free hostages. Choosing to provide ransom money will only enhance the KKB's bargaining position and make it susceptible to being used as a propaganda tool. There is a high likelihood that the funds will be used to cover operational costs for KKB Papua activities, which, in reality, violate the law and pose a threat to the true aim of the law — ensuring public order and peace.

D. The Humanism Perspective on Hostage Diplomacy Using a Money Ransom System

A dictum from ancient Greek philosophers regarding law states that the enforcement process is not yet like "pantha rei". There are various obstacles and challenges that prevent it from flowing smoothly^[22]. One of the problems of legal conflicts is the principles of humanism, an element contained in the Pancasila ideology, but which often intersects with the law like two sides of a coin. Humanism places the true essence on human dignity. This view prioritizes human values, especially during conflicts, in order to minimize destructive actions between humans. Humanism is manifested by the state's treatment towards its people, including providing legal protection.

Diplomacy of KKB Hostages, which is carried out using a ransom system, is actually prohibited by applicable law. However, consideration of the humanitarian values of the hostages is a benchmark that cannot be ignored. The state carries out its functions by being responsible for protecting the human rights of all citizens without exception. The issue of hostage diplomacy puts human lives at stake, including diplomatic hostages who are actually innocent. This highlights the contradictory nature of law enforcement and protection. The government must explore alternative approaches to deal with the worst-case scenario, learning from past similar cases. This could involve seeking the assistance of Papuan community leaders who can address the demands of the KKB while still considering regional and national interests. The diplomatic strategy towards the KKB must prioritize a sociological-anthropological approach in order to minimize the number of victims.

CONCLUSIONS AND SUGGESTION

Based on the explanation above, the following conclusions and suggestions can be made. From the perspective of the rule of law, hostage diplomacy, involving the use of ransom money to fulfill the demands of hostage takers who are confirmed to have terrorist status, cannot be tolerated as it clearly violates Law 9/2013 and UNSC Resolution 2462. This practice can also threaten the achievement of legal objectives. From a humanist perspective, resorting to hostage diplomacy should only be considered as a last resort for the state to save its citizens. If such a situation arises, it must be approached with meticulous planning, precision, adherence to legal protocols, and a cohesive team to anticipate potential negative outcomes.

In light of the escalating Papua KKB case, the priority in securing the release of hostages should be on maintaining stability, curtailing the maneuverability of the KKB, and weakening their bargaining position. This would facilitate negotiations without conditions, and potentially even lead to their disarmament and rehabilitation. To tackle sympathizers in different regions, particularly those pursuing higher education, a persuasive and humanistic approach is necessary to suppress separatist and terrorist ideologies while fostering patriotism. Furthermore, considering progressive laws with a human-centric approach as the focal point for legal enforcement can help resolve the dilemma often faced between supremacy of law and humanism.

REFERENCES

- 1) Isnantiana, N. I. (2019, April). Hukum dan Sistem Hukum Sebagai Pilar Negara. *Jurnal Hukum Ekonomi Syariah*, 2(1), 19-35. <http://dx.doi.org/10.30595/jhes.v2i1.4470>
- 2) Raharjo, D. B., & Nirmala Sari, R. R. (2021, July 19). *Represif Aparat Saat PPKM Darurat Disebut Hanya Timbulkan Masalah Baru untuk Masyarakat*. Imparsial. Retrieved October 6, 2023, from <https://imparsial.org/represif-aparat-saat-ppkm-darurat-disebut-hanya-timbulkan-masalah-baru-untuk-masyarakat/>
- 3) Nugroho, K. A., Deksono, G. R., Nugroho, A. D., & Kamarani, S. (2023, Juni). Analisis Sejarah dan Kontemporer Gerakan Separatisme di Indonesia. *Jurnal Kewarganegaraan*, 7(1), 95-100. <https://doi.org/10.31316/jk.v7i1.4699>
- 4) Darnela, L. (2022, Januari). Eksistensi Republik Maluku Selatan Sebagai Subjek Hukum Internasional: Antara Legitimasi dan Legalitas. *Jurnal Kosmik Hukum*, 22(1), 73-88. <http://dx.doi.org/10.30595/kosmik hukum.v22i1.9662>
- 5) Irawan, M. N., & Kencono, P. S. (2020, October 2). *TINJAUAN YURIDIS PENANGANAN SEPARATISME DI INDONESIA (STUDI KASUS PENANGANAN SEPARATISME DI PAPUA) - Repository UM Jember*. Repository Universitas Muhammadiyah Jember. Retrieved October 6, 2023, from <http://repository.unmuhjember.ac.id/6028/>
- 6) Tempo, P.D.d.A. (2020). *Papua dan Gerakan Separatis Yang Belum Pudar*. Tempo Publishing.
- 7) Suropati, U. (2020, Juli). Solusi Komprehensif Menuju Papua Baru: Penyelesaian Konflik Papua Secara Damai, Adil dan Bermartabat. *Jurnal Lemhanas RI*, 7(1), 73-89. <https://doi.org/10.55960/jlri.v7i1.52>

Dilemma of Hostage Diplomacy by the Papuan KKB: Perspectives on Supremacy of Law and Humanism

- 8) Yambeyapdi, E. (2019, April). Papua: Sejarah Integrasi yang Diingat dan Ingatan Kolektif. *Indonesian Historical Studies*, 2(2), 89-95. <https://ejournal2.undip.ac.id/index.php/ihis/article/download/3749/2291>
- 9) Sahbani, A. (2021, April 30). *KKB Dilabeli Teroris, Begini Pandangan Pakar Hukum Internasional*. Hukumonline. Retrieved October 6, 2023, from <https://www.hukumonline.com/berita/a/kkb-dilabeli-teroris--begini-pandangan-pakar-hukum-internasional-lt608db1ce734bb/>
- 10) MPI, T. L. (2023, April 10). 4 Peristiwa Penyanderaan KKB Teroris di Papua, Peneliti hingga Pilot Susi Air : Okezone Nasional. *nasional.okezone.com*. Retrieved October 6, 2023, from <https://nasional.okezone.com/read/2023/04/09/337/2795753/4-peristiwa-penyanderaan-kkb-teroris-di-papua-peneliti-hingga-pilot-susi-air>
- 11) Ashari, K. (2020). *Kamus Hubungan Internasional Dan Diplomasi*. Gramedia Pustaka Utama.
- 12) Joshua, R., & Sidik, H. (2021, Januari). Diplomasi Yayasan Sukma dalam Negosiasi Pembebasan Sandera Warga Negara Indonesia di Filipina Selatan. *Padjadjaran Journal of International Relations*, 3(1), 1-18. 10.24198/padjjir.v3i1.29254
- 13) Sanderson, J., & Morgan, S. (2021, November 26). *Hostage Diplomacy: Is Travel to Some Countries Simply Not Worth the Risk? - Australian Institute of International Affairs*. Australian Institute of International Affairs. Retrieved October 6, 2023, from <https://www.internationalaffairs.org.au/australianoutlook/hostage-diplomacy-is-travel-to-some-countries-simply-not-worth-the-risk/>
- 14) Gilbert, D., & Piche, G. R. (2021, Winter). Caught Between Giants: Hostage Diplomacy and Negotiation Strategy for Middle Powers. *Texas National Security Review*, 5(1), 11-32. <https://doi.org/10.15781/4n39-ja85>
- 15) CNN, T. (2023, June 30). Tolak Beri Senjata-Kemerdekaan, Polisi Pilih Beri Tebusan ke KKB. *CNN Indonesia*. Retrieved October 6, 2023, from <https://www.cnnindonesia.com/nasional/20230630080408-12-967975/tolak-beri-senjata-kemerdekaan-polisi-pilih-beri-tebusan-ke-kkb/amp>
- 16) Ferisetiadi, P., Bainus, A., & Herdiansyah, A. G. (2022, April). PENGUATAN DIPLOMASI PERTAHANAN INDONESIA MELALUI LATIHAN BERSAMA TNI ANGKATAN UDARA. *Jurnal Politik, Keamanan dan Hubungan Internasional*, 1(1), 56-62. 10.24198/aliansi.v1i1.38867
- 17) Batubara, H. (2014). *Papua, kemiskinan, pembiaran, dan separatisme*. www.wilayahperbatasan.com.
- 18) Mukhtadi, M. (2021, April). Strategi Pemerintah Dalam Penanganan Gerakan Separatisme Papua dan Implikasinya Terhadap Diplomasi Pertahanan Indonesia. *Jurnal Diplomasi Pertahanan*, 7(2), 85-93. <https://doi.org/10.33172/jdp.v7i2.729>
- 19) Ratumakin, R. (2023, May 30). Connie Bakrie: Ada Tentara Bayaran di Belakang KKB Papua - *Tribun-papua.com*. *Tribun-papua.com*. Retrieved October 6, 2023, from <https://papua.tribunnews.com/amp/2023/05/30/connie-bakrie-ada-tentara-bayaran-di-belakang-kkb-papua>
- 20) Rahmawati, F. (2023, July 2). Hingga Juni 2023, 17 Orang Tewas Akibat Serangan KKB di Papua, Bagaimana Nasib Pilot Susi Air? *KOMPAS.tv*. Retrieved October 6, 2023, from <https://www.kompas.tv/amp/regional/421787/hingga-juni-2023-17-orang-tewas-akibat-serangan-kkb-di-papua-bagaimana-nasib-pilot-susi-air>
- 21) Munawaroh, N. (2023, September 8). *Pengertian, Tujuan, dan Ciri Penegakan Supremasi Hukum*. Hukumonline. Retrieved October 6, 2023, from <https://www.hukumonline.com/klinik/a/supremasi-hukum-lt62b18957b41e1/>
- 22) Nuryadi, D. (2016, September). Teori Hukum Progresif dan Penerapannya di Indonesia. *Jurnal Ilmiah Hukum De'Jure*, 1(2), 395-408. <https://doi.org/10.35706/dejure.v1i2.515>



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Legal Protection for Victims of Illicit Banks Under the Guise of Cooperatives Requires Indonesian Government Intervention

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Abstract

Illicit Bank under the guise of a Cooperative is a form of illegal investment in Indonesia. Cooperatives that do not carry out their principles and functions according to the Cooperative Regulation Law no. 25 of 1992, collecting public funds illegally, and ultimately failing to return the funds deposited by its members is an indication of Illicit Bank. The research aim is to analyze the importance of the Government of Indonesia's intervention in the legal settlement of the Indosurya Cooperative default case for the justice of tens of thousands of victims. The research method using normative legal research according to Professor Soerjono Soekanto and Sri Mamudji with the main source being secondary data which includes legal materials (primary, secondary, and tertiary). The result shows that legal protection for victims of illegal banks under the guise of cooperatives contained in laws and regulations is preventive and repressive in nature but has not provided legal protection in guaranteeing the return of funds for victims of KSP Indosurya Cipta. Interventions carried out by relevant agencies are in the form of administrative sanctions and law enforcement efforts ranging from investigations and investigations to court proceedings.

Key Words: Legal Protection, Government Intervention, Victims of illicit bank, Cooperative Fail to Pay

I. INTRODUCTION

In 2020 Indonesia experienced an economic crisis that had fatal consequences, with many cooperatives failing to pay. According to Antara news submitted by Alatas (2022), Minister of Cooperatives and SMEs Teten Masduki said that eight non-payment cooperatives were undergoing a peace agreement after the case of Bankruptcy and Postponement of Debt Payment Obligations (PKPU), including the Savings and Loans Cooperative. KSP Indosurya Cipta. Furthermore, the Minister of Cooperatives and SMEs also emphasized that the government's duty, apart from protecting the community, including members of cooperatives with problems, would also not allow cooperatives to deviate. Fibriani (2022) stated that default in the economic field is an act that cannot pay debts or fulfill obligations to other parties that have been written in an agreement or agreement at maturity. One of the characteristics of a problematic cooperative is if the cooperative fails to pay or returns the deposit funds according to the written agreement in the certificate term deposit.

As stated in the 1945 Constitution Article 33 Paragraph 1, cooperatives are business entities based on the principle of kinship to develop the economy in Indonesia. Then reaffirmed in Law Number 25 of 1992 concerning Cooperatives, Cooperatives function as a business entity built to meet economic, social, and cultural needs and aspirations together with the principle of kinship established by and for its members. Darmonodiharjo (1945) As a pillar of economics, the management and members of cooperatives must understand the principles, functions, and principles of cooperatives. Hendrajogi (2002) Article 16 of Law no. 25 of 1992 explains that the type of cooperative is based on the similarities and economic interests of the members. According to Lumbantobing (2022), there are five types of cooperatives in Indonesia: Consumers, Producers, Savings and Loans, Marketing, and Services.

The Central Jakarta District Court Decision (2020) No. 66/Pdt.Sus-PKPU/2020/PN.Niaga.Jkt.Pst. Stated in the background that the Indosurya Savings and Loan Cooperative (KSP) was established on September 27, 2012, with the permission of the Ministry of Cooperatives No.

430/BH/XII.I/1.829.31/XI/2012, which has 184 branches in 30 provinces in Indonesia from 2012 to 2019 with a total of approximately 1000 employees. KSP Indosurya failed to pay in February 2020 when its customers could not withdraw their deposit funds. Although many media often report it before the third year of the tragedy, the victims are still waiting for justice in settlement of this case. Pangastuti (2022) that KSP Indosurya destroyed the image of cooperatives in the country in carrying out their business by collecting funds from the public so that it became a cover for bogus (illegal) or fraudulent investments. The public expects serious attention from the government to help solve it.

According to the young Attorney General, Fadil Zumhana (2022) stated that the fraud committed by KSP Indosurya Cipta was the most significant national fraud in Indonesia's history, with losses reaching 106 trillion rupiahs and 23,000 victims (Alfons, M.). The research aim is to analyze the importance of the Government of Indonesia's intervention in the legal settlement of the Indosurya Cooperative default case for the justice of tens of thousands of victims.

II. METHOD

This article was compiled using normative legal research according to Professor Soerjono Soekanto and Sri Mamudji with the main source being secondary data which includes legal materials (primary, secondary, and tertiary). The author also uses the theory of Mukti Fajar and Yulianto Achmad regarding data collection carried out through library research. Furthermore, data processing is carried out through a selection process, classification of various findings from the provisions of laws and regulations, media news, scientific works, and dictionaries, and then analyzed qualitatively using deductive logic in the form of prescriptive arguments.

III. RESULT AND DISCUSSION

Troubled cooperatives began to arise in Indonesia because they did not implement the abovementioned laws and regulations. Problems also arise because of the intent or purpose of carrying out all means by the perpetrators, both individually and collectively for personal interests. Indosurya Cooperative failed to pay its customer occurred, because in reality this cooperative acted like an illicit bank by collecting funds from people who were not members of the cooperative, massively.

Losses amounting to trillions rupiahs in the case of Indosurya cooperative defaults could be prevented if there was a proper supervision accompanied by strict actions in accordance with cooperative, and banking laws and regulations. The dissolution of the Indosurya Cipta Cooperative should have been carried out by the Minister of Cooperatives early on, before the victims' funds accumulated beyond the capacity of a cooperative that was not performing its function. According to Partomo (2008), the dissolution of a cooperative can be carried out based on a government decision if there is an evidence that the cooperative in question does not meet the provisions of the law. Similarly, Mulhadi (2017) said that the inspection of cooperatives by the minister could be carried out because the cooperative did not hold the Annual Member Meeting for 2 (two) consecutive years and there was a strong suspicion that the cooperative in question did not manage financial administration properly.

Most of the victims of the Indosurya Cooperative deposited and saved their funds to use the profits for sick care costs, school fees for children, sources of income, and savings during retirement and in old age. They need *political will* from the government to be fair and protect the people where 23,000 victims expect their savings to be returned to restore trust in law and investment in Indonesia.

3.1 Legal Protection Guarantee for Victims.

The Indosurya Cipta Cooperative has been built for more than 30 years and has tens of thousands of customers. The victims of Indosurya Cooperative was called customers (*nasabah*), because the fact was that they have never been involved in being members or been included in members' meetings. Indosurya Cooperative has never implemented Cooperative Law Number 25 of 1992 Article 17 Paragraph 1, and Article 20 Paragraphs 1 and 2 regarding the rights and obligations of members. The victims of the Indosurya cooperative has never even heard of any principal savings, mandatory savings, or other deposits, except for *Certificate Term Deposit (Simpanan Berjangka bilyet)* .

However, the interest promised by the Indosurya Cooperative was 8 (eight) percent to 20 (twenty) percent per year.

To obtain the status of a legal entity, the procedure for establishing a cooperative must be approved by the government which in this case was the Minister of Cooperatives and SMEs. According to Supramono (2020), ratification must be announced in the State Gazette. As a legal entity that seeks profit, a cooperative is subject to the obligations of Law no. 3 of 1982 Article 12 concerning Cooperative Legal Entities but in practice, there are still many cooperatives that have not / have not carried out these obligations. If after the cooperative becomes a legal entity then it turns out that its membership is less than that determined by the Cooperative Law, then the government can dissolve it based on Article 47 Paragraph (1) letter a. The misuse of Indosurya Cooperative as an illegal investment business such as illegal banks did not meet the principles and procedures of cooperative business according to Law No. 25 of 1992, has raised questions about the influence and commitment of the relevant ministers in carrying out legal supervision and protection of victims. The authority to supervise is a role that is plural or inherent in public positions.

Although this role is facultative (may not be implemented), within the framework of a welfare state with general principles of good governance, this role is an unavoidable necessity that must still be carried out as a basis for establishing a policy and taking steps in making decisions, and actions to deal with various problems that arise within the scope of duties and authorities of public officials. The various things mentioned above are logical consequences of the task of providing legal protection to victims of illegal banks who are actually part of the component of the Indonesian nation that has the right to run businesses to achieve increased welfare in a cooperative environment.

Conceptually, the essence of legal protection is to provide protection, guarantee the certainty of rights, both preventive and repressive, and always related to providing services to parties who are in a weak position/victim. However, P. Hadjon's research in a book written by HS & Nurbani (2017) resulted in the finding that the handling of legal protection for the people is not effective. Referring to various provisions of laws and regulations, the terminology of protection is intended to provide a sense of security and freedom from interference, danger, and uncertainty in the resolution of a case. Prolonged legal processes without producing the results desired by the victim, can result in the victim's waning confidence in the legal process and the institutions that handle the case, it can also raise doubts about the performance and credibility of the institution or other relevant agencies.

The reality shows that the statement from the Minister of Cooperatives and SMEs was given in early 2022, and the guarantee of protection for the victim's practice under the guise of a cooperative carried out by the Indosurya Cooperative has not yet shown a bright spot. Of the total loss of around 106 trillion rupiahs, as reported by Arini (2022), the investigators only confiscated a total of 2.5 trillion rupiahs. The whereabouts of the public fund's victims of these illegal investments are unclear after the homologation decision dated July 17, 2020, No. 66/Pdt.Sus-PKPU/2020/PN.Niaga.Jkt.Pst. Again failed to refund. Many got paid approximately 1 percent of the verdict. According to the Indonesian Dictionary Electronic Edition (2008), homologation is the ratification by the judge of the agreement between the debtor and creditor to end bankruptcy. The homologation referred to in this article was a peace agreement between creditors (victims of KSP Indosurya Cipta) and debtors (KSP Indosurya Cipta).

In connection with the above, the latest conditions experienced by the victims of the Indosurya Cooperative default have not yet led to the provision of a sense of security, protection, and assurance of the right to a refund of their savings, causing stress, depression, and suicide cases among the victims. Therefore, a clear and firm commitment is needed from the government to make various efforts through the use of its public authority so that the funds saved by the victims can be returned in a relatively short time, considering that this has a significant impact on the economic and psychological conditions of tens of thousands of people. Victims of the cooperative. If this case is not resolved and prolonged, it may severely impact the national economy due to waning public trust in the government and the investment climate in the country.

3.2 The Intervention of Relevant Agencies in Refunding Victims' Funds.

Indosurya Cooperative in running its business has collected funds illegally from the public, not members. According to detikNews reporter Alfons, M. (2022), stated that the Indosurya Cooperative

along with the former Founder and 2 (two) other perpetrators became suspects and were charged with Article 2 *jo.* Article 10, Article 3 *jo.* Article 10 ML and Article 46 Paragraph 1 of Law no. 10 of 1998 concerning Amendments to Law no. 7 of 1992 concerning Banking *jo.* Article 55 (1) of the Criminal Code, *conjunction* with Article 64 (1) of the Criminal Code or Article 372 of the Criminal Code in *conjunction* with Article 55 (1) in *conjunction* with Article 64 (1) of the Criminal Code with a maximum imprisonment of 15 years and a fine of 10-20 billion rupiah. Various threats of imprisonment and fines were imposed for criminal acts of fraud and money laundering that occurred in Indosurya Cooperative, so the deviations found by the Minister of Cooperatives and related institutions that have legal authority, is necessary to take law enforcement actions according to their respective authorities.

The fact is that the Indosurya Cooperative received trillions of deposits funds from the public through transfers to the Cooperative's account at Bank Central Asia. Such fantastic savings funds from a cooperative account should arouse the suspicion of the Bank Supervisor to examine the source of the flow of funds in an effort to anticipate violations committed by the founder and management of the cooperative. Money laundering could be indicated by supervisors of financial institutions other than the Minister of Cooperatives before trillions of rupiah went into the account of KSP Indosurya Cipta, the Founder, and 2 other actors. One of the evidence of the existence of a large flow of funds to the cooperative's account not from its members was a time deposit slip belonging to one of the victims of the Indosurya Savings and Loans Cooperative with the initials EJ (2021) with a nominal value of Rp. 310 (three hundred and ten) billion rupiah and a fee of 20% (twenty percent) per year.

Violations of the law can be minimized by the existence of cooperation that produces synergy and collaboration between the Minister of Cooperatives as the "Supervisor" of Law Number 25 of 1992 with other relevant agencies as responsible for the legislation by reporting and taking action when there are violations of the principles and functions of cooperatives., before the losses become massive after decades of accumulation. According to reporters Sari (2018) the crime was indicated in 2018 when special staff from the Ministry of Cooperatives and SMEs gave administrative sanctions for findings of irregularities and non-compliance. This deserved attention to immediately develop cases through coordination with the police, by blocking the accounts of criminals from the flow of public funds. Soerjono Soekanto stated in *Penegakan Hukum* (1983) that it is necessary to have a harmonious relationship between four factors that are related to each other, namely the law and regulations themselves, the mentality of officers who enforce the law, facilities that are expected to support the implementation of the law and the importance of awareness and legal compliance from the community.

The community funds for the victims of the Indosurya Cooperative became a form of confiscation of a criminal act after the Cooperative, its founder, and the two perpetrators were charged with money laundering offenses. The confiscation of Indosurya Cooperative assets by investigators in the amount of around 2 trillion rupiah needs to be distinguished from the confiscation of assets for the occurrence of other criminal acts such as corruption, narcotics, gambling, and so on. The confiscation should be reserved for the victims' refunds because they need to get restorative justice.

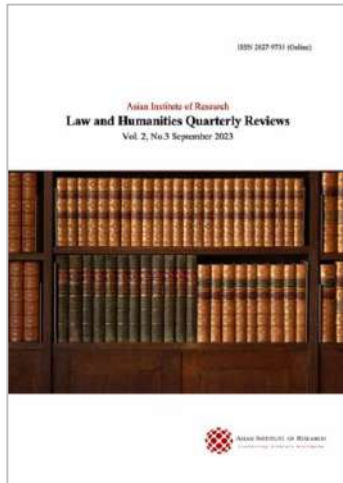
According to Afifudin (2018), the steps taken by the Kemenkop UKM needed to be qualified so that it did not only provide administrative sanctions and blocking efforts considering the misuse of cooperative institutions by KSP Indosurya Cipta as camouflage for disgraceful acts with tempting promises, on a certain scale it is deemed necessary to intervene to maintain the dignity of cooperative institutions, and as an economic structure mandated by the founders of the country in achieving populist welfare in an atmosphere of mutual cooperation and the principle of kinship. The intervention is very urgent considering that the assets of KSP Indosurya Cipta have been confiscated by investigators on the basis of the provisions of Article 39 (2) of the Criminal Procedure Code, which will be auctioned off and the proceeds will be put into the state treasury (Chairanie & Afriana, 2021). According to Fibriani (2022) the role and responsibility of the government are attached so that cooperatives maintain accountability so that they do not go bankrupt. Furthermore, Banjarnahor et al., (2022) stated that the management of KSP Indosurya Cipta can be held personally responsible for all of their assets for ignoring the vocational and openness aspects.

IV. CONCLUSION

Legal protection for victims of illegal banks under the guise of cooperatives contained in laws and regulations is preventive and repressive in nature but has not provided legal protection in guaranteeing the return of funds for victims of KSP Indosurya Cipta. Interventions carried out by relevant agencies are in the form of administrative sanctions and law enforcement efforts ranging from investigations and investigations to court proceedings. The allocation of confiscated goods for the return of deposit funds is in conflict with the provisions of Article 39 (2) of the Criminal Procedure Code which hinders the realization of restorative justice for victims of KSP Indosurya Cipta.

REFERENCES

- Afifudin. (2018). Monopoli Bisnis Koperasi Simpan Pinjam Di Tinjau Dari Undang-Undang No. 25 Tahun 1992 Tentang Perkoperasian. *USM Law Review*, 1(1), 109.
- Alatas, M. B. (2022). *Teten sebut 8 koperasi gagal bayar lakukan perjanjian damai*. Antaranews.Com.
- Banjarnahor, R. U., Sidabalok, J., & Suhardin, Y. (2022). Pertanggungjawaban Pengurus Koperasi Simpan Pinjam Dalam Hal Koperasi Gagal Bayar Terhadap Simpanan Berjangka Milik Anggota. *Fiat Iustitia*, 2(3), 307.
- Chairanie, R., & Afriana, A. (2021). Kedudukan Anggota Koperasi Simpan Pinjam Sebagai Kreditor Pada Koperasi Simpan Koperasi Pandawa Mandiri Group Yang Telah Dinyatakan Pailit Atas Disitanya Boedel Pailit Oleh Negara. *Panji Keadilan Ilmiah*, 4(1).
- Darmonodiharjo, D. (1945). *Undang-Undang Dasar 1945* (Vol. 3). Balai Pustaka.
- Fibriani, R. (2022). Tinjauan Hukum Kepailitan Koperasi Saat Gagal Bayar Pada Masa Pandemi Covid-19. *Jurnal Ius Constituendum*, 7(1), 98.
- HS, S., & Nurbani, E. S. (2017). *Penerapan teori hukum pada penelitian tesis dan disertasi*. RajaGrafindo Persada.
- Lumbantobing, J. P. (2022). *Ekonomi Koperasi Medan*. Universitas HKBP Nommensen.
- Mulhadi. (2017). *Hukum Perusahaan Bentuk-bentuk Badan Usaha di Indonesia*. PT Raja Grafindo Persada.
- Pangastuti, T. C. (2022). *Kasus Gagal Bayar KSP Indosurya Hancurkan Citra Koperasi, Uang Anggota Harus Segera Dikembalikan*. Investor Daily.
- Partomo, T. (2008). *Ekonomi Koperasi*. Ghalia Indonesia.
- Sari, F. (2018). *Sebelum gagal bayar terkuak, Kemenkop temukan penyimpangan KSP I*. Indosurya.
- Supramono, G. (2020). *Hukuman Korporasi Sebagai Pelaku Tindak Pidana Korupsi*. Kencana.



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Responsibility of a Pharmaceutical Company on Medicine Safety (Case Study on Paracetamol Syrup)

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Abstract

Cases of medicine poisoning derived from paracetamol syrup that is currently rampant have caused acute kidney failure in children. This is known because of the content of harmful substances contained in the medicine. The dangerous substances contained in the medicine are *Ethylene Glycol* and *Diethylene Glycol*. Paracetamol syrup poisoning cases have claimed many victims. Up to now, 269 victims have experienced acute kidney failure and 157 of them are declared dead. This article analyses the responsibility of pharmaceutical companies in securing medicine in cases that occur and how legal steps are to protect the interests of victims and their families. The research methods employed normative legal methods sourced from secondary data in the form of legal materials and non-legal materials. The qualitative approach is descriptive and the data collection is qualitative. Qualitative data analysis using the Miles and Huberman model where the narrative and secondary data are examined with analysis content. This case is caused by intentional or negligence on the part of the pharmaceutical company producing the medicine in the production process and carelessness in the packaging and distribution of these medicines. The Ministry of Health and the Food and medicine Supervisory Agency (BPOM) are also recognized for being careless in supervising and issuing proper distribution permits for these medicines. There must be a responsibility from the parties concerned to the victims and their families. The parties involved in this medicine poisoning case have absolute legal responsibility (strict liability) for the losses suffered by the victims.

Keywords: Poisoning, *Paracetamol*, *Ethylene Glycol*, *Diethylene Glycol*

1. Introduction

Along with the development of civilization that has been achieved by humans, human life in society is increasingly complex. The population growth throughout the world, including in Indonesia, continues to increase significantly so that the quality of public health continues to experience dynamics. On the one hand, the situation or condition that occurs at a certain time and in a certain place can be seen from two sides, some perceive it as an increase in health quality and on the other hand it can also be perceived as a decrease in health quality. The quality that is believed to be very dependent on the point of view and the school of thought held by a person or group of people at a certain place and time.

This happens because it is actually neutral and the increase in the number of people with the disease can be felt from various sides. For some people, an increase in the number of people who are sick can be interpreted as being successful in uncovering cases, while on the other hand, an increase in the number of people who are sick can be interpreted as not having/unsuccesfully competent institutions in the health sector have not worked optimally and so on. The increase in the number of hospitals and health facilities such as Puskesmas and clinics as well as the operation of pharmaceutical companies does not necessarily mean that the level of public health will improve.

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The substance Ethylene Glycol (EG) contained in paracetamol syrup is a chemical substance in the form of an odourless, colorless and sweet-tasting liquid. Ethylene Glycol is commonly used as an antifreeze in vehicle radiators. In addition, the substance can also be used as a solvent in industrial and household products. According to Indonesian Standards, the safe threshold is 0.5 mg/kg body weight per day for contamination from Ethylene Glycol and Diethylene Glycol (Agustin, 2022). If someone consumes more than the limit, it will be poisoned and can be fatal. According to UGM Pharmacy expert Prof. Zullies, the use of Ethylene Glycol as an additional substance has been regulated according to the level limit, it should not cause problems in its safety (Pinandhita, 2022). Meanwhile, according to PHARMACOPE, EG can actually be used but a maximum of 0.1%.

After you have introduced the problem and have developed the background material, explain your approach to solving the problem. In empirical studies, this usually involves stating your hypotheses or specific question and describing how these were derived from theory or are logically connected to previous data and argumentation. Clearly develop the rationale for each. Also, if you have some hypotheses or questions that are central to your purpose and others that are secondary or exploratory, state this prioritization. Explain how the research design permits the inferences needed to examine the hypothesis or provide estimates in answer to the question.

2. Method

The research uses normative legal methods based on secondary data in the form of legal materials (Primary, Secondary and Tertiary) and non-legal materials (Soekanto, Mamudji, 2022: page. 12-13). The qualitative

approach is descriptive and the data collection is qualitative. Qualitative data analysis uses the Miles and Huberman model where the narrative and secondary data are examined with analysis content (Ezmir, 2010: page.129-135).

3. Results

In the case of paracetamol syrup which causes acute kidney failure in children, *Ethylene Glycol* substance can help dissolve the paracetamol medicine into a liquid syrup for easy consumption by children. Regarding this matter, Penny Luquito, the head of BPOM, said that his party had carried out supervision in accordance with the provisions of medicine manufacture. The BPOM itself is conducting monitoring, but there is a possibility of an error. Substance EG is the result of imports from India (DataBooks, 2022), so it needs to be investigated further. Meanwhile, import and export supervision activities have not been optimal by the government (Mustakim, et.al, 2021: p. 120). According to Masteria Yunovilsan Putra, Head of BRIN's vaccine and medicine research center, there is a possibility that manufacturers may fraudulently mix EG syrup medicine solvents in order to make a lot of profit. However, this possibility has not been confirmed. Based on data from BBC Indonesia (2022), the problem has become more complicated because until now there has been no legal provision regarding the obligation to test solvents, so the process is not as strict as the testing of active ingredients. Supervision from pharmaceutical companies must be carried out to maintain medicine quality during the distribution process to the public (Deddy, et.al, 2022: 347).

When solvents enter Indonesia, scientific tests are not strictly carried out because there are no regulations that require it. Therefore, there is a lack of supervision, such as not detecting raw materials for medicine that exceed the maximum limit for consumption, as happened with paracetamol syrup which has a toxic impact on children. The lack of supervision occurs because the government puts trust in the importer, as seen with Indonesia being the world's 9th largest EG importer globally (Zahira, 2022). In addition, pharmaceutical companies also fail in monitoring so that there is an excess of EG content in *paracetamol* syrup.

Looking at this case, based on Article 19 of the UUPK concerning the responsibility of business actors which contains compensation for pollution, it does not eliminate the possibility of compensation in the form of criminal sanctions which are the responsibility of business actors covering all consumer losses. In Number 36 Article 14 of 2009 concerning Health, the government supervises the implementation of Health and Article 196 in conjunction with Article 201 Business actors who produce/distribute pharmaceutical preparations that do not meet the standards can be imprisoned for a maximum of 10 years and pay a maximum fine of one billion. Criminal sanctions can also be imposed on pharmaceutical companies if in pharmaceutical practice which includes manufacture, security and other processes are not carried out by pharmaceutical personnel who have expertise and authority (Article 108).

Observing the various explanations above, it can be seen that in terms of the use of *Ethylene Glycol* as a solvent for paracetamol syrup from a formal juridical point of view, the procedure has not been established. Specifically, regarding the level test to the contaminant test, therefore all parties who carry out the mandate of government duties, in this case especially in the pharmaceutical and health environment, need to build a strong commitment and develop high moral integrity to always refer to the moral message mandated by the founders of the country. As stated in the 4th Paragraph of the Preamble to the 1945 Constitution, the government protects the entire Indonesian nation and advances the general welfare. Article 28 of the 1945 Constitution states that anyone has the right to live in physical and spiritual prosperity and to live in a good and healthy environment.

The latest news, BPOM said it was processing criminal charges against two pharmaceutical companies that were not mentioned because of the alleged intentional process of producing medicines that did not comply with the requirements and set out 10. The Ministry of Health also recalled five syrup medicines containing EG that exceeded the threshold, namely cough and cold medicines. Unibebi flu Cough Syrup and Flurine DMP Syrup, while for fever medicine there are Termorex Syrup, Unibebi Fever Drops, and Unibebi Fever Syrup (Chaterine, 2022). The existence of illegal acts carried out by producers not only causes economic losses, but also harms

health and even threatens life safety as happened in the case of kidney failure which claimed many victims (Noviardi, 2021: p. 220).

Article 14 of the Health Law No.36/2009 states, anyone has the right to health. This is stated in the provisions that (1) Everyone has the right to obtain the same rights in the health sector. (2) Anyone has the right to obtain safe, affordable and quality health services. Pharmaceutical preparations in the form of medicinal ingredients that are produced and distributed in accordance with PHARMACOPEIA must meet the quality, usefulness and safety requirements as stated in Article 2 of PP Number 72 of 1998.

Comprehensive medicine management, including medicine distribution network, is needed to assure consumers of the quality, safety and efficacy of medicines. Considering the concept of Strict Liability, even though there are no strict rules regarding the testing of solvents, but with the discovery of many victims of kidney failure, it must be the responsibility of the BPOM who carry out supervision and the pharmaceutical company also carry out special supervision even though a medicine has passed the contaminant level test. So, a pharmaceutical company that produces paracetamol syrup whose solvent composition exceeds the threshold so that the resulting product does not meet the safety standards of pharmaceutical preparations. Where this happens intentionally or unintentionally can be subject to legal sanctions. If this is caused by negligence, of course, the sanctions that can be imposed on the pharmaceutical company concerned can be categorized as lighter. Meanwhile, if it is done intentionally, it can be subject to accumulative sanctions in the form of administrative, criminal, and civil sanctions.

BPOM's excuse stating that there are no regulations for testing raw materials for pharmaceutical preparations gives the impression that BPOM officials intend to avoid various demands for responsibility, both in terms of ethics, professional discipline (Siswati, 2015: pg. 213) and legal responsibility because they are actually guidelines, standards, guidelines. The measure of human behaviour in life in the nation and state is not only regulated by legal norms/rules. There are other rules that also apply at the same time, namely the rules of politeness, the rules of decency and the rules of religion. Rule-These non-legal rules also provide guidelines for humans and their lives, especially for those who carry public authority in which the duties of service, protection and protection are attached to the community.

Meanwhile, from the optical point of view of legal discipline, a legal norm is only a container in which it contains legal principles that contain various pairs of antinomial values, such as order and peace/freedom, legal certainty and legal comparability, and so on. Therefore, the absence of rules should not and should not be used as an excuse for the bearers of public authority to demand responsibility. For the case of kidney failure that claimed 269 victims if it happened in Japan, the relevant public officials would mobilize all resources and financial resources to deal with this case and after being handled they would resign and even commit seppuku out of shame.

As emphasized by Emmanuel Levinas "respondeo ergo sum" (Erwin, 2019), the existence of an official and the institution that oversees him will be determined by how much fundamental willingness to carry out the tasks inherent in his position so that its fulfilment depends on the belief in the willingness to accept and take responsibility and be aware of the consequences that will arise. People who do not have the authority and expertise in pharmaceutical preparations will cause harm to the community (Sompotan, 2016: page. 74).

4. Legal Measures to Protect the Interests of The Victims and Their Families

Consumer protection law is one of the interests of society. If there is no balanced legal protection between business actors and consumers, this can lead to the existence of consumers in a vulnerable position, because there are many cases of consumers who feel aggrieved and in the end the case ends with a dispute whose results cannot satisfy the consumer.

Therefore, the Consumer Protection Act (UUPK) was formed. The purpose of the establishment of this UUPK is to protect consumers so that consumers do not feel disadvantaged and their needs can be properly met, and

business actors can regulate business actions to run their business properly as well. Because business actors and consumers both need each other, so that later they will be able to create mutually beneficial relationships (Muthia, 2018).

In the case of poisoning with paracetamol syrup, if it is true that the content of EG and DEG is proven to be the cause, the victims and their families can sue for compensation, both material and immaterial, against the pharmaceutical company that produces the medicine and other related parties. The right to seek compensation is also stated in the UUPK. Because babies and children must strive for their health by doing maintenance in order to prepare a generation that is smart, healthy, and of good quality. Likewise, efforts to reduce cases of death that occur in infants and children. This maintenance lasts while in the womb until the age of 18 years. In this health care, from parents to the government, it is the responsibility to be involved in making efforts to maintain the health of infants and children.

According to Komariah Emong Sapardjaja, there are 4 elements of an act that can be called an act that violates the law, namely, there are those who commit the act, the act is against the law, the act is detrimental to others, and the act is caused by the negligence of the related party (Sutarno, 2014).

Initially this case of acute kidney failure was found in Indonesia in January 2022, with 1-2 confirmed cases of death due to acute kidney failure every month. Then, in August 2022 there was a very drastic increase in cases. With this increase in cases, it is necessary to conduct an examination related to the cause of this acute kidney failure. Muhammad Mufti Mubarak, Deputy Chairman of the National Consumer Protection Agency, said that the victims and their families can prosecute and seek compensation from pharmaceutical companies producing medicines and related parties by first identifying the cause of this acute kidney failure case. If the cause has been found, the victim and his family can file a lawsuit and ask for compensation from the pharmaceutical company that produces medicines and related parties if the medicines are proven to contain EG and DEG (Kompas, 2022).

Table 1: Increase in Cases

Adverb of time	October 21, 2022	October 24, 2022	October 26, 2022
Total Cases	241 Case	241 Case	251 Case
Death Case	133 Case (55%)	143 Case (56%)	157 Case (58%)

If the victims and their families want to file a claim or ask for compensation from the pharmaceutical company that produces the drug, YLKI or the Indonesian Consumers Foundation provides a place for complaints services for the victims and their families. YLKI is also ready to facilitate if the victims and their families want to file a public lawsuit. It can be seen that the drugs that are circulated should have met the requirements for quality, safety, and efficacy. However, these drugs containing DEG and EG apparently passed the marketing authorization for eligibility. The claim for responsibility for the case of mass kidney failure can be addressed to pharmaceutical companies producing drugs, the Ministry of Health, or BPOM.

As it is known that pharmaceutical products are known as adverse effects. Adverse effects are adverse effects that appear unexpectedly, caused by various things, such as hypersensitivity, drug interactions, excessive effects, inevitable side effects, and activation of the disease. Adverse effects can also be caused by product defects. These product defects are basically divided into 4 groups: (1) Defects at the time of production at the factory that occur due to deviations in product design, specifications, wrong labelling, contamination, and wrong doses, (2) Defects in product design, (3) Defects in storage, (4) defects in use (Sampurna, 2005: pg. 156-157). Information

from VOA Indonesia (2022) actually uses EG and DEG as solvents that have been used for a long time, but they are not used for the manufacture of pharmaceutical products. According to historical records, in 1937 in the United States there were cases of poisoning caused by EG and DEG because there are no rules for the use of these materials. In China, it was found to contain EG and DEG in cheap toothpaste. Then in Europe, EG and DEG was once used to give a good taste to wine.

According to the statement of Penny K Lukito, Head of BPOM, there will be 2 (two) pharmaceutical companies that will be followed up with criminal actions related to the use of EG and DEG. According to existing regulations, the use of EG and DEG is actually not allowed for ingredients in the process of making a medicine. However, if there are medicines that require EG and DEG as raw materials or additives, it must use the standard limits that have been set.

Based on the results of the investigation conducted by the Criminal Investigation Police of the two companies, namely PT. Yarindo Farmata and PT. Universal Pharmaceutical Industries. Evidence has been found in the form of syrup medicines that use excessive DEG and EG content, raw materials and packaging, as well as other documentary evidence owned by the two companies. The evidence will be confiscated and BPOM will impose sanctions on the two pharmaceutical companies that produce medicines in the form of administrative sanctions, namely in the form of product withdrawals and destruction of these products, as well as revocation of distribution permits and termination of distribution from these pharmaceutical companies (Bisnis.com, 2022).

As reported by Bisnis.com, the PT. Universal Pharmaceutical Industries believes that the blame in this case is the supplier who imported the hazardous substance. His party admitted that they had no particular intention and tried to cooperate with the policies set by BPOM. The government must move quickly to deal with cases of acute kidney failure so that cases of death in children do not continue to increase. If it is found that there is an element of intent or negligence on the part of a pharmaceutical company that produces medicines that causes the presence of hazardous substances in these medicines or there are product defects (defects), then the law enforcement process must be carried out and criminal penalties can be prosecuted. Pharmaceutical companies producing medicines can be subject to a criminal sentence of up to 10 years as well as a maximum fine of one billion. The Ministry of Health and BPOM can also be prosecuted if they are proven to have done or passively assisted the law because they have neglected to carry out supervision and failed to declare the distribution permit for the feasibility of these dangerous medicines.

In the Criminal Code Articles 359 to 361, as contained in the form of a threat, a person can be punished if it is proven that there has been negligence that has made a person injured, be it minor injuries, serious injuries, or death. Heavier criminal threats can be imposed on people who are proven to have committed the crime with the aim of carrying out their work/livelihood. Even those who are found guilty can be deprived of their rights in carrying out their work or activities.

This related party has absolute legal responsibility (strict liability) for the losses suffered by the victim, as regulated in Article 19 of the UUPK. From the article it is explained that if the related party is proven to have made a mistake, then they must take responsibility for the losses suffered and suffered by the victim. However, if not proven guilty, this related party must be able to prove that the error is not the result of his artificial production but comes from the consumer's fault (Muthia, 2018: page. 213).

In this way, it is hoped that there will be justice to protect the interests of the victims and their families so that they can be fulfilled as expected by them. Considering that until now there have not been any regulations regarding the testing of raw materials for hard medicines and there is no agreement on the level of solvents, in general the Indonesian people, especially infants and children who are susceptible to symptoms of fever, need preventive legal protection in the form of making related regulations and repressive protection. in the form of action as a law enforcement effort to provide preventive legal protection to the community, especially toddlers and children. Preparations will cause harm to the community (Sompotan, 2016: page. 74).

5. Discussion

In general, pharmaceutical companies can be held responsible for errors as long as the elements of intentional and negligence can be proven as well as liability without errors because they have caused losses. In particular, pharmaceutical companies can also be sued for absolute liability (Strict Liability) by referring to the provisions of Article 196 in conjunction with Article 201 of the Health Law. Protection of the interests of victims and their families in the form of preventive legal protection by enforcing the rules for testing solvents for pharmaceutical preparations contained in legislation or policy regulations as well as repressive legal protection in the form of legal action as a form of law enforcement by the police to courts or the imposition of administrative sanctions by the ministry of health, or civil lawsuits by the victim's family or legal representative.

Author Contributions: Yuwono Prianto is an Associate Professor for courses in philosophy of law and agrarian law at the Faculty of Law Tarumanagara Jakarta. Outside the campus, he does a lot of social entrepreneurship for some urban marginalized groups as well as legal empowerment for rural communities in the use of natural resources, as well as community members who are victims of natural disasters in various parts of Java and South Sumatra. Currently, he is piloting a social entrepreneurship project for seniors in the culinary and plant cultivation fields. On the sidelines of teaching and writing activities, it is often a structure in the training of certified mediators at the national level in collaboration with the Mahkamah Agung. Della Savelya is an undergraduate student at the Faculty of Law, Tarumanagara University and in the process of writing this article responsible for technical matters.

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References

- Agustin, Sienny. (2022). “Mengenal Etilen Glikol dan Dietelen Glikol serta Dampaknya” [Get to know Ethylene Glycol and Diethylene Glycol and their impacts]. <https://www.alodokter.com/mengenal-etilen-glikol-dan-dietilen-glikol-serta-dampaknya>
- Indonesia, BBC. (2022). “Kasus Gangguan Ginjal Akut, Bagaimana Pengawasan Kualitas Obat di Industri Farmasi Indonesia? [Cases of Acute Kidney Disorders, How to Monitor Drug Quality in the Indonesian Pharmaceutical Industry]”. <https://www.bbc.com/indonesia/articles/cw87nggv18yo>
- Fatimarahma, Szalma. (2022). “BPOM Pidanakan Yarindo dan Unibebi Terkait Kasus Gagal Ginjal Akut [BPOM Criminalizes Yarindo and Unibebi Regarding Acute Kidney Failure Case]”. <https://kabar24.bisnis.com/read/20221031/15/1593246/bpom-pidanakan-yarindo-dan-unibebi-terkait-kasus-gagal-ginjal-akut>
- Kahfi. (2022). “Ini Tanggapan Universal Pharmaceutical yang Dilaporkan BPOM Terkait Kasus Obat Sirup [This is Universal Pharmaceutical's Response Reported by BPOM Regarding the Syrup Case]”. <https://ekonomi.bisnis.com/read/20221030/257/1592934/ini-tanggapan-universal-pharmaceutical-yang-dilaporkan-bpom-terkait-kasus-obat-sirup>
- Chaterine, Rahel Nada. (2022). “MENKES: Sejak 5 Obat Sirup Ditarik, Kasus Gagal ginjal Akut Turun Drastis [MINISTER OF HEALTH: Since 5 Syrup Medicines Were Withdrawn, Cases of Acute Kidney Failure

- Have Dropped Drastically]”. <https://amp.kompas.com/nasional/read/2022/10/30/08240201/menkes-sejak-5-obat-sirup-ditarik-kasus-gagal-ginjal-akut-turun-drastis>
- Indonesia, CNN. (2022). “Update Kasus Gangguan Ginjal Akut di RI: 245 Pasien, 141 Meninggal [Update on Cases of Acute Kidney Disorders in RI: 245 Patients, 141 Died]”. <https://www.cnnindonesia.com/nasional/20221024110446-20-864503/update-kasus-gangguan-ginjal-akut-di-ri-245-pasien-141-meninggal>
- Annur, Cindy Mutia. (2022). “Diduga Jadi Penyebab Gagal Ginjal Akut Ini Tren Impor Etilen Glikol RI Dari India [Suspected to be the Cause of Acute Kidney Failure, This is the Trend of Indonesian Ethylene Glycol imports from India]”. <https://databoks.katadata.co.id/datapublish/2022/10/21/diduga-jadi-penyebab-ginjal-akut-ini-tren-impor-etilen-glikol-ri-dari-india>
- Deddy, et.all, (2022). “Tanggung Jawab Hukum Pedagang Besar Farmasi Terhadap Distribusi Obat Generik Kepada Apotek [Legal Responsibility of Pharmaceutical Wholesalers for the Distribution of Generic Medicines to Pharmacies]” *Jurnal Lex LATA, Vol.3 Nomor 3*.
- Emzir. (2010). *Metodologi Penelitian Kualitatif Analisis Data [Qualitative Research Methodology Data Analysis]*. Jakarta: Rajawali Pers.
- Erwin, Muhammad. (2019). *Filsafat Hukum, Refleksi Kritis terhadap Hukum dan Hukum Indonesia (dalam dimensi ide dan aplikasi) [Legal Philosophy, Critical Reflection on Indonesian Law and Jurisprudence (in the dimensions of ideas and applications)]*. Depok: Rajawali Pers.
- Fauzan, Rahmad. (2022). “Paracetamol Obat Sirup Mengandung Etilen Glikol, Ini Jawaban Kemenperin [Paracetamol Syrup Contains Ethylene Glycol, This is the Ministry of Industry's Answer]”. <https://ekonomi.bisnis.com/read/20221020/257/1589817/paracetamol-obat-sirop-mengandung-etilen-glikol-ini-jawaban-kemenperin>
- Natalia, Fransisca. (2022). “Pasien Gangguan Ginjal Akut Bisa Tuntut Ganti Rugi [Patients with Acute Kidney Disorders Can Claim Compensation]”. <https://www.kompas.tv/article/342487/korban-gangguan-ginjal-bisa-minta-ganti-rugi-ylki-pun-buka-posko-pengaduan>
- Nelwan, Audy. (2015). “Pengaturan Hukum Pengamanan Dan Penggunaan Sediaan Farmasi [Legal Regulations for Safeguarding and Use of Pharmaceutical Preparations]”, *Lex Et Societatis, Vol. III, No. 10*.
- Mudin, Nabila. (2018). “Penjaminan Mutu dalam Pendistribusian Sediaan Farmasi [Quality Assurance in the Distribution of Pharmaceutical Preparations]”, *Majalah Farmestika, Vol. 3 Nomor 1*.
- Mustakim, et.all, “Narrative : Implementasi Distribusi obat Yang Baik Diperdagangkan Besar Farmasi [Narrative: Implementation of Good Drug Distribution in Large Pharmaceutical Traders]”, *Jurnal Surya Medika, Vol. 6 No. 2*.
- Muthiah, Aulia. (2018). *Hukum Perlindungan Konsumen [Consumer Protection Law]*. Yogyakarta: Pustaka Baru Press.
- Noviardi. (2021). “Tanggung Jawab Pelaku Usaha Terhadap Standar mutu Kosmetik Bagi Konsumen Berdasarkan Undang- Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen [Responsibilities of Business Actors for Cosmetic Quality Standards for Consumers Based on Law Number 8 of 1999 concerning Consumer Protection]” *Jurnal Selat, Vol. 8 No. 2*.
- Pinandhita, Vidya. (2022). “Teridentifikasi di 15 Sirup Obat RI, Kenapa Bisa Ada Cemaran Etilen Glikol? [Identified in 15 Indonesian Medicine Syrups, Why Can There Be Ethylene Glycol Contamination?]”. <https://health.detik.com/berita-detikhealth/d-6357897/teridentifikasi-di-15-sirup-obat-ri-kenapa-bisa-ada-cemaran-etilen-glikol/2>
- Prata, I Putu Rusdi Eka, et.all. (2021). “Pelaksanaan Perlindungan Konsumen Obat- obatan dalam kefarmasian [Implementation of Consumer Protection for Medicines in Pharmacy]” *Jurnal Interpretasi Hukum, Vol. 2 No. 1*.
- Putra, Antonius, Hartini Yustina. (2012). “Implementasi Cara Distribusi Obat Yang Baik Pada Pedagang Besar Farmasi di Yogyakarta [Implementation of Good Medicine Distribution Methods for Pharmaceutical Wholesalers in Yogyakarta]”, *Jurnal Farmasi Indonesia, Vol. 6 No. 1*.
- Sampurna, Budi, et.all. (2005). *Bioetik dan Hukum Kedokteran [Bioethics and Medical Law]*. Jakarta: Pustaka Dwipar.
- Soekanto, Soerjono & Mamudji, Sri. (2022). *Penelitian Hukum Normatif [Normative Legal Research]*. Depok: PT RajaGrafindo Persada.
- Sompotan, Bryan. (2016). “Pemberlakuan Sanksi Pidana Terhadap Produksi Dan Sediaan Farmasi Yang Tidak Memiliki Izin Edar [Imposition of Criminal Sanctions on Pharmaceutical Production and Preparations That Don't Have a Distribution Permit]” *Jurnal Lex Administratum, Vol. IV, No 3*.
- Sutarno. (2014). *Hukum Kesehatan [Health Law]*. Malang: Setara Press.
- Sucahyo, Nurhadi. (2022). “Pakar: Industri Farmasi Tak Mungkin Campurkan Bahan Berbahaya dalam Obat [Expert: Pharmaceutical Industry Cannot Mix Dangerous Ingredients in Medicines] t” <https://www.voaindonesia.com/a/pakar-industri-farmasi-tak-mungkin-campurkan-bahan-berbahaya-dalam-obat-/6801588.html>

- Youtube Kompas TV. (2022). “Diduga Ada Tindak Pidana, 2 Perusahaan Farmasi Akan Diselidiki Terkait Kasus Gagal Ginjal Anak [Suspected of a crime, 2 pharmaceutical companies will be investigated regarding cases of child kidney failure]”. https://youtu.be/_qGlvJSEp7Y
- Zahira, Nadya. (2022). “Kemendag Pertimbangkan Setop Impor Etilen Glikol Pemicu Gagal Ginjal [Ministry of Trade Considers Stopping Imports of Ethylene Glycol, which Triggers Kidney Failure]”. <https://katadata.co.id/tiakomalasari/berita/63578810813e3/kemendag-pertimbangkan-setop-impor-etilen-glikol-pemicu-gagal-ginjal>