



Indonesia Media Law Review, Volume 1 Issue 2 (July-December 2022), pp. 123-144

ISSN 2829-7628 (Print) 2829-7423 (Online)

<https://doi.org/10.15294/imrev.v1i2.60586>.

Indonesia Media Law Review is Journal for Media, Press Law and Ethics in Journalism

Published biannually by the Faculty of Law, Universitas Negeri Semarang,

Indonesia and managed by Law Student Press Community and Press and

Journalism Law Studies Center, Faculty of Law Universitas Negeri Semarang,

INDONESIA

Available online since July 31, 2022

Baiq Nuril Case and Discourse on Freedom of Expression

Analysis of the Decision of the Supreme Court of the Republic of Indonesia Number 574k/Pid.Sus/2018 Regarding the Dissemination of Electronic Information Having Content Violating Morals

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ABSTRACT: Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) was originally born as a legal product in response to the advancement of information and communication technology developments in the world which have significantly changed the pattern of people's lives in multi-sectors of human life. The purpose of the establishment of the ITE Law is to guarantee the rights of the community and maintain the stability of the internet flow from things that can damage it. However, in fact there are still many defects contained in the content of a quo Law which is multi-interpretable and can be misused by certain parties. Baiq Nuril is an honorary teacher who was sexually harassed by his superiors but was found guilty by the Supreme Court and charged with Article 27 paragraph (1) in conjunction with Article 45 paragraph (1) of the ITE Law. From the

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Submitted: 13/12/2021 Reviewed: 15/01/2022 Revised: 25/03/2022 Accepted: 17/05/2022

point of view of victim protection, victim protection also contributes to the realm of criminal law, especially regarding criminal matters and punishment for the creation of a law. Victimology is an applied science that makes criminal and criminal charges against perpetrators more equal and accountable. With the clarity of the position and role of the victim in the occurrence of a crime, it can be used as one of the considerations for judges as decision makers to decide the type and amount of criminal punishment that will be assigned to the perpetrator as victim protection. Through this simple article, the author will provide an explanation and understanding of the case experienced by Baiq Nuril in Indonesian criminal law in terms of victimology perspective through normative juridical research methods of library law research, as well as data collection through library research methods.

KEYWORDS: Baiq Nuril, Freedom of Expression, Information and Electronic Transaction Law, Decency, Court Decision



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How to cite:

Akhmad, Muhammad Zaidan Syafiqy, and Ridwan Arifin. "Baiq Nuril Case and Discourse on Freedom of Expression". *Indonesia Media Law Review* 1, No. 2 (2022): 123-144. <https://doi.org/10.15294/imrev.v1i2.60586>.

I. INTRODUCTION

The rapid development of information and communication technology has significantly changed the pattern of people's lives in various fields such as economics, politics, social, law, education and others. In fact, the development of information technology and technology is likened to a double-edged sword, jamn gives a positive impact through various conveniences, the rapid development of information and communication technology also gives birth to a

negative impact by opening up space and the possibility of violations and crimes that may threaten people's rights. The birth of Law Number 11 of 2008 concerning Electronic Information and Transactions (hereinafter as ITE Law) which began to be enacted and passed by Susilo Bambang Yudhoyono since April 21, 2008, is a legal product that was born for the existence of special legal handling and arrangements related to information and communication technology.¹

The development of technology and information has implications for the development of criminal law specifically regarding the problem of acts (criminal act). As the case that occurred in Indonesia a few years ago experienced by Baiq Nuril, an employee at a high school in Mataram City, West Nusa Tenggara who was a victim of sexual harassment, namun was found guilty of committing a criminal act through the Supreme Court cassation decision No. 574K / Pid.Sus / 2018. In the verdict, Baiq Nuril was found guilty. The case began when Baiq Nuril recorded a conversation between himself and Muslim which was later disseminated by Imam Mudawin, Nuril's co-worker. Furthermore, because it was felt that the disgrace was exposed Muslims reported Bariq Nuril by using Article 27 paragraph

¹ Rohmy, Atikah Mardhiya, Teguh Suratman, and Arini Indah Nihayaty. "UU ITE dalam Perspektif Perkembangan teknologi informasi dan komunikasi." *Dakwatuna: Jurnal Dakwah dan Komunikasi Islam* 7, No. 2 (2021): 309-339; Rahmawati, Nur, Muslichatun Muslichatun, and M. Marizal. "Kebebasan Berpendapat Terhadap Pemerintah Melalui Media Sosial dalam Perspektif UU ITE." *Widya Pranata Hukum: Jurnal Kajian dan Penelitian Hukum* 3, No. 1 (2021): 62-75; Mawaza, Jayyidan Falakhi, and Abdussatar Khalil. "Masalah Sosial dan Kebijakan Publik di Indonesia (Studi Kasus UU ITE No. 19 Tahun 2016)." *Journal of Governance Innovation* 2, No. 1 (2020): 22-31.

(1) of the ITE Law for disseminating and distributing content that was charged with immorality.²

The case (*Baiq Nuril* case) can be analyzed in the context of victimology, that basically, victimology is a scientific science or science that studies victimization (*criminal*) as a human problem which is a social reality. In the concept of victimology, knowledge based on the relationship between the perpetrator or criminal-victim (*criminal-victim relationship*) explains the problem of crime by studying through the perspective of the victim. If we look deeper into the legal protection for co-ordinators in Indonesia, it is necessary to take preventive and repressive measures carried out by both the community and the government as conceptualized a legal state that should realize the protection of victims as a form of state protection of its people to obtain justice.³

² See Sari, Ni Luh Ariningsih. "Analisis Putusan Mahkamah Agung No. 574. K/Pid. Sus/2018 Pada Kasus Baiq Nuril Maknun (Ditinjau dari Konsep Keadilan)." *Media Keadilan: Jurnal Ilmu Hukum* 10, No. 1 (2019): 1-16; Nopriadi, Rahmat. "Analisis Putusan MA No. 574. K/PID. SUS/2018. pada Kasus Baiq Nuril Maknun Ditinjau dari Sosiologi Hukum (Amnesti Presiden)." *Jurnal Sagacious* 4, No. 2 (2018): 73-80; Abdi, Zaenal, and Syamsuddin Radjab. "Analisis Putusan Hakim Tingkat Kasasi Terhadap Kasus Baiq Nuril Maknun." *Alauddin Law Development Journal* 3, No. 1 (2021): 200-222; Ramli, Soraya, Faiz Afio Dhiarafah, and Diah Merrita. "A Case of Baiq Nuril in Media: Sara Mills' Critical Discourse Analysis." *Lingua: Jurnal Ilmiah* 15.2 (2019): 101-115.

³ Sabillah, Annisa Amelia. "Penyalahan Korban (Victim Blaming) dalam Kasus Pelecehan Seksual Pada Perempuan Menurut Perspektif Viktimologi". *Thesis*. (Bandung, Universitas Pasundan, 2022); Alfiandi, Yuda. "Tinjauan Terhadap Perlindungan Korban Reviktifikasi Tindak Pidana Kesusilaan (Studi Kasus Putusan MA Nomor 574 K/PID. SUS/2018)". *Thesis*. (Universitas Islam Riau, 2022); Adkiras, Fadillah, Fatma Reza Zubarita, and Zihan Tasha Maharani Fauzi. "Konstruksi Pengaturan Kekerasan Berbasis Gender Online Di Indonesia." *Lex Renaissance* 6, No. 4 (2021): 781-798.

Departing from the above problems, this simple writing was made to find out and understand the case experienced by Baiq Nuril in Indonesian criminal law in terms of victimology perspective through normative juridical research or also known as literature law research, as well as data collection through *the library research* method by means of refers to laws and regulations, books, articles in law journals, news published in mass media and social media and all *resources* that can be accessed online. The approach methods used are *statue* approach and *analytic approach*. Where the technology to review and collhave existedata using documentary studies, namely studies that examine various documents, both related to laws and regulations and other documents that have existed.

II. CHRONOLOGY OF THE BAIQ NURIL CASE

This case began in 2012 when an honorary employee at one of the high schools in Mataram City, West Nusa Tenggara, was sexually harassed by a Muslim (*name of principal*) through a phone call to Baiq Nuril with a cell phone media in which he told how Muslim having sex with other people to invite to have an affair. Baiq Nuril received threats and will be dismissed fromhis job when he does not comply with what is requested by Muslim.

At one time, Baiq Nuril worked in a hotel with his co-worker with the initials Landriarti. Unbeknownst to him, it turned out that there were Muslim in the hotel, where Nuril was told to go out to talk about something while he was working on a report. But in fact Muslim and Landriarti were having a relationship that Nuril directly knew in the hotel room which then Muslim was angry because Nuril was too fast to go back to the room and know what actually is happening.

Through a recording owned by Nuril and for the existence of the incident, Nuril thought that this was a loophole to prove that there was no conflict between Muslims and Nuril as the news had spread to the general public at the school. At the end of 2014, Nuril had the initiative to tell a story with Imam Mudhawin, a colleague of Nuril's profession, about untrue news about him through a recording he owned.

But unfortunately, Imam disseminated and distributed the recordings owned by Nuril to a wide audience which made Muslims mutated and dismissed as principals at the high school by the Mataram City Dikpora Office. Then because Muslim was embarrassed because he had been dismissed from his post, he reported Nuril to the Mataram Police On March 17, 2015, abag alleged to have deliberately and without the right to make accessible electronic information and/or electronic documents that have content that violates decency or contempt as stipulated in Article 27 paragraph (1) of the Law ITE. After the report, Nuril was invited to stay in touch so that he could make peace with Muslims, but Muslims did not want to because he felt it was impossible for him to return his post. After approximately 1 (year) of this case, Nuril was called back by the Mataram Police Investigator for an investigation which he was then detained by the police for approximately 2 (two) months.

The panel of judges again paid attention to the case based on the facts that were later revealed during the trial which made the Mataram District Court judge decide on the acquittal of the accused Baiq Nuril because it was declared that it was not validly and conclusively proven to have committed wrongdoing. Through its consideration, the Panel of Judges stated that the actions committed by the defendant Baiq Nuril did not meet the elements of criminal acts as

referred to in Article 27 paragraph (1) of the ITE Law. However, after Baiq Nuril was declared free, the public prosecutor filed an appeal to the Supreme Court which was later accepted by the Registrar of the Supreme Court on August 1, 2017. As for the application for cassation No. 18/Akta- Kas/Pid.Sus/2017/PN. Mtr on the following grounds:

"That the grounds of the Public Prosecutor's appeal are justifiable, the *judex facti* verdict against the Defendant was not validly and conclusively proved guilty of committing the criminal offence as charged by the Public Prosecutor on the Single Indictment and acquitted the Defendant of the charge, was judged to be improper and misapplied the rule of law or did not apply the rule of law as appropriate";

"That the *judex facti* judgment was made on the basis of false conclusions and legal considerations because it was not based on juridically relevant legal facts properly and true and was inconsistent with the legal facts revealed before the hearing".

With its various considerations, the Supreme Court Panel of Judges finally granted the appeal filed by the Public Prosecutor at the Mataram District Attorney's Office, and overturned the Mataram District Court Decision No. 265/Pid.Sus/2017/PN. Mtr on July 26, 2017. The panel of judges found defendant Baiq Nuril guilty of committing a criminal offence under the pretext of "*without the right to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have the content violate decency*" as contained in Article 27 paragraph (1) of the ITE Law.

Not stopping there, on September 26, 2018, attorney Baiq Nuril registered a request for Judicial Review in order to seek justice with

the Supreme Court. However, the Supreme Court, looking at the various reasons for which the Judicial Review was submitted, ruled that the application for Judicial Review of convict Baiq Nuril was rejected. Based on the judgment issued by the Supreme Court against the application for Judicial Review, Baiq Nuril again tried to seek justice by invoking the discretion of the President of the Republic of Indonesia to grant amnesty as contained in the constitution precisely in the Article 14 which stipulates that amnesty is the prerogative of the president as his last resort to obtain justice. The amnesty is based on the position of Baiq Nuril as a woman who is felt to have been degraded in her self-esteem and seeks to maintain her dignity and dignity as a women, which the long struggle was accepted by the President with the issuance of Presidential Decree Number 24 of 2019 concerning the Granting of Amnesty to Baiq Nuril.⁴

III. LEGAL PROTECTION OF VICTIMS THROUGH A VICTIMOLOGICAL PERSPECTIVE

The history of the development of victimology that occurred in the 1940s became the highlight of scientists regarding the problem of marked victims when Hans von Hentig wrote a paper entitled "*Remark on the interaction of perpetrators and victims*" in 1947 he published a book entitled *The Criminal and his victim* at the heart of

⁴ Sulistyawan, Aditya Yuli. "Berhukum Secara Objektif Pada Kasus Baiq Nuril: Suatu Telaah Filsafat Hukum Melalui Kajian Paradigmatik." *Humani (Hukum dan Masyarakat Madani)* 8, No. 2 (2018): 187-200; Manthovani, Reda, and Kukuh Tejomurti. "A Holistic Approach of Amnesty Application for Baiq Nuril Maknun in the Framework of Constitutional Law of Indonesia." *Yustisia Jurnal Hukum* 8, No. 2 (2019): 277-291; Syafrianto, Abdurrahman. "The Baiq Nuril Case in Politics of Law Perspective: A Supreme Court Decision Analysis." *Journal of Law and Legal Reform* 3, No. 1 (2022).

the book is about the role of the victim in determining whether a crime arises or not.⁵

Historically, the definition of victimology is a science that studies victims (crimes), which in that sense can be concluded that victimology is a discipline of knowledge that is a branch of criminology. The origin of victimology is from latin, *victima* means victim and *logos* means science. In terminology, victimology is a study that studies victims, the causes of victims and the consequences of victimization which is a human problem a social reality. According to the *Crime Dictionary* cited by an expert Abdussalam states that *a victim* is a person who has received physical suffering or mental suffering, property loss or resulting death or attempted misdemeanor is carried out by criminals and others. It can be drawn that the phrase "*one who suffers physically and so on*" is the victim of an offence or criminal offence .

In essence, victimology is a complement or refinement of existing criminal etymology theories and seeks to explain the problem of the occurrence of various crimes or the inference of crime victims according to a portion that is actually dimensional and aims to provide a rationale to minimize and prevent there is suffering and anguish in this world. The role of victimology as a study that studies victims (crime) is a social reality. The benefit if we look at a problem or criminal act from a victimological perspective is to provide a deeper understanding of the meaning of the victim's defining

⁵ See also Rothe, Dawn L., and David Kauzlarich. "A Victimology of State Crime." In *Towards a Victimology of State Crime*. (London, Routledge, 2016), pp. 17-28; Von Hentig, Hans. "Remarks on the interaction of perpetrator and victim." *Journal of Criminal Law and Criminology (1931-1951)* 31, No. 3 (1940): 303-309.

background, and the various social, behavioral and subject segments involved in the process of causing the victim or victimization.

In victimology there are types of victimization or the process of a person becoming a victim. According to J.E. Sahepaty, victimization is suffering, both physically and mentally, a person related to the deeds of others. As for the paradigm of victimization in order J.E. Sahepaty is:

- 1) Political Victimization, aspects of abuse of power, violation of human rights, interference of armed forces outside their functions, terrorism, local interventions and warfare or on an international scale;
- 2) Economic Victimization, collusion that occurs between the government and conglomerates, the production of goods that are not of quality or that damage health, including environmental aspects;
- 3) Family Victimization, such as rape, torture, violence against children and wives or other family members and abandoning one's own parents;
- 4) Victimization of the Media, in this case it can be called drug abuse, alcoholism, *malpractice* in medicine and others;
- 5) Juridical victimization, concerning aspects of the judiciary and prisons and those related to discrimination in laws and regulations, including the application of power and stigmatization even though it has been resolved on its judicial aspect.⁶

⁶ Sahetapy, Jacob Elvinus. *Viktimologi: Sebuah Bunga Rampai*. (Jakarta, Pustaka Sinar Harapan, 1987). See also Sahetapy, Jacob Elvinus. *Kejahatan Kekerasan: Suatu Pendekatan Interdisipliner*. (Jakarta, Sinar Wijaya, 1983); Gini, Gianluca, et al. "Victimization and somatic problems: The role of class victimization

The role of victimology in the perspective of victim protection also contributes to criminal law, especially in criminal matters and punishment in order to realize criminal law enforcement. The study of victimology as applied science will make criminals and criminal convictions of perpetrators more prosecutable and accountable. The existence of the position and role of the victim in the occurrence of a crime can be used as one of the considerations for the judge as a decision maker to determine the type and amount of criminal punishment that will be set to the perpetrator as victim protection.

As stated in Article 1 number 2 of Law Number 13 of 2006 concerning Witness and Victim Protection explains that a victim is someone who experiences physical, mental and/or economic loss caused by a criminal act. In Government Regulation Number 2 of 2002 on Procedures for the Protection of Victims and Witnesses in gross human rights violations also explains that victims are individuals or groups of people who experience suffering as a result of gross human rights violations that require physical protection and mental from threats, disturbances, terror, and violence from any party.

Stepen Schafer brings up the typology of the victim in terms of the perspective of the victim's own responsibility, as follows:

- 1) Unrelated Victims are those who have no relationship with the perpetrator and become victims because they are considered potential. In this case in terms of responsibility it rests entirely

levels." *Journal of School Health* 90, No. 1 (2020): 39-46; Idsoe, Thormod, et al. "Bullying victimization and trauma." *Frontiers in Psychiatry* 11 (2021): 480353; Fauziah, Dwi Putri. "Viktimisasi Perempuan Melalui Body Shaming." *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 6, No. 2 (2022); Ramailis, Neri Widya. "Cyber Crime dan Potensi munculnya Viktimisasi Perempuan di Era Teknologi Industri 4.0." *Sisi Lain Realita* 5, No. 1 (2020): 1-20.

on the side of the victim.

- 2) Proactive Victims are victims caused by the role of the victim to trigger the occurrence of crime. In this case, in terms of responsibility, the answer lies with the victim and the perpetrator carefully.
- 3) Participating Victims, in essence, the victim's actions are not realized to encourage the perpetrator to commit a crime. In this case, from the aspect of responsibility lies entirely with the perpetrator.
- 4) Biologically Weak Victim, is a crime caused by the physical condition of the victim such as women, children, and elderly people who are potential victims of crime. In this case, in terms of aspects, the responsibility lies with the community or local government.
- 5) Socially Weak Victims are victims who are not noticed by the society concerned, as are vagrants with weak social positions. In this case, the full aspect of responsibility lies with the criminal or society.
- 6) Self Victimized Victims is the victim of a crime committed by himself (pseudo-victim) or a crime in the absence of a victim. In this case the aspect of responsibility lies entirely with the victim as well as the perpetrator of the crime; and
- 7) Political Victims are victims because of their political opponents. In this case sociologically the victim cannot be accounted for unless there is a change in the political constellation.⁷

⁷ Schafer, Stephen. *The victim and his criminal: A study in functional responsibility*. Vol. 34. (New York: Random House, 1968); Schafer, Stephen, and Leonard D. Savitz. *Theories in criminology: Past and present philosophies of the crime problem*. (New York: Random House, 1969); Huda, Mohammad Nurul. "Korban dalam

As a party who experiences suffering and loss in the occurrence of a criminal act or crime, the victim has the rights that can be obtained as a victim. A person who is categorized as a victim has rights and obligations that must be fulfilled as stated in Article 6 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection states that, victims of gross violations of human rights, victims terrorism crimes, non-trafficking victims, victims of torture, victims of sexual violence, and victims of severe abuse, are entitled to medical assistance, and psychosocial and psychological rehabilitation assistance based on LPSK decisions.

IV. BAIQ NURIL CASE ANALYSIS THROUGH VICTIMOLOGY PERSPECTIVE

The case experienced by Baiq Nuril in the past few years has reaped a lot of sympathy from the Indonesian people. Supreme Court of the Republic of Indonesia Decision No.574 K/Pid.Sus/2018 which stated that Baiq Nuril was guilty of committing a criminal act by distributing or distributing audio recordings of conversations between himself and Muslims of his superiors where he worked as a result of the information contained in the formulation of Article 27 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions has received criticism from various elements of society. When referring to various legal considerations, it is stated that the decision issued by the Supreme Court does not pay attention to Article 49 of the Criminal Code and the evidentiary

Perspektif Viktimologi." *VOICE JUSTISIA: Jurnal Hukum dan Keadilan* 6, No. 1 (2022): 63-69.

element in Article 27 paragraph (1) of the ITE Law. The long journey of this case to seek justice against Baiq Nuril has given a serious slap in the face to the criminal justice system in Indonesia, the need for legal reforms to be carried out considering the pattern of people's lives that have begun to differ with the times.

In Article 1 paragraph (6) of Law Number 13 of 2006 concerning Witness and Victim Protection, it is explained that protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims that must be carried out by the Witness and Victim Protection Agency (LPSK) or other institutions. in accordance with the provisions of the applicable law.

According to Satjipto Rahardjo, legal protection is an effort to protect a person's interests by allocating a Human Right to him to act in a ran. its importance. Legal protection is protection given to legal subjects in accordance with applicable legal rules, both preventive and repressive, whether in writing or not written in order to enforce the rule of law. Legal protection is a form of the implementation of legal functions to realize legal goals, namely justice, expediency and legal certainty.⁸

In victimology there are types of victimization or describing the process of a person becoming a victim. If in the case experienced by Baiq Nuril if it is true that the victim is Muslim, then Muslim can be categorized as self-victimizing victims or committing crimes against themselves. Self victimizing victims are victims of crimes committed

⁸ Rahardjo, Satjipto. *Penegakan Hukum Progresif*. (Jakarta, Penerbit Buku Kompas, 2010); Rahardjo, Satjipto. *Penegakan Hukum: Suatu Tinjauan Sosiologis*. (Jakarta, STIK-PTIK, 2009); Rahardjo, Satjipto. "Hukum Progresif: Hukum yang Membebaskan." *Jurnal Hukum Progresif* 1, No. 1 (2005): 1-24.

by themselves (pseudo-victims) or crimes in the absence of victims, in which case the aspect of responsibility lies entirely pthere is a victim as well as a perpetrator of the crime. Based on the typology used by Mendelsohn, it can be categorized as Muslims as more evil victims than perpetrators (*victims more guilty than offenders*).

In fact, the victim in this case is Baiq Nuril because his social position is very weak (*socially weak victim*), where the position between Nuril and Muslims is very unequal where Nuril is only an honorary teacher, while Muslim is the principal. So the decision issued by the Supreme Court of the Republic of Indonesia with Decision Number 574K / Pid.Sus / 2018 which states that Baiq Nuril meets the elements of Article 27 paragraph (1) *jo* Article 45 paragraph (1) of Law Number 11 of 2008 concerning Information and Trans Electronic action with a sentence of imprisonment for 6 months and a fine of Rp500,000,000 (five hundred million rupiah) does not provide justice for Baiq Nuril himself.

The Supreme Court should consider and reinterpret the content contained in Article 27 paragraph (1) of the Law a quo which can be said that Baiq Nuril does not meet the elements in article *a quo* because It does not distribute, transmit and make it accessible to the recording. In addition, if you look at the sociological aspect, Baiq Nuril's concern over the rumors circulating about him having an illicit relationship with Muslim, where Nuril's position is that Nuril has a husband and children has the right to defend and maintain his domestic relationship. As the progressive legal theory put forward by Satjipto Rahardjo which states that the law must have empathy capital which means that the judge can feel the '*powerlessness*' of the defendant as a subordinate and as a woman who has a family towards

her superiors who speaking contains elements of decency and can be categorized as verbal sexual abuse.⁹

V. CONCLUSION

As discussed above, the author can draw the conclusion that the Decision of the Supreme Court of the Republic of Indonesia Number 574K / Pid.Sus / 2018 if reviewed in the victimological aspect is as follows:

1. Based on the judge's consideration contained in the Cassation Decision Number 574K / Pid.Sus / 2018 Baiq Nuril was declared proven to meet the elements of deliberation in Article 27 paragraph (1) jo Article 45 paragraph (1) of Law Number 11 of 2018 concerning Information and Electronic Transactions. However, if we examine further than the element of "intentionally and without the right to distribute" as contained in article *a quo* it is inconsistent with the facts in the proceedings (*judex facti*, that the person who distributed and/or transmitted the audio recording was Imam Mudawin. Furthermore, based on Article 5 paragraph (1) of Law No. 48 of 2009 concerning Judicial Power and Article 2 of Perma No. 3 of 2017 concerning Guidelines for adjudicating Women's Cases Facing the Law is not in accordance with Cassation Decision Number 574 K / Pid.Sus / 2018, based on Article 5 judges are required to explore

⁹ Al Arif, M. Yasin. "Penegakan Hukum dalam Perspektif Hukum Progresif." *Undang: Jurnal Hukum* 2, No. 1 (2019): 169-192; Aulia, M. Zulfa. "Hukum Progresif dari Satjipto Rahardjo: Riwayat, Urgensi, dan Relevansi." *Undang: Jurnal Hukum* 1, No. 1 (2018): 159-185.; Setiaji, Mukhamad Luthfan, and Aminullah Ibrahim. "Kajian Hak Asasi Manusia dalam Negara the Rule of Law: Antara Hukum Progresif dan Hukum Positif." *Lex Scientia Law Review* 2, No. 2 (2018): 123-138.

legal values and a sense of justice. Based on Article 2 of Perma No. 3 of 2017, judges should pay more attention to the rights of women in cases this is because in the *transcript* of the recorded conversation contains pornographic or immoral sentences, thus violating or harassing the dignity and dignity of Baiq Nuril as a woman.

2. In victimology, there is a concept of self-victimizing victim which explains that the victim of a crime committed by himself (a pseudo-victim) or a crime in the absence of a victim. If in the case of Baiq Nuril who is actually the perpetrator is Muslim, then Muslim can be categorized as a person who commits crimes for himself and as a victim who is more evil than the perpetrator (victim more guilty than offender).
3. Based on the Cassation Decision Number 574K / Pid.Sus / 2018 contrary to Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, Article 29 paragraph (1) of Law Number 39 of 1999 concerning Human Rights, and Article 2 of Perma Number 3 of 2017 about Guidelines for Adjudicating Women's Cases Facing the Law considering that Baiq Nuril is a woman who is a vulnerable group and needs legal protection of women as an important effort to maintain dignity and women's honor. With the issuance of Presidential Decree (Keppres) Number 24 of 2019 regarding the granting of amnesty from President Joko Widodo as a prerogative of the President as stated in Article 14 paragraph (2) of the 1945 NRI Constitution, it is a form of legal protection to Baiq Nuril which should be given in accordance with the right of authority president.

VI. SUGGESTION

There needs to be judicial review, legislative review, and *executive review* conducted by academics and the public as a first step to revise and delete Article 27 paragraph (1) of the ITE Law which is considered a rubber article or article that can be interpreted widely because vulnerable to being misused by various parties or as a weapon to report back victims as experienced by Baiq Nuril. It is in line with the criminal law principle '*Lex Certa, Lex stricta, Lex Scripta*' explains that the formulation of criminal law must be definite and should not be interpreted widely.

Law enforcement officials, especially decision makers, should consider the considerations of judges to improve their performance as stated in Article 2 paragraph (1) of Law Number 48 of 2009 concerning The Power of Justice which states that the judge in giving a verdict, is obliged to use the judge's considerations so that his decision meets the sense of justice and can be accounted for to man and to God Almighty. In addition, judges also need to pay attention to the concept of victimology which is a discipline that studies the nature of who is a victim and who causes victims, pays attention to the problem of indirect victimization, provides a rationale related to the settlement of *maalah* in criminal victimization, as well as an effort to defend the rights of victims in order to achieve legal protection

ACKNOWLEDGMENTS

None.

COMPETING INTERESTS

The Authors declared that they have no competing interests.

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*Justice will not be served
until those who are
unaffected are as outraged
as those who are.*

Benjamin Franklin