

Legal Protection for Crime Victims in the Criminal Justice System

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ABSTRACT

Crime victims in the criminal justice system often face situations where their rights are inadequately protected, both procedurally and substantively. This article aims to analyze the legal protection mechanisms for crime victims in Indonesia, covering applicable regulations, judicial practices, and implementation challenges. The method used is normative juridical research through a literature study of legislation, legal doctrines, and previous research findings. The analysis shows that although Indonesia has established a legal framework such as the Law on Witness and Victim Protection (Law No. 13 of 2006 jo. Law No. 31 of 2014), the Criminal Procedure Code (KUHAP), and other sectoral regulations, the realization of victim protection remains suboptimal. Victims often lack access to compensation, protection from intimidation, and psychological recovery services. Therefore, institutional strengthening, improved regulatory implementation, and the adoption of restorative justice approaches are needed to ensure more effective and equitable protection for victims.

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1. INTRODUCTION

The rule of law (*rechtsstaat*) demands that in every subsystem of the state, including the criminal justice system, legal protection must be extended not only to perpetrators of criminal acts but also to the victims of crime. In this context, the state is obliged to provide justice not only through the punishment of offenders but also through the restoration of victims' rights. The 1945 Constitution of the Republic of Indonesia explicitly guarantees every citizen the right to legal protection (Article 28D paragraph (1)). However, in practice, victims often find themselves marginalized in the criminal justice process — not as active legal subjects, but rather as mere tools of evidence or witnesses (Yulia, 2017).

Crime victims experience various complex forms of loss, including physical injuries or disabilities, psychological trauma such as deep emotional distress, fear, excessive anxiety, and depression, as well as material losses such as property loss, medical expenses, or property damage (Sayudi, 2016). These losses do not end with immediate harm but often have long-term impacts, such as social stigma, economic hardship, disruption of social relationships, and a diminished sense of trust in the state and the law (Wahyuni, 2016).

Theoretically, victim protection is part of fulfilling substantive justice. According to this principle, the law must not only be procedurally fair but also produce outcomes that are just and victim-oriented (Hidayat, 2021). This aligns with the development of victimology, a field that focuses on the position, rights, and needs of victims within the legal system and society.

Indonesia has enacted several legal instruments to provide protection to crime victims. Law No. 13 of 2006 on the Protection of Witnesses and Victims, later amended by Law No. 31 of 2014, provides a stronger legal basis for victims to obtain protection and exercise their rights. Additionally, protections are also embedded in various other regulations, such as the Criminal Procedure Code (KUHP), Law No. 23 of 2004 on the Elimination of Domestic Violence, Law No. 35 of 2014 on Child Protection, and most recently, Law No. 12 of 2022 on Sexual Violence Crimes.

Beyond regulation, the government has established the Witness and Victim Protection Agency (LPSK) as a tangible form of the state's responsibility. LPSK is mandated to provide physical protection, legal assistance, medical aid, as well as restitution and compensation for victims (Lutfiandi, 2021). The presence of this institution has become a beacon of hope for victims in their pursuit of safety, justice, and recovery.

However, numerous studies show that the implementation of victim protection within Indonesia's criminal justice system still faces serious challenges. Many crime victims are unaware of their rights, lack access to legal assistance, and are uninformed about their eligibility for compensation or restitution (Wahyuni, 2016; Lutfiandi, 2021). Legal procedures are often lengthy, complex, and biased against victims, which further impedes the realization of justice.

In addition, institutional limitations—such as insufficient budget, limited human resources, and inadequate regional coverage—further exacerbate the situation. LPSK's annual report indicates that while the number of requests for victim protection increases each year, only a fraction can be fully addressed due to capacity constraints (LPSK, 2022).

Many victims also face threats and intimidation from offenders or their networks when seeking justice. In such conditions, the state should ensure comprehensive protection. Unfortunately, the criminal justice system still tends to focus more on punishing offenders and pursuing prosecution, while the needs of victims are often neglected (Manus, Sambali, & Simbala, 2023).

Case studies reveal the weakness of victim protection in practice. Research by Nasution (2022) on motor vehicle theft cases in the Padang Police Department shows that victims were not actively involved in the investigation process and were not informed of case developments. They were not treated as parties with direct interests in the legal proceedings.

Similar issues arise in cases of sexual violence against children. Mulyani (2021) found that many victims suffer from severe trauma, but there is a lack of psychologists and legal advocates available to support them throughout the judicial process. As a result, victims often hesitate to testify or even withdraw their reports due to high psychological and social pressure.

The issue of victim protection is also closely tied to the limited use of restorative justice in Indonesia's criminal justice system. In many countries, this approach has been developed to give victims space to participate in resolving their cases, express their suffering, and seek direct restoration from offenders (Braithwaite, 2002). Unfortunately, in Indonesia, the implementation of this approach remains minimal and is often misunderstood as a form of compromise that disadvantages victims.

2. METHODS

This study employs a normative juridical approach, which is based on literature review and analysis of statutory regulations, legal doctrines, and relevant court decisions concerning the legal protection of crime victims. This approach is chosen because the research aims to examine and analyze the positive legal norms applicable within Indonesia's criminal justice system and to assess how these norms provide protection for victims of crime.

The data used in this study are secondary data, consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include statutory regulations such

as the 1945 Constitution of the Republic of Indonesia, the Criminal Procedure Code (KUHP), Law No. 13 of 2006 in conjunction with Law No. 31 of 2014 on the Protection of Witnesses and Victims, as well as other relevant laws. Secondary legal materials consist of legal literature, academic journals, research findings, legal articles, and expert opinions that support the analysis. Tertiary legal materials, such as legal dictionaries and legal encyclopedias, are used as complementary references to clarify necessary legal concepts.

The data collection technique is conducted through library research, involving the exploration of legal documents and academic literature from libraries, institutional repositories, and national and international academic journal databases such as Google Scholar, HeinOnline, and Garuda Ristekbrin.

The collected data are then analyzed qualitatively by identifying, classifying, and interpreting the applicable legal norms and comparing them with practices in the field, as reflected in various reports, research findings, and case studies. The analysis is conducted systematically to assess the effectiveness of the regulations and their implementation in protecting crime victims, and to identify legal gaps or weaknesses that require improvement.

To support the validity of the analysis, conceptual and comparative approaches are also utilized. The conceptual approach is used to understand the fundamental principles of victim protection within the criminal justice system and within the framework of the rule of law. Meanwhile, the comparative approach is applied in a limited manner to examine victim protection practices in other countries as a reference point, with the aim of providing constructive recommendations for the development of Indonesia's legal system.

Through this methodology, the study is expected to provide a comprehensive overview of the legal framework for crime victim protection in Indonesia and to offer normative solutions to address the weaknesses identified in the practice of criminal justice.

3. FINDINGS AND DISCUSSION

The Position of Victims in Indonesia's Criminal Justice System

In Indonesia's criminal justice system, the position of crime victims has not yet received an equivalent level of attention compared to perpetrators. The criminal legal tradition that has developed over time is more offender-oriented, placing legal procedures on proving guilt and imposing sanctions on perpetrators. As a result, the role of victims in the justice system is often limited to being witnesses or complainants, without comprehensive legal protection (Yulia, 2017).

The concept of victim protection only began to gain systematic recognition in Indonesian law with the enactment of Law No. 13 of 2006 on the Protection of Witnesses and Victims. With the amendment through Law No. 31 of 2014, the existence of the Witness and Victim Protection Agency (LPSK) was formally recognized as an institution providing guarantees for the safety, physical, and psychological protection of victims, including rights to restitution and compensation.

However, in general, the criminal justice system still does not provide sufficient space for victims to actively participate in legal proceedings. Victims' rights—such as obtaining information about case developments, filing objections, or claiming damages—are often not fully secured in conventional criminal proceedings (Sayudi, 2016).

Regulatory Framework for Legal Protection of Victims

In terms of regulation, the legal protection of victims is set out in various statutes, including:

- a. Article 28D paragraph (1) of the 1945 Constitution: "Every person shall have the right to recognition, guarantee, protection, and legal certainty which is just ..."
- b. KUHP (Criminal Procedure Code) Articles 98–101: granting victims the right to initiate civil claims for damages arising from criminal acts within the criminal process.
- c. Law No. 31 of 2014: affirming victims' rights such as protection, information, medical and psychological assistance, restitution, and compensation.

d. Law No. 12 of 2022 on Sexual Violence Crimes: mandating the state to provide accompaniment, special protection, victim recovery, and humane treatment in legal proceedings.

Yet, the implementation of these regulations still faces many obstacles. Not all law enforcement officers understand the substance of these laws, and many victims are unaware of their rights or lack access to legal services.

Forms of Protection for Crime Victims

Broadly speaking, legal protection for crime victims can be classified into:

a. Physical Protection and Security

This includes safeguarding victims from threats or attacks by perpetrators. LPSK and law enforcement may provide safe houses, escorting, and identity protection.

In practice, victims still often face threats and intimidation, especially in cases of domestic violence, sexual violence, and organized crime. Wahyuni (2016) notes that victims frequently feel unsafe because the perpetrator remains free or has strong social networks.

b. Legal Protection and Judicial Process

Victims have the right to legal assistance and information regarding the judicial process. Unfortunately, legal proceedings in Indonesia often overlook victims' psychological aspects, especially in sensitive cases such as sexual harassment or violence against children.

Many victims experience revictimization when dealing with investigators, prosecutors, or judges who lack a victim-oriented perspective. This exacerbates victims' psychological condition and reduces their willingness to seek justice.

c. Psychological Protection and Rehabilitation

Victims are entitled to counseling, psychological therapy, and professional accompaniment. However, these services remain very limited in number, quality, and availability in remote areas (Mulyani, 2021). Non-governmental organizations (NGOs) play an important complementary role in victim recovery, though their roles are not yet fully integrated into the criminal justice system.

d. Right to Restitution and Compensation

Restitution is provided by the perpetrator to the victim, whereas compensation is provided by the state. In practice, very few victims actually receive proper restitution or compensation. This is due to the lack of an efficient tracking system for perpetrators' assets and the minimal commitment of the state to allocate victim compensation funds.

Role of the Witness and Victim Protection Agency (LPSK)

LPSK is an independent state institution authorized to provide protection to witnesses and victims. Some forms of protection that LPSK provides include:

- a. Physical protection and security
- b. Legal assistance
- c. Ensuring victims' rights to information and case developments
- d. Psychosocial and psychological support
- e. Restitution and compensation

Although institutionally LPSK has a strong mandate, its implementation still faces various obstacles. Some of the challenges faced by LPSK include:

- a. Limited budget and human resources
- b. Low awareness among law enforcement officials of LPSK's existence and role
- c. Lack of integration among LPSK, the police, prosecution, and courts within the criminal justice system

According to Djamaludin and Arrasyid (2022), inter-agency synergy among law enforcement is critical to ensuring the effectiveness of victim protection.

Implementation Challenges in the Field

Below are some of the main challenges in protecting victims:

- a. Lack of Legal Outreach and Education: The majority of victims are not aware that they have rights to protection, legal assistance, and compensation.
- b. Revictimization by Law Enforcement: Non-victim-friendly legal procedures often worsen victims' psychological conditions, especially in sexual violence cases.
- c. Patriarchal Culture and Social Stigma: Particularly in cases involving violence against women and children, victims are often blamed for what happened to them.
- d. Insufficient Recovery Facilities: Very few regions have integrated victim service centers managed professionally and sustainably by the government.

Restorative Justice Approach as an Alternative

The restorative justice approach is a new paradigm that places victims as central actors in resolving criminal cases. Its primary focus is on restoration rather than retribution.

Restorative justice enables dialogue between victims and offenders to resolve conflict fairly and humanely. This model has been applied in many countries, such as New Zealand and Canada, with positive outcomes, especially for victims of minor to moderate crimes.

In Indonesia, this approach has begun to be implemented in certain cases via the Indonesian National Police Regulation No. 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. However, its implementation remains limited and has not touched serious cases such as sexual violence or homicide.

This approach can serve as a middle ground for providing more humane justice to victims, provided that victims' rights are not sacrificed for the sake of "peace."

International Good Practices

Several countries have developed comprehensive victim protection systems:

- a. The United States has the Victim and Witness Protection Act, which grants victims rights to information, security, and psychological support.
- b. The Netherlands has Victim Support Netherlands, an institution assisting victims from reporting through post-judgment recovery.
- c. South Korea has established One-Stop Centers that integrate legal, medical, and psychological services for violence victims.

Indonesia may adopt these best practices to strengthen its national system through cross-sector involvement, dedicated victim funding, and empowerment of civil society organizations.

4. CONCLUSION

Legal protection for crime victims within the criminal justice system plays a vital role in ensuring that victims' rights are not neglected during the law enforcement process. An ideal criminal justice system should not only focus on prosecuting and punishing offenders but must also give serious attention to the recovery and protection of victims. Crime victims often suffer various physical, psychological, and social impacts that require special treatment to help them recover and resume a decent life.

In practice, victim protection within the criminal justice system encompasses several aspects, including the provision of transparent information regarding legal proceedings, legal assistance, and the granting of compensation and restitution for the harm suffered. Additionally, protection includes safety and security measures to ensure that victims are not subjected to intimidation or threats from offenders or other parties during the legal process. These efforts must be supported by clear regulations and consistent implementation by law enforcement and judicial institutions.

However, challenges still remain in implementing legal protection for victims, including limited resources, a lack of awareness and understanding among law enforcement officers, and procedural

barriers that cause victims to feel sidelined. Therefore, systemic reforms are necessary, adopting a more humanistic and participatory approach that involves key stakeholders such as government agencies, civil society organizations, and the victim communities themselves.

Overall, legal protection for crime victims must be an integral part of the criminal justice system—not only to punish perpetrators but also to ensure substantive justice and recovery for victims. In doing so, the justice system can operate holistically and fairly, fostering public trust, a sense of security, and the upholding of human rights.

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