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Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

**Optimizing The Role And Responsibilities Of The State Through Bnpt And Lpsk Towards The Rights Of Victims Of Terrorism Crimes Based On Justice Values**

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**Abstract.** All criminal acts of terrorism that have occurred in Indonesia have resulted in many victims, both fatalities and injuries and have had an economic impact. In terms of providing the rights of victims of criminal acts of terrorism, State Institutions that play an important role in providing and protecting the rights of victims of criminal acts of terrorism are the National Counterterrorism Agency (BNPT) and the Witness and Victim Protection Agency (LPSK). It is hoped that the role and function of BNPT and LPSK can help in optimizing the restoration of the rights of victims of criminal acts of terrorism and can reduce the suffering caused by criminal acts of terrorism. Changes in regulations, especially the Terrorism Law and the Witness and Victim Protection Law, can strengthen and optimize protection and provide the rights of victims of criminal acts of terrorism in Indonesia. The important role of state institutions in optimizing protection and providing the rights of victims of criminal acts of terrorism is carried out by strengthening the role of BNPT and LPSK as lead sectors in criminal acts of terrorism in accordance with the mandate of the Terrorism Law and the Law on the Protection of Witnesses and Victims.

**Keywords:** BNPT; Delusion; LPSK; Terrorism.

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### **1. Introduction**

Issues related to the discourse of terrorism began to develop throughout the world since the events of September 11 2001, when the two twin towers at the World Trade Center in New York City were attacked by acts of terrorism. The perpetrator of the terror act in New York was the All-Qaeda group network led by Osama Bin Laden. After the September 11 attacks, world countries, including Indonesia, faced the problem of acts of terrorism, especially those based on religion.

After the events of September 11 2001, a series of massive acts of terrorism occurred in Indonesia, starting with the Christmas Eve bombing, the bombing at the KFC fast food restaurant, and what most shocked the world was the Bali Bombing I incident which involved 202 people from 25 countries including Indonesian citizens. . In further developments, the number of acts of terrorism in Indonesia continues to fluctuate. According to data from the Republic of Indonesia Police, in 2021 the number of terrorism suspects in Indonesia increased by 59.48% or as many as 370 suspects, compared to 2020 when there were 232 suspects.<sup>1</sup> Meanwhile, according to data from the National Counterterrorism Agency (BNPT), the threat of acts of terrorism and radicalism in Indonesia has experienced a decline over the last five years, namely increasing in 2019, decreasing in 2020, and increasing again in 2021.<sup>2</sup>

All criminal acts of terrorism that have occurred in Indonesia have resulted in many victims, both fatalities and injuries and have had an economic impact. The negative impact of acts of terrorism does not only affect those who are targets of terrorism, but also other innocent victims. The Indonesian state has a responsibility to protect its citizens from various acts and acts of terrorism that can threaten lives and cause economic losses. This is in accordance with the objectives of the formation of the Indonesian state as stated in the Preamble to the 4th Paragraph of the Constitution of the Republic of Indonesia.

The Indonesian state, through its government apparatus, has committed to protecting seven citizens who were victims of criminal acts of terrorism. The state's commitment to protecting every citizen who is a victim of criminal acts of terrorism is manifested by the ratification of Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation

<sup>1</sup> <https://databoks.katadata.co.id/datapublish/2022/03/16/besar-meningkat-polri-besar-370-tersangka-terorisme-di-indonesia-sepanjang-2021#:~:text=Based> on%20report%20Police%20State%20Republic,59%2C48%25%20compared%202020, accessed on 20 April 2024 at 11.57 WIB

<sup>2</sup> <https://www.bnpt.go.id/laporan-analysis-perkembangan-aksi-terorisme-di-indonesia-bnpt-via-deputi-besarnindenkan-dan-pembinaan-besar-hadiri-rdp-dengan-komisi-iii-dpr-ri>, accessed on 20 April 2024 at 11.57 WIB

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of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism Becomes Law. One of the changes to this law is to provide protection, the right to restitution and compensation for victims of criminal acts of terrorism who have so far been deemed unable to provide a sense of justice. As implementing regulations, Government Regulation Number 35 of 2020 concerning Compensation, Restitution and Assistance for Witnesses and Victims has also been approved.

The Indonesian Government's commitment to protecting and paying attention to the rights of victims in criminal acts of terrorism was also conveyed at the First United Nations Global Congress of Victims of Terrorism held by the United Nations Office of Counter-Terrorism (UNOCT) on September 8 2022 in New York, America. America. Indonesia believes that the aim of this Congress is to chart a way forward through a victim-focused approach as well as promoting and protecting victims' rights, and supporting the needs of victims of acts of terrorism. In this regard, the Indonesian Government strongly supports advancing the rights and needs of victims of criminal acts of terrorism.

According to Government Regulation Number 35 of 2020, in terms of providing the rights of victims of criminal acts of terrorism, State Institutions that play an important role in providing and protecting the rights of victims of criminal acts of terrorism are the National Counterterrorism Agency (BNPT) and the Witness and Victim Protection Agency (LPSK) . It is hoped that the role and function of BNPT and LPSK can help in optimizing the restoration of the rights of victims of criminal acts of terrorism and can reduce the suffering caused by criminal acts of terrorism.

So far, the rights of victims of criminal acts of terrorism have not been optimal because from 2002 to 2022, only around 700 victims of criminal acts of terrorism have received rights in the form of compensation or restitution. In fact, if we look at there are still many victims of criminal acts of terrorism who are affected. It is hoped that with the various legal regulations that have been created in the context of protecting and providing the rights of victims of criminal acts of terrorism, the role of the state through BNPT and LPSK, will be able to provide a sense of justice for the community, especially victims of criminal acts of terrorism. Most recently, the issuance of Supreme Court Regulation Number 1 of 2022 concerning Procedures for Settlement, Requests and Providing Restitution and Compensation for Victims of Criminal Acts can further strengthen protection and cover the rights of victims of criminal acts of terrorism.

Based on the description above, researchers are interested in conducting research with the title "Optimizing the Role and Responsibility of the State Through Bnpt and Lpsk on the Rights of

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Victims of Terrorism Crimes Based on the Value of Justice". The focus of the problem that can be raised in this research is, first, what is the urgency of protecting deaths and providing the rights of victims of criminal acts of terrorism in Indonesia today? and second, what is the role of BNPT and LPSK in optimizing the protection and fulfillment of the rights of victims of criminal acts of terrorism?.

## **2. Research Methods**

This research is legal research, using normative (juridical) legal research methods. This legal research uses a regulatory-legislative approach and a conceptual approach. This research was conducted using primary legal materials, namely in the form of statutory regulations (Law Number 5 of 2018, Government Regulation Number 35 of 2020 and PERMA Number 1 of 2022) as well as secondary legal materials in the form of legal books, legal journals related to the problem under study. This research uses library and internet studies in collecting legal materials. The legal material analysis technique used is syllogism using deductive logic.

## **3. Results and Discussion**

### **3.1. The Urgency of Optimizing the Protection and Fulfillment of the Rights of Victims of Terrorism Crimes in Indonesia**

The criminal act of terrorism has emerged as a real threat in people's lives, causing insecurity and discomfort for every citizen who wants to live in peace, security and tranquility. Crime is an extraordinary criminal act that clearly violates human rights and violates the dignity of human life in general. The criminal act of terrorism is a normal act.<sup>3</sup>

Developments related to criminal acts of terrorism in Indonesia are increasingly felt to be massive, with terrorist perpetrators becoming more numerous and widespread (not limited to network members) and with targets that are different from the initial acts of terrorism. The initial acts of terrorism in Indonesia targeted foreign citizens, especially the United States, then developed into religious groups (especially Christians) and finally targeted the Indonesian Police apparatus. However, often acts of terrorism carried out in Indonesia result in victims of civilians

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<sup>3</sup>Abdul Wahid, Sunardi and Muhammad Imam Sidik, 2004, Terrorism Crimes from Religious, Human Rights and Legal Perspectives, PT. Refika Aditama : Bandung, p. 2

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who are not the targets of acts of terrorism. Terrorist crimes can endanger life safety and cause economic losses for victims of acts of terrorism.

Protecting and guaranteeing the rights of victims of criminal acts of terrorism is one of the obligations of the Indonesian state, because this is fundamentally stated in the Indonesian Constitution in the Preamble to the 1945 Constitution, Paragraph 4, which states that the state protects all Indonesian nation and all Indonesian bloodshed,<sup>4</sup> including victims of criminal acts of terrorism.

In relation to protecting the rights of victims of criminal acts of terrorism, from the start it has been regulated in Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism into Law. Changes to the Law. Protection of victims of criminal acts of terrorism is regulated in Chapter VI which regulates Compensation, Restitution and Rehabilitation of Victims, and is regulated in articles from Article 36 to Article 42.<sup>5</sup>

Apart from being regulated in Law Number 15 of 2003 which has been amended by Law Number 5 of 2018, protection and providing the rights of victims of criminal acts are also regulated in Law 31 of 2014 concerning Amendments to Law Number 13 of 2006 Regarding Witness and Victim Protection. The rights of victims of criminal acts of terrorism are regulated in Article 6, Article 7 and Article 7A. In particular, the Amendment to the Witness and Victim Protection Law expressly states the rights of victims of criminal acts of terrorism in these articles.

The urgency of protecting victims of terrorist crimes is that by protecting and providing victims' rights, the state is clearly present as the protector of all citizens. That protecting victims and respecting their rights and needs is an important element in Indonesia's efforts to fight terrorism. Policies have been created in order to advance the rights and needs of victims of criminal acts of terrorism. The urgency of legal protection for victims of criminal acts of terrorism committed by the Indonesian state can actually show that the government's level of concern for society is very high. In cases of criminal acts of terrorism that result in many victims, special

<sup>4</sup>See in the Preamble to the 1945 Constitution of the Republic of Indonesia Paragraph IV regarding the objectives of the Indonesian state. That the complete purpose of the establishment of the Republic of Indonesia is to protect the entire Indonesian nation and all of Indonesia's blood, promote general welfare, educate the life of the nation and participate in maintaining world peace.

<sup>5</sup>Bambang Waluyo, 2014, Victimology of Victim and Witness Protection, Sinar Graphics, Jakarta, p. 92

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attention needs to be given by the government in terms of providing the rights of victims and the families left behind.<sup>6</sup>

Optimizing the implementation of protection and providing the rights of victims of criminal acts of terrorism is important because so far there are still many problems for victims of criminal acts of terrorism related to the fulfillment of their rights. Opening access and regulations that have so far been inadequate are factors in hampering the rights of victims of criminal acts of terrorism. For example, for victims of criminal acts of terrorism in the Bali Bombing I and Bali Bombing II cases, there are still many victims who have lost their rights, and currently there are difficulties in getting the rights that should be given by the government as mandated in Law Number 15 of 2003. as stated in We know that regulations regarding the protection of victims by providing compensation by the government, restitution by perpetrators of criminal acts, and the government requires psychological recovery measures for victims and families of victims of criminal acts of terrorism. This is regulated in Articles 36 to 42 of Law Number 15 of 2003 regarding the eradication of criminal acts. terrorism crime. With the existence of this law, it is appropriate for the victims of the Bali Bombing I and Bali Bombing II to obtain rights. As many as 400 people have made reports to the Witness and Victim Protection Agency, but currently the fate of providing these victims' rights has not been fulfilled.<sup>7</sup>

This problem should be able to generate more attention from the Indonesian state in protecting and fulfilling the rights of victims of criminal acts of terrorism. So far, the government in terms of providing protection to victims of criminal acts of terrorism has been very minimal, thus showing that the policies issued by the government in terms of handling terrorism tend to be repressive and very partial. This has resulted in policies that have a stronger perspective on the perpetrators in dealing with the problem of terrorism in Indonesia but pay very little attention to victims of criminal acts of terrorism.

Optimizing the protection and provision of the rights of victims of criminal acts of terrorism shows a glimmer of hope with various provisions in the Law and its implementing regulations which expressly state that victims of criminal acts of terrorism have rights that must be fulfilled by the state, through its state institutions, namely the Witness Protection Agency. and Victims (LPSK) and the National Counterterrorism Agency (BNPT). Apart from changes in the Terrorism

<sup>6</sup>Muhamad Poldung NP Dalimunte and Subekti, 2018, "Implementation of Protection for Victims of Terrorism Crimes Based on Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Terrorism Crimes (Bali Bomb Case Study)", Journal Residif Volume 7 Number 3 September 2018, p. 311

<sup>7</sup>Ibid

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Law and the Witness and Victim Protection Law, currently there is also Government Regulation Number 35 of 2020 concerning Compensation, Restitution and Assistance for Witnesses and Victims as well as PERMA Number 1 of 2022 concerning Procedures for Settlement, Applications and Providing Restitution and Compensation for Victims of Crime, where this implementing regulation can provide stronger legal guarantees in terms of protection and providing the rights of victims of criminal acts of terrorism in Indonesia.

The protection and fulfillment of the rights of victims of criminal acts of terrorism need to be further strengthened, especially in the criminal justice process in Indonesia, because the current criminal justice system still lacks attention to the interests of victims. The criminal justice system in Indonesia is considered to be more protective of and prioritizes the interests of perpetrators of criminal acts than victims. Handling victims of Terrorism Crimes in terms of providing a sense of justice to the victims includes the rights inherent in victims which are mandated in Law Number 15 of 2003 in Articles 36 to Article 42 and Law Number 31 of 2014 in Article 6, Article 7 and Article 7A. The rights of victims of criminal acts of terrorism can include providing compensation, restitution, medical assistance, social and psychosocial rehabilitation.

**3.2. The Role of BNPT and LPSK in Optimizing the Protection and Fulfillment of the Rights of Victims of Terrorism Crimes**

The crime of terrorism is still an acute problem being faced by the Indonesian state. All efforts and policies to ward off, prevent and overcome criminal acts of terrorism have not been able to eliminate acts of terrorism in Indonesia. Juridically, through Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003, it has obliged the state through government institutions to be responsible for protecting and including the rights of victims of criminal acts of terrorism in Indonesia.

The role of the state through its state institutions is very important in efforts to protect and guarantee the rights of victims of criminal acts. State institutions that have a role as the leading sector in protecting and providing the rights of victims of criminal acts of terrorism are BNPT and LPSK.

**a. The role of BNPT**

Protection and providing the rights and needs of victims of terrorism is the commitment of the National Counterterrorism Agency (BNPT), as an important element in efforts to fight terrorism in Indonesia. Providing protection and respecting the rights and needs of victims is an important element in Indonesia's efforts to fight terrorism. BNPT has a role in synergizing and coordinating

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with various state institutions in efforts to protect and provide the rights of victims of criminal acts of terrorism.<sup>8</sup>

Efforts to protect and cover the rights of victims of terrorist crimes committed by BNPT are based on the rules in Presidential Regulation Number 7 of 2021 concerning the National Action Plan for the Prevention and Control of Violent-Based Extremism that Leads to Terrorism (RAN PE) which focuses on witness protection and victim. One of the mandates in Presidential Decree Number 7 of 2021 is to establish a victim trust fund to be able to meet the needs of victims, including the victims' families.

BNPT also has a role in making innovative policies in order to protect and provide the rights of victims of criminal acts of terrorism. The innovative policy implemented by BNPT in an effort to provide protection services and provide the rights of victims of criminal acts of terrorism is by implementing two superior programs. First, the National Gathering (or what is usually called the national reconciliation program). A program designed to strengthen reconciliation between victims of terrorism and former terrorist perpetrators. This program provides positive results as the power to forgive. Second, KTN (Indigenous Integrated Region), where former terrorist enemies, victims/survivors, and local communities are empowered to develop their communities, through three important sectors, namely education; economy; and tourism.

However, these programs cannot run optimally if there is no broad support from the community. The government through BNPT cannot act alone. There needs to be support and participation from various elements of society, including victims, former compensation and society in general, to jointly make efforts to restore and provide victims' rights in order to realize a sense of justice.

**b. The role of LPSK**

Protection and providing the rights of victims of criminal acts of terrorism is an obligation for the Indonesian state because it has been mandated in the Preamble to the 1945 Constitution and in Law Number 5 of 2018. Through this protection and teaching, the rights of victims of criminal acts of terrorism can be restored. who has been taken away by the crime he experienced. In providing protection for witnesses and/or victims in criminal acts of terrorism,

<sup>8</sup> <https://infopublik.id/detik/national-social-kultur/675319/pemenuhan-hak-dan-besar-korban-jadi-elemen-cepat-melawan-terorisme?video=>, accessed on April 20 2024 at 23.41 WIB

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LPSK works with two laws, namely Law Number 31 of 2014 concerning Protection of Witnesses and Victims, and Law Number 5 of 2018 concerning Eradication of Criminal Acts of Terrorism.<sup>9</sup>

The Witness and Victim Protection Agency (LPSK), which is mandated by the Witness and Victim Protection Law to provide protection and maintenance of the rights of witnesses and victims, has implemented a number of progressive steps in carrying out its main duties. Not only providing rights procedures, LPSK also strives to provide optimal services to protected persons or recipients of LPSK services, so that they are willing to provide testimony in criminal proceedings.<sup>10</sup>

In strengthening the handling and protection of witnesses and victims of criminal acts of terrorism, LPSK collaborates with prosecutors, police, the National Counterterrorism Agency (BNPT), the Ministry of Law and Human Rights and the Ministry of Social Affairs. In the future, LPSK will continue to strive to optimize the services provided to crime victims, including plans to open representative offices in the regions, so that crime victims who live far from the capital can immediately receive services from the state. Of course, the active role of the community is needed to build a protection system and provide better rights for witnesses and victims.

#### **4. Conclusion**

The crime of terrorism is an extraordinary criminal act that results in casualties and economic losses. The protection and provision of rights to victims of criminal acts of terrorism has so far been considered not optimal because only a few victims have received rights and various obstacles, both regulations and access constraints, have resulted in less than optimal provision of the rights of victims of criminal acts. Changes in regulations, especially the Terrorism Law and the Witness and Victim Protection Law, can strengthen and optimize protection and provide the rights of victims of criminal acts of terrorism in Indonesia. The important role of state institutions in optimizing protection and providing the rights of victims of criminal acts of terrorism is carried out by strengthening the role of BNPT and LPSK as lead sectors in criminal acts of terrorism in accordance with the mandate of the Terrorism Law and the Law on the Protection of Witnesses and Victims.

<sup>9</sup> <https://lpsk.go.id/assets/uploads/files/153e587eee1c569e348b6a77e2edd464.pdf>, accessed on April 21 2024 at 00.20 WIB

<sup>10</sup> <https://lpsk.go.id/publikasi/detailjurnal/2405>, accessed on April 21 2024 at 00.20 WIB

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