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Topic: Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children

Analysis of the Reform of Indonesian Criminal Procedure Law on the Protection of Victims' Rights in the Criminal Justice System

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Abstract. *The protection of victims' rights is one of the primary indicators of the effectiveness of a criminal justice system in achieving substantive justice. Traditionally, the Indonesian criminal justice system has been predominantly offender-oriented, resulting in insufficient attention to the rights and interests of victims. This condition has encouraged various reforms in criminal procedural law aimed at strengthening the position of victims within the justice process, including access to information, legal protection, restitution, compensation, and victim recovery. Nevertheless, the implementation of criminal procedural law reforms continues to face normative and institutional challenges that affect the effectiveness of victim protection. This study aims to analyze the reform of Indonesian criminal procedural law in relation to the protection of victims' rights, evaluate the effectiveness of existing legal regulations in ensuring access to justice for victims, and formulate a model of criminal procedural law reform that is more responsive to the protection of victims' rights. The research employs a normative juridical method using statutory, conceptual, case, and human rights approaches. Data were collected through library research involving legislation, court decisions, international legal instruments, and relevant academic literature. The data were analyzed qualitatively using descriptive-analytical, evaluative, and prescriptive methods. The findings indicate that reforms in Indonesian criminal procedural law have strengthened the recognition of victims' rights through various legal instruments; however, their implementation remains inadequate. Obstacles such as the dominance of the retributive paradigm, limited mechanisms for victim participation, restricted access to restitution and compensation, and weak coordination among law enforcement institutions have hindered the full realization of victims' rights. Therefore, further reform of criminal procedural law is necessary to establish a victim-centered justice system by integrating human rights principles, access to justice, and victim recovery as essential components of a modern criminal justice system.*

Keywords: Criminal; Justice; Procedural; Protection; Systems.

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1. Introduction

Existing laws governing legal protection for victims of criminal acts are still partial and scattered across various laws and regulations, thus only applying to certain crimes. For example, Article 35 of Law No. 26 of 2000 concerning Human Rights Courts and Articles 36 to 42 of Law No. 15 of 2003 concerning Criminal Acts of Terrorism provide the right for victims or their heirs to receive compensation, restitution, and rehabilitation for the suffering they experience as a result of acts of terrorism.

Granting rights to victims or their heirs as stipulated in the above law certainly cannot be applied to other crimes, such as conventional crimes. However, the consequences suffered by victims of crime (regardless of type) are the same: losses, both material and immaterial. Although Law Number 13 of 2006 concerning the Protection of Witnesses and Victims has been established, because implementing regulations are not yet in place, the existing law is merely a written regulation that is difficult to operationalize.

The study of victims of crime cannot be separated from issues concerning human rights. This is reflected in the concept of victims of crime: victims of crime are those who suffer physically and mentally as a result of the actions of others seeking to fulfill their own or others' interests in conflict with human interests and rights.¹

Muladi further said that victims are people who, either individually or collectively, have suffered losses, including physical or mental losses, emotional losses, economic losses or substantial disruption to their fundamental rights, through acts or commissions that violate criminal laws in each country, including abuse of power.²

Article 1, number 2 of Law Number 13 of 2006 concerning the Protection of Witnesses and Victims states that a victim is a person who experiences physical or mental suffering and/or economic loss as a result of a crime. Therefore, victims of criminal acts are human beings who suffer and have basic rights that need to be protected by basic national and international provisions.

Conceptually, the very great attention to the problems of victims of crime reflects the increasing awareness of human rights, especially the protection of the legal interests of victims of crime and this is an indication of the integrative objectives of punishment as put forward by Muladi.

¹Arief Gosita, *Child Protection Issues*, (Jakarta: Akademika Pressindo, 1985), p. 75

²Muladi, *Human Rights: Essence, Concept and Implications from the Perspective of Law and Society*, (Bandung: Refika Aditama; 2005), p. 108

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That criminal acts are a disturbance to the balance, harmony and harmony in social life which results in individual or societal damage. Thus, the purpose of punishment is to repair the individual and social damages caused by criminal acts. This consists of a set of punishment objectives that must be met, with the note that which objective is the focus is casuistic in nature. The set of punishment objectives referred to above are: 1. Prevention (general and specific); 2. Community protection; 3. Maintaining community solidarity; 4. Recompense/balance.³

Prior to this research, various previous studies had been conducted by other researchers regarding the reform of the Criminal Procedure Code. This demonstrates that the issue of reforming the Criminal Procedure Code is not new, but has long been a concern for academics and legal practitioners.⁴

Some studies that are relevant to this research include Abdullah's research which discusses the need for updating the current Criminal Procedure Code with more accommodating, responsive and aspirational criminal procedural law.⁵ Furthermore, research conducted by Ghazali in 2022 discussed the need for commissioner judges as part of the reform of (formal) criminal law, which could act as a safety valve in realizing the form of a future criminal justice system.⁶ Then there is research conducted by Putri, which discusses the urgency of establishing a plea bargaining institution in Indonesia and including it in the Indonesian criminal justice system.⁷

2. Research Methods

This research is normative legal research (doctrinal research), that is, research that examines law as norms, rules, principles, doctrines, and legal principles that govern the protection of victims' rights in the criminal justice system. The research focuses on analyzing the reform of Indonesian criminal procedural law in an effort to strengthen the position and protection of

³Muladi, *Conditional Criminal Institution*, (Bandung: Alumni; 1985), p. 43

⁴Itok Dwi Kurniawan Bambang Santoso, Muhammad Rustamaji, "Strengthening Human Rights Protection Instruments in the Reform of the Criminal Procedure Code to Realize the Ideal of a Legal State," *Mimbar9 Law Journal*, no. 1 (2023): 1–23, <https://doi.org/10.35194/jhmj.v9i1.3337>

⁵M Zen Abdullah, "The Urgency of the Need for a More Responsive Renewal of National Criminal Procedure Law in Indonesia," *Scientific Journal of Batanghari University, Jambi* 20, no. 1 (2020): 281, <https://doi.org/10.33087/jiubj.v20i1.885>.

⁶Imam Ghazali, "The Urgency of Establishing Commissioner Judges in the Reform of Indonesian Criminal Justice Based on the Values of Pancasila Justice," *AL-MANHAJ: Journal of Islamic Law and Social Institutions* 4, no. 2 (2022): 601–10, <https://doi.org/10.37680/almanhaj.v4i2.1999>

⁷Lalu Saipudin Megawati Iskandar Putri, Ufran, "Regulation of the Plea Bargaining Institution Concept in the Reform of the Criminal Procedure Code (KUHP)," *Parhesia Journal, University of Mataram* 2, no. 1 (2024): 23–34, <https://doi.org/10.29303/parhesia.v2i1.4035>.

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victims' rights as part of a reformed criminal justice system that is just. Normative legal research was chosen because the main objects of study of this research are various laws and regulations, legal concepts, legal theories, court decisions, and human rights instruments related to victim protection and criminal procedural law reform. This research uses a normative juridical approach by combining several relevant legal research approaches to analyze the reform of Indonesian criminal procedure law in strengthening the protection of victims' rights. These approaches are used in a complementary manner to obtain a comprehensive, critical, and constructive analysis. Data Source: Primary Legal Materials: The 1945 Constitution of the Republic of Indonesia, in particular: Article 28D concerning guarantees of legal protection; Article 28G concerning self-protection and a sense of security; Article 28H concerning the right to obtain justice; Article 28I concerning the protection of human rights. Criminal Procedure Code (KUHP). Law Number 1 of 2023 concerning the Criminal Code. Law Number 39 of 1999 concerning Human Rights. Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims. Law Number 12 of 2022 concerning Crimes of Sexual Violence. Supreme Court Regulations relating to victim protection, restitution, and compensation. Other laws and regulations relating to updates to criminal procedure law and victim protection. Secondary Legal Materials: Legal Literature and Books, Scientific Works, Expert Opinions. Analysis Method: This research uses a normative legal qualitative analysis method, namely an analysis method conducted on primary legal materials, secondary legal materials, and tertiary legal materials through systematic, logical, and comprehensive legal reasoning. The analysis focuses on the study of Indonesian criminal procedural law reform in strengthening the protection of victims' rights and assessing its compliance with the principles of human rights and victim-centered justice. This analysis method does not use a statistical approach, but rather focuses on interpretation, construction, evaluation, and legal argumentation regarding applicable norms.

3. Results and Discussion

Long-standing laws and regulations are inevitably subject to obsolescence, both in terms of substance and relevance to current developments. Social change, technology, and global dynamics require the legal system to continually adapt to remain effective and responsive. If regulations are not updated appropriately and continuously, a normative lag will emerge that not only hinders law enforcement at the national level but can also impact the country's image and credibility internationally.⁸

⁸Gerhard Mangara and Tazqia Aulia Al-Djufri, "The Urgency of Reforming the Civil Code in Indonesia," *Jurnal Hukum Lex Generalis*3, no. 4 (2022): 269–90, <https://doi.org/10.56370/jhlg.v3i4.248>

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As a formal legal instrument, the Criminal Procedure Code (KUHP) plays a strategic role in ensuring the fair and orderly implementation of substantive criminal law. However, in modern criminal law enforcement practices, the KUHP, which has been in effect since 1981, exhibits several substantial weaknesses. One fundamental problem lies in its normative provisions, which are no longer aligned with social and technological developments and the characteristics of contemporary crime. Unclear legal standards, such as the phrase "sufficient preliminary evidence" and subjective requirements for detention, leave law enforcement officials open to wide interpretation and potentially violate the principle of human rights protection.⁹ This statement emphasizes the strategic position of criminal procedural law in the Indonesian legal system. Criminal procedural law does not stand alone but rather serves as an instrument to ensure the effective enforcement of substantive law. In other words, while substantive law defines what is permissible and what is not, as well as the sanctions, criminal procedural law provides a legitimate procedural pathway for these provisions to be enforced fairly.

The weaknesses of the Criminal Procedure Code are also reflected in the coordination between law enforcement agencies. The working relationship between the police, prosecutors, and Civil Servant Investigators (PPNS) often does not operate synergistically, resulting in overlapping authority and inefficient case handling. The protracted case filing process and the back and forth between agencies impacts legal uncertainty for suspects and victims, and undermines public trust in the criminal justice system. Furthermore, the Criminal Procedure Code does not comprehensively regulate the use of technology in the evidentiary process, such as electronic evidence and wiretapping mechanisms, which are increasingly dominant in handling modern crimes.

The substantial weaknesses of the Criminal Procedure Code (KUHP) in modern criminal law enforcement practices are also evident in the aspect of coordination between law enforcement agencies. Normatively, the KUHP regulates the division of authority between the police, the prosecutor's office, and the Civil Servant Inspectorate (PPNS); however, in practice, the relationship between these agencies often does not operate synergistically. This disharmonious coordination gives rise to overlapping authority, competing institutional interests, and weak accountability in case handling. This condition is exacerbated by the protracted case filing mechanism and the back and forth between investigators and public prosecutors, which not only reflects systemic inefficiency but also creates legal uncertainty for both suspects and victims. From the perspective of a state based on the rule of law, this uncertainty contradicts the principles of legal certainty and due process of law, while also having implications for

⁹Priyo Handoko, "Criminal Procedure Law Reform Through the Afdoening Buiten Process Mechanism," *Al-Jinayah Journal of Islamic Criminal Law* 6, no. 2 (2020): 317–43, <https://doi.org/10.15642/aj.2020.6.2.317-343>.

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declining public trust in the criminal justice system. Furthermore, the KUHP has not comprehensively accommodated the use of technology in the evidentiary process, particularly regarding the regulation of electronic evidence and wiretapping mechanisms that are increasingly dominant in handling modern crimes. The fragmented nature of regulations spread across various sectoral laws outside the Criminal Procedure Code (KUHP) actually weakens the consistency of procedural standards and opens up opportunities for human rights violations. Thus, the weak inter-institutional coordination and the lag in regulations on evidentiary technology underscore the urgency of reforming the KUHP as a unified, adaptive, and substantive justice-oriented criminal procedure framework.

However, in the context of the Indonesian criminal justice system which is still facing problems of inter-institutional coordination, the strengthening of this authority has the potential to trigger institutional tensions between the prosecutor's office and the police, each of which has different functions and authorities in the investigation and prosecution stages.¹³ This imbalance in the authority relationship can affect the independence of investigators in carrying out their duties professionally and objectively, as well as create legal uncertainty in the case handling process.

4. Conclusion

Reforming the Criminal Procedure Code (KUHP) is an urgent and strategic need to address the challenges of modern criminal law enforcement in Indonesia. Based on the results of this study, it can be concluded that the Criminal Procedure Code (KUHP) in effect since 1981 is no longer fully capable of accommodating social and technological developments and demands for human rights protection. Various substantial weaknesses, both in the aspects of norms, oversight mechanisms, coordination between law enforcement agencies, and protection of the rights of suspects and victims, indicate that the KUHP is experiencing a systemic lag that has implications for low legal certainty, accountability, and justice in criminal justice practices. The urgency of reformulating the KUHP is not only related to updating the substance of criminal procedural law, but also concerns the arrangement of institutional structures and the formation of a legal culture that is professional, transparent, and oriented towards substantive justice. The introduction of new instruments such as strengthening judicial oversight through commissioner judges and plea bargaining mechanisms must be carefully designed while still upholding the principles of due process of law and human rights protection. The reform of the Criminal Procedure Code needs to be carried out comprehensively, participatory, and based on the principles of a democratic state based on law in order to be able to create a modern, effective, and just criminal justice system, and have strong legitimacy in facing legal dynamics and the needs of society in the future.

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