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

Strengthening Access to Justice for Victims through Civil Procedural Law Reform in Indonesia

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Abstract. *Victims seeking remedies through civil litigation often encounter significant barriers that limit their ability to obtain effective legal protection and fair dispute resolution. These barriers include high litigation costs, complex procedural requirements, lengthy judicial proceedings, unequal access to legal representation, and limited legal literacy among the public. This paper aims to examine the challenges faced by victims in accessing justice within the framework of Indonesian civil procedural law and to analyze reform measures that may strengthen the realization of victims' rights. Using a normative legal research method, this study analyzes relevant legislation, legal doctrines, and scholarly literature concerning access to justice and civil procedure. The findings indicate that obstacles to access to justice are not solely legal in nature but are also influenced by economic, social, technological, and institutional factors. To address these challenges, comprehensive reforms are required, including the simplification of procedural rules, the expansion of legal aid services, the strengthening of mediation mechanisms, the enhancement of judicial digitalization through e-Court and e-Litigation systems, and the improvement of public legal literacy. These measures are essential to creating a more accessible, efficient, inclusive, and victim-oriented civil justice system. Ultimately, strengthening access to justice through civil procedural law reform is necessary to ensure that victims can effectively enforce their rights and obtain substantive justice.*

Keywords: *Acces to Justice; Civil Procedural Law; Judicial Reform; Legal Protection; Victims Rights.*



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1. Introduction

The protection of individual rights is one of the primary objectives of a legal system governed by the rule of law. In this regard, the law is expected not only to establish rights and obligations but also to provide effective mechanisms through which those rights can be enforced. The ability of individuals to seek remedies when their rights are violated is therefore an essential component of a functioning justice system. Without meaningful opportunities to obtain legal protection, the recognition of rights becomes merely theoretical and fails to achieve its intended purpose.

Within civil law disputes, victims often rely on judicial mechanisms to obtain compensation, restore their legal position, and resolve conflicts arising from unlawful conduct. Civil procedural law serves as the legal framework governing how such disputes are processed and adjudicated before the courts. Consequently, the effectiveness of civil procedural law is closely connected to the broader objective of ensuring that justice is available to those who seek it. A procedural system that is inaccessible or ineffective may ultimately prevent victims from obtaining the protection that substantive law seeks to guarantee.

The concept of access to justice has therefore become an important issue in contemporary legal discourse. Modern understandings of access to justice emphasize not only the existence of courts and legal institutions but also the extent to which individuals are capable of utilizing those institutions to secure fair outcomes. This perspective has encouraged many jurisdictions to reassess the effectiveness of their justice systems and to consider whether existing procedural mechanisms adequately serve the needs of the public, particularly those who experience disadvantages in asserting their rights.

Civil procedural law occupies a strategic position within the legal system because it serves as the mechanism through which substantive rights are enforced and protected. Regardless of how comprehensive substantive legal protections may be, their effectiveness largely depends on the accessibility and functionality of procedural mechanisms. In this sense, procedural law should not be viewed merely as a collection of technical rules governing litigation, but as an essential instrument for realizing justice in practice. The quality of a justice system is therefore closely linked to the extent to which its procedural framework enables individuals, particularly victims, to assert their rights and obtain effective remedies.

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In Indonesia, efforts to strengthen the justice system have continued to develop alongside broader legal and institutional reforms. Nevertheless, questions remain regarding the extent to which civil procedural law is capable of providing effective access to justice for victims seeking legal remedies. These concerns highlight the need for a critical examination of the relationship between civil procedure and access to justice, particularly in light of evolving social conditions and increasing demands for a more responsive legal system.

Based on the foregoing discussion, this paper aims to analyze the challenges associated with access to justice for victims within the framework of civil procedural law and to examine potential reforms that may enhance the effectiveness of legal protection. Through this discussion, the paper seeks to contribute to the broader discourse on developing a justice system that is capable of delivering not only procedural fairness but also substantive justice for those whose rights have been infringed.

Previous studies have generally examined human trafficking or child protection from a broader perspective. Research specifically focusing on the effectiveness of Indonesia's legal framework in addressing child trafficking conducted through digital media remains limited. Consequently, there is a need for further research to evaluate whether existing legal instruments adequately respond to contemporary challenges arising from digital forms of human trafficking and effectively safeguard the rights of child victims.

2. Research Methods

This study employs a normative juridical research method. The primary legal materials analyzed consist of relevant laws and regulations governing civil procedural law and access to justice in Indonesia, including the *Herziene Indonesisch Reglement* (HIR), the *Rechtsreglement voor de Buitengewesten* (RBg), Law No. 16 of 2011 concerning Legal Aid, Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Courts, and Supreme Court Regulation No. 4 of 2019 concerning Small Claims Court Procedures, as well as regulations related to e-Court and e-Litigation systems. The study applies a statute approach and a conceptual approach to examine the relationship between civil procedural law and the realization of access to justice for victims. Secondary legal materials are collected from academic journals, books, legal commentaries, and other scholarly publications discussing access to justice, victim protection, and civil justice reform. The collected legal materials are analyzed qualitatively through legal interpretation and descriptive-analytical methods to identify barriers faced by

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victims in accessing justice and to evaluate legal reforms aimed at strengthening a more accessible, efficient, and inclusive civil justice system.

3. Results and Discussion

3.1. Barriers to Access to Justice for Victims within the Civil Procedural Law System

Access to justice is one of the fundamental principles of the rule of law. This principle emphasizes that every individual should have an equal opportunity to obtain legal protection and dispute resolution through mechanisms that are fair, effective, and affordable. In the context of civil procedure law, access to justice is particularly important for victims who have suffered losses due to the actions of other parties, whether in the form of material or immaterial damages. Through civil litigation mechanisms, victims may seek the restoration of their rights and obtain compensation for the losses they have incurred. However, in practice, various obstacles continue to prevent victims from fully enjoying access to justice.¹

According to Mauro Cappelletti and Bryant Garth, the concept of access to justice extends beyond the mere existence of judicial institutions; it also concerns society's ability to effectively utilize the legal system. In other words, the presence of courts alone is insufficient if individuals face barriers that hinder them from obtaining justice. In the Indonesian context, numerous studies have shown that victims often encounter difficulties in accessing judicial processes due to economic, social, cultural, and institutional factors within the justice system itself.²

One of the primary obstacles faced by victims is the high cost of litigation. Although courts are normatively expected to uphold the principles of simplicity, efficiency, and affordability, civil proceedings in practice often require substantial financial resources. These costs include court registration fees, service of process fees, administrative expenses, and legal representation costs when victims engage the services of attorneys. For low-income individuals, such expenses constitute a significant barrier to bringing claims before the courts.³

¹ Bedner, Adriaan. *Indonesian Legal System and Access to Justice*, Hague Journal on the Rule of Law, Vol. 2 No. 2 (2010), p. 223.

² Simon Butt & Tim Lindsey, *The Constitution of Indonesia: A Contextual Analysis*, Hart Publishing, Oxford, 2012, p. 167.

³ Susanti Adi Nugroho, *Penyelesaian Sengketa Konsumen dalam Perspektif Hukum Acara Perdata di Indonesia*, Kencana, Jakarta, 2020, p. 89.

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In addition to official court fees, victims must also bear indirect costs, such as transportation, accommodation, lost working hours, and legal consultation fees. In certain cases, the total expenses incurred may even exceed the value of the losses suffered. As a result, many victims choose not to pursue legal remedies because they perceive the process as economically inefficient. This situation reflects a gap between the legal rights formally guaranteed by law and the practical ability of individuals to exercise those rights.⁴

Another major obstacle is the complexity of civil procedural rules. Civil procedure requires parties to understand numerous formal requirements, including drafting statements of claim, submitting evidence, participating in hearings, and enforcing court judgments. For individuals without legal training, these procedures are often difficult to comprehend. Consequently, victims become heavily dependent on legal professionals, whose services may not always be accessible due to financial constraints.⁵

The complexity of the procedure is also evident in the application of evidentiary principles. In civil matters, the principle applies that the party asserting a right must prove their claim. Consequently, the victim bears a significant burden of proof to demonstrate the existence of the loss and the causal link between the defendant's actions and the loss suffered.

The complexity of civil procedure is also evident in the application of evidentiary principles. In civil litigation, the burden of proof generally rests upon the party asserting a legal right. Therefore, victims bear the responsibility of demonstrating both the existence of their losses and the causal relationship between the defendant's conduct and the harm suffered.⁶

This phenomenon of power imbalance is frequently encountered in consumer, environmental, and labor disputes. In environmental cases, for instance, communities affected by pollution often find themselves facing large corporations that possess vastly superior legal and financial resources. Consequently, the process of establishing proof becomes extremely difficult and costly.⁷

The slow resolution of cases is also a problem that directly impacts access to justice for victims. Although the Supreme Court has issued various policies to

⁴ Cappelletti & Garth, *Op.Cit.*, p. 185.

⁵ M. Yahya Harahap, *Hukum Acara Perdata*, Sinar Grafika, Jakarta, 2019, p. 57.

⁶ Richard Moorhead, *Access to Justice and the Legal Profession*, Legal Ethics, Vol. 17 No. 2 (2014), p. 150.

⁷ Takdir Rahmadi, *Hukum Lingkungan di Indonesia*, RajaGrafindo Persada, Jakarta, 2021, p. 291.

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improve judicial efficiency, the reality is that many civil cases take years to reach a final and binding decision. This situation becomes even more complex when cases proceed to the appeal, cassation, or judicial review levels.⁸

Delays in case resolution not only create legal uncertainty but also increase the psychological and economic burdens borne by victims. In many instances, victims require the swift restoration of their rights to resume their lives normally. When legal proceedings drag on for too long, the primary goal of access to justice becomes difficult to achieve.⁹

Another issue frequently faced by victims is the public's low level of legal literacy. Many victims do not understand their legal rights or the procedures required to obtain legal protection. This lack of knowledge causes some people to be reluctant or even unaware that they have the right to file a civil lawsuit.

Low levels of legal literacy also impact the quality of public participation in judicial proceedings. Victims who do not understand legal processes often struggle to formulate legal arguments, gather evidence, or comprehend the consequences of the legal steps taken. Therefore, enhancing public legal education is a crucial prerequisite for expanding access to justice.¹⁰

Advancements in information technology actually offer opportunities to overcome some of these obstacles. The digitalization of court services through e-Court and e-Litigation systems has helped expedite case administration and reduce certain costs borne by the parties involved. Nevertheless, the implementation of judicial technology still faces various challenges, such as the digital divide, limited digital literacy among the public, and uneven technological infrastructure across different regions.

Thus, it is evident that access to justice for victims within civil procedural law continues to face various multidimensional obstacles. These barriers relate not only to legal regulations but also to interconnected economic, social, cultural, and institutional factors. Therefore, efforts to strengthen access to justice must be pursued comprehensively through the reform of judicial procedures, the

⁸ Bambang Sutyoso, *Reformasi Keadilan dan Penegakan Hukum di Indonesia*, UII Press, Yogyakarta, 2018, p. 136.

⁹ Brian Z. Tamanaha, *Law and Society Today*, Oxford University Press, 2013, p. 108.

¹⁰ Soerjono Soekanto, *Kesadaran Hukum dan Kepatuhan Hukum*, Rajawali Pers, Jakarta, 2019, p. 45.

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expansion of legal aid, the simplification of litigation mechanisms, and the enhancement of public legal literacy.

3.2. Efforts to Strengthen Access to Justice for Victims through Civil Procedural Law Reform

Access to justice cannot be achieved merely by providing judicial institutions that function in a formal sense. In a modern state governed by the rule of law, access to justice must be understood as the ability of every individual including victims who have suffered harm to obtain legal protection that is effective, swift, affordable, and non-discriminatory. Consequently, various countries have undertaken judicial system reforms to ensure that the law exists not only on paper but is also genuinely accessible to the public. In the context of civil procedural law, such reforms are crucial, as civil mechanisms serve as the primary means for victims to secure the restoration of their rights and compensation for the losses they have sustained.¹¹

The prevailing perspective on "access to justice" no longer focuses solely on access to the courts; rather, it encompasses the ability of the public to secure fair dispute resolution through various available legal mechanisms. According to the United Nations Development Programme (UNDP), access to justice entails the ability of individuals to seek and obtain dispute resolution through formal or informal institutions in a manner consistent with human rights principles.¹² Consequently, reforms to civil procedural law must be directed toward removing the barriers that have historically hindered victims from obtaining justice.

One important step that can be taken is the simplification of court procedural rules. To date, civil procedural law in Indonesia still relies heavily on the *Herziene Indonesisch Reglement* (HIR).

Rechtsreglement voor de Buitengewesten (RBg), which date back to the colonial era. Although various reforms have been implemented through Supreme Court regulations, some procedures are still considered overly formal and difficult for the general public to understand.¹³

¹¹ Cappelletti, Mauro & Bryant Garth, *Access to Justice and the Welfare State*, Sijthoff and Noordhoff, Alphen aan den Rijn, 1981, p. 8.

¹² United Nations Development Programme (UNDP), *Programming for Justice: Access for All*, New York, 2005, p. 5.

¹³ M. Yahya Harahap, *Hukum Acara Perdata*, Sinar Grafika, Jakarta, 2019, p. 15.

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Procedures can be streamlined by reducing non-essential formalities without compromising principles of fairness. Examples include designing simpler complaint forms for the general public, simplifying case administration processes, and reducing procedural stages that could prolong dispute resolution. Such reforms have been implemented in various countries through the concept of "simplified civil procedure," aimed at enhancing public access to the justice system.

One innovation implemented in Indonesia is the small claim court mechanism, established through Supreme Court Regulation No. 4 of 2019 concerning Amendments to Supreme Court Regulation No. 2 of 2015 regarding Procedures for the Settlement of Small Claims. This mechanism enables the resolution of civil disputes involving claims of a certain value through procedures that are faster and simpler than those for ordinary civil lawsuits.

The existence of the small claims procedure is significant for victims, as it reduces the costs and time required to obtain justice. Furthermore, the simplified procedure makes it easier for the public to understand the legal process involved. However, the scope of cases eligible for this procedure remains limited; thus, further development is needed to ensure that its benefits can be enjoyed by a greater No. of victims.

The next reform with a significant impact on access to justice is the strengthening of the legal aid system. Legal aid is a crucial instrument for ensuring equality before the law, particularly for the poor and vulnerable groups. Without adequate legal aid, economically disadvantaged victims would struggle to face opposing parties possessing greater resources.

Law No. 16 of 2011 concerning Legal Aid has established a legal foundation for the provision of free legal aid to the poor. The enactment of this regulation represents a progressive step toward expanding access to justice. However, various studies indicate that the implementation of legal aid continues to face challenges, including budgetary constraints, an uneven distribution of legal aid organizations, and low public awareness regarding these services.

To address this issue, the government needs to expand the scope of legal aid to reach remote areas. Furthermore, collaboration among the government, universities, professional associations of advocates, and civil society organizations must be strengthened so that victims can receive legal assistance more effectively.

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Advancements in information technology also offer significant opportunities to strengthen access to justice for victims. In recent years, the Supreme Court has developed e-Court and e-Litigation systems as part of the modernization of the judiciary. Through these systems, various case administration processes can be conducted electronically ranging from case registration, payment of court fees, and document submission to online hearings.

The digitalization of the judicial system offers various benefits to victims. First, electronic systems can reduce the transportation and administrative costs previously borne by the parties involved. Second, administrative processes become faster and more transparent. Third, people living far from city centers can access judicial services without having to undertake long journeys.

Nevertheless, the success of judicial digitalization relies heavily on infrastructure readiness and the public's ability to use technology. Data from Statistics Indonesia indicates that a gap in internet access between urban and rural areas in Indonesia still exists. Therefore, the development of electronic judicial systems must be accompanied by enhanced digital literacy and the equitable development of technological infrastructure.

In addition to procedural and technological reforms, enhancing the quality of judges plays a crucial role in ensuring access to justice. Judges do not merely function as mechanical appliers of the law but also as guardians of substantive justice. In cases involving victims, judges must be capable of understanding the social, economic, and psychological contexts underlying the dispute, ensuring that the resulting rulings truly reflect the community's sense of justice.

The concept of substantive justice emphasizes that the primary objective of the judicial process is not merely to adhere to formal legal procedures, but to ensure that the outcome effectively protects rights that have been violated. In this context, judges are required to interpret the law progressively when confronted with situations that could potentially result in injustice for the victim. Strengthening mediation mechanisms can also serve as a vital instrument for expanding access to justice. Mediation enables parties to resolve disputes amicably with the assistance of a neutral mediator. Compared to conventional litigation, mediation offers advantages such as lower costs, a shorter timeframe, and the ability to preserve good relationships between the parties.

Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Courts demonstrates the judiciary's commitment to fostering the amicable resolution of disputes. However, the success rate of mediation in Indonesia

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remains relatively low. This is attributable to various factors, such as the parties' lack of understanding regarding the benefits of mediation and the persistence of a strong litigation culture in dispute resolution. From the perspective of victim protection, successful mediation can yield significant benefits. Victims not only secure a faster resolution but also have the opportunity to participate actively in determining the form of resolution they consider most suited to their needs.

Another equally important aspect is enhancing public legal literacy. Legal literacy refers to the public's ability to understand their legal rights and obligations. A high level of legal literacy encourages people to take a more active role in asserting their rights when they suffer harm or injustice. Legal outreach programs conducted by the government, universities, and civil society organizations must continue to be expanded. Such outreach should not merely focus on explaining legal regulations but also provide a practical understanding of dispute resolution procedures, access to legal aid, and the use of electronic judicial services.

In the digital era, legal education can also be delivered through social media, online learning platforms, and technology-based applications. The use of technology enables legal information to reach the public more widely and rapidly than conventional methods. Furthermore, the protection of vulnerable groups must be an integral part of civil procedural law reform. Vulnerable groups such as women, children, persons with disabilities, indigenous peoples, and the poor often face additional barriers in accessing justice. Therefore, the judicial system needs to develop more inclusive mechanisms to ensure that the specific needs of these groups are met.

The principle of inclusive justice requires facilities and procedures that enable all members of society to participate equally in legal processes. Examples include the provision of sign language interpreters for persons with disabilities, the availability of legal information in easily understandable language, and the provision of legal aid that is responsive to the needs of vulnerable groups.

Ultimately, the reform of civil procedural law must be directed toward creating a judicial system that is oriented toward the needs of victims. The success of a legal system is measured not only by the No. of cases resolved but also by the extent to which the system provides protection, redress, and a sense of justice to the public. By combining procedural reforms, the strengthening of legal aid, the digitalization of the judiciary, the enhancement of human resource quality, and the improvement of legal literacy, access to justice for victims can be realized more effectively and sustainably.

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4. Conclusion

Access to justice is a fundamental element of the legal system, serving to guarantee the protection of victims' rights through fair, effective, and affordable dispute resolution mechanisms. Within the context of Indonesian civil procedural law, various obstacles continue to hinder victims from obtaining optimal justice, including high litigation costs, complex legal procedures, power imbalances between parties, low public legal literacy, slow case resolution processes, and various challenges in enforcing court judgments. These conditions demonstrate that the mere existence of judicial institutions is insufficient to ensure access to justice if the public still faces barriers in utilizing available legal mechanisms. Therefore, civil procedural law reform oriented toward victims' needs is required, involving the simplification of procedural rules, the strengthening of legal aid systems, the optimization of small claims mechanisms, the development of alternative dispute resolution, the digitalization of court services, the enhancement of judicial transparency and accountability.

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