

Access to Justice for Deepfake Victims in Indonesia: A Normative Analysis of Privacy Rights Protection

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Abstract

Deepfake technology poses growing threats to privacy and personal dignity in Indonesia, particularly through the creation and dissemination of non-consensual synthetic intimate imagery. This study examines the extent to which Indonesia's legal framework facilitates or constrains access to justice for victims of such practices and identifies the normative, procedural, institutional, and sociocultural barriers to effective legal protection. Employing normative legal research with statutory and conceptual approaches, the study analyzes primary and secondary legal materials, institutional reports, and selected comparative legal sources. The analysis draws primarily on the Access to Justice framework, complemented by Satjipto Rahardjo's Progressive Law theory to assess how existing legal provisions can be interpreted

responsively to technological developments. The findings indicate that Indonesian law provides partial protection through the Electronic Information and Transactions Law, the Sexual Violence Crimes Law, the Personal Data Protection Law, the Pornography Law, and the new Criminal Code. However, these legal instruments remain fragmented and do not adequately address the specific challenges associated with the creation, identity misuse, and dissemination of synthetic intimate imagery. In particular, gaps in legal characterization, procedural mechanisms, digital evidence management, and institutional coordination may impede victims' access to effective remedies. This study proposes a victim-centred interim framework encompassing prompt content removal, privacy restoration, accessible reporting mechanisms, reliable digital evidence preservation, and enhanced institutional capacity. These measures should be complemented by legislative reform that expressly addresses deepfake-related harms and clarifies the responsibilities of digital platforms. Comparative experiences from South Korea, the United Kingdom, and Australia are examined selectively to identify regulatory approaches that may be adapted to Indonesia's legal and institutional context. The study contributes to the development of a more coherent and responsive legal framework for protecting deepfake victims and strengthening access to justice in Indonesia.

KEYWORDS

Access to Justice; Deepfake Victims; Progressive Law; Right to Privacy; Digital Sexual Violence.

Introduction

Advances in artificial intelligence (AI), particularly deepfake technology, have transformed the character of threats to privacy. Deepfakes can place a person's face, voice, or gestures into audio-visual material that the person did not create, often with a degree of realism that makes verification difficult. When used to produce non-consensual synthetic intimate imagery, the technology can cause humiliation, reputational injury, psychological harm, and continuing loss of control over personal identity. Available reports indicate that women are disproportionately affected, although the available statistics are drawn from different methodologies and should not be treated as a complete measure of the phenomenon. Underreporting also remains a serious limitation because victims may fear stigma, repeated exposure, or insensitive treatment by institutions.¹

Deepfake-related harm has a direct legal dimension in Indonesia. Indonesian positive law does not yet contain a provision that expressly defines deepfakes as a distinct criminal offence.² Protection therefore depends on the possible application of provisions in the Electronic Information and Transactions Law (ITE Law), the Law on Sexual Violence Crimes (TPKS Law), the Personal Data Protection Law (PDP Law), the Pornography Law, and the new Criminal Code. These provisions may address different acts such as distributing unlawful content, misusing personal data, violating sexual privacy, or causing reputational harm but they do not yet provide a coherent framework for the creation and dissemination of synthetic content. The Right to Be Forgotten (RtBF) under the TPKS Law may support removal and privacy restoration, but its implementation remains affected by

¹ Angelica Vanessa and Audrey Nasution, "Addressing Deepfake Pornography and the Right to Be Forgotten in Indonesia : Legal Challenges in the Era of AI - Driven Sexual Abuse," *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique* 38, no. 7 (2025): 2489–2517, <https://doi.org/10.1007/s11196-025-10265-0>.

² Muhammad Nur Hidayat, "Pertanggungjawaban Pidana Terhadap Penyalahgunaan Deepfake Sebagai Ancaman Keamanan Data Pribadi," *Unes Law Review* 7, no. 4 (2025): 2036–48.

regulatory uncertainty, limited digital-forensic capacity, and weak coordination among institutions. The problem is therefore not an absolute absence of protection, but a regulatory gap and fragmentation that impede effective access to justice.³

Access to Justice serves as the primary analytical framework in this article. Following Cappelletti and Garth, access to justice is understood not merely as the formal availability of courts or legal rules, but as the effective ability of individuals to enforce rights and obtain a fair remedy.⁴ The three waves of reform legal aid, representation of collective or diffuse interests, and the redesign of procedures and institutions are used here as analytical tools. They are connected to the four barriers identified in this study: normative barriers concern the legal basis of the rights and remedies; procedural barriers concern reporting, evidence, and removal procedures; structural barriers concern institutional design and unequal capacity; and cultural barriers concern stigma and victim-blaming that prevent formally available rights from becoming effective remedies.

Progressive Law is used as a complementary, not unlimited, interpretive perspective. Its central insight is that law must serve human beings and substantive justice.⁵ In the context of deepfakes, this perspective supports victim-centred interpretation and institutional responsiveness when existing rules are incomplete. It does not, however, authorize judges to create a new criminal offence or disregard the principles of legality, foreseeability, and protection against arbitrary prosecution. Progressive interpretation must remain within the text, purpose, and principles of existing law, while the creation of explicit

³ Kalijunjung Hasibuan and Hedwig Adianto, "Analisis Yuridis Pengaturan ' Hak Untuk Dilupakan ' Dalam Pasal 43 Undang-Undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi Di Indonesia," *Sanskara Hukum Dan HAM* 4, no. 03 (2026): 293–300, <https://doi.org/10.58812/shh.v4.i03>.

⁴ Cappelletti Mauro, Garth, Bryant, "Access to Justice : The Newest Wave in the Worldwide Movement to Make Rights Effective," *Buffalo Law Review* 27, no. 2 (1978): 181–292.

⁵ Mohd Yusuf Dm and Dodi Mustika, "Peran Hukum Progresif Dalam Menyelesaikan Konflik Pidana Masyarakat : Tantangan Dan Solusi Hukum Berkeadilan," *Legalite: Jurnal Perundang Undangan Dan Hukum Pidana Islam* 10, no. 2 (2025): 125–42.

offences and comprehensive procedures remains the responsibility of the legislature and competent regulators.⁶

Previous studies have examined deepfakes in Indonesia from the perspectives of the Right to Be Forgotten, criminal-law protection, victimology, privacy, and online gender-based violence. Their findings establish the existence of regulatory gaps and the need for victim-centred remedies. This article builds on those contributions by organizing the problem through an access-to-justice framework and by distinguishing the normative, procedural, structural, and cultural mechanisms through which formally available rights fail to produce substantive protection.

Previous studies may be grouped into three related themes. The first concerns regulatory gaps and criminal-law protection. These studies conclude that the ITE Law, the Pornography Law, the PDP Law, and the Criminal Code may address particular forms of harm, but do not expressly define the synthetic nature of deepfake content, the role of non-consent, or the legal consequences of its creation. They consequently identify legal uncertainty and difficulties in proving deepfake-related conduct.⁷

The second theme concerns privacy protection and the statutory right to removal of electronic sexual content. Research on deepfake pornography and the Right to Be Forgotten emphasizes that victims may face difficulties in obtaining removal, legal assistance, and effective recovery because procedures, institutional coordination, and gender-sensitive implementation remain insufficiently developed.⁸

The third theme concerns victimology and online gender-based violence. This literature shows that deepfake victims may experience psychological harm, reputational injury, stigma, and barriers to reporting and recovery. It also indicates that the legal response often

⁶ Pandam Bayu Seto Aji, *Hukum Progresif Dalam Sistem Hukum Indonesia* (Banjarnegara: Historie Media, 2026).

⁷ Decri Reza, Meria Utama, and Henny Yuningsih, “Artificial Intelligence–Generated Deepfake Pornography: A Normative Analysis of Criminal Liability and Victim Protection in Indonesian Law,” *IUS POENALE* 7, no. 1 (2026): 1–10.

⁸ Vanessa and Nasution, “Addressing Deepfake Pornography and the Right to Be Forgotten in Indonesia : Legal Challenges in the Era of AI - Driven Sexual Abuse.”

focuses more readily on distribution than on the creation of synthetic content and the misuse of a person's identity.⁹

Across these three themes, prior research has made an important contribution by identifying regulatory gaps, privacy risks, and the vulnerability of victims. Nevertheless, the studies do not consistently explain how normative uncertainty interacts with reporting procedures, evidence preservation, institutional capacity, digital inequality, stigma, and victim-blaming to prevent formal rights from becoming effective remedies.

This article addresses that unresolved issue by using Access to Justice as the primary framework and Progressive Law as a limited complementary perspective. The purpose is not to treat the two theories as automatically novel, but to develop a legally bounded model connecting regulatory gap, access-to-justice barriers, victim-centred remedies, and legislative institutionalization.

Taken together, these studies provide important foundations, but they remain predominantly normative-descriptive. They identify what is regulated and what is missing, while giving less attention to how legal uncertainty interacts with reporting procedures, evidence preservation, institutional capacity, digital inequality, stigma, and victim-blaming. The unresolved issue is therefore not simply whether Indonesia needs a *lex specialis*, but how victims can obtain effective and timely remedies while the existing framework remains fragmented.

The contribution of this research lies in its structured synthesis. "Access to Justice" identifies institutional and procedural barriers as well as the avenues for redress needed by victims. "Progressive Law" provides a careful, victim-centered framework for interpreting existing legal principles in response to technological change. Legislative reform must then institutionalize and clarify these interim solutions. This relationship yields a normative model that links regulatory gaps, limited progressive interpretation, victim-centered remedies, and future legal institutionalization.

⁹ Rayka Rahmat Hidayat and Ade Mahmud, "Victim Blaming Penyalahgunaan Konten Intim Dalam Hubungan Toxic Dalam Perspektif Viktimologi," *Law Studies* 6, no. 1 (2026).

The novelty of the study is thus threefold: first, it develops a framework that connects the four dimensions of access-to-justice barriers to the three waves of reform; second, it distinguishes the legal consequences of creating, using, and distributing deepfake content rather than treating “deepfake” as a single act; and third, it formulates legally bounded interim remedies while identifying the matters that require legislative intervention.

This study employs a normative legal research method (doctrinal legal research) using a legislative and conceptual approach. Primary legal sources include the 1945 Constitution of the Republic of Indonesia, the ITE Law and its amendments, the TPKS Law, the PDP Law, the Pornography Law, the new Criminal Code, and relevant implementing regulations. Secondary sources include academic journals, books, research reports, and authoritative comparative materials.

The analysis uses a qualitative-prescriptive method. It identifies the legal status of acts associated with deepfakes, distinguishes existing remedies from unresolved gaps, maps the normative, procedural, structural, and cultural barriers to access to justice, and formulates recommendations that remain within existing legal principles. The recommendations are presented as interim measures pending clearer legislative and regulatory rules, not as a basis for expanding criminal liability beyond the statutory framework.

A. Multidimensional Barriers to Access to Justice for Victims of Deepfakes in the Protection of Privacy Rights in Indonesia

Access to justice requires more than the formal existence of courts or rules, it requires effective and practically accessible mechanisms through which individuals can enforce rights and obtain appropriate remedies. The three waves associated with Cappelletti and Garth provide the analytical structure for this section: legal aid and assistance; representation of collective or diffuse interests; and the redesign of procedures and institutions. Applied to deepfake victims, normative barriers concern the legal basis and scope of protection, procedural

barriers concern reporting, evidence, and removal, structural barriers concern institutional capacity and digital inequality, and cultural barriers concern stigma and victim-blaming.¹⁰ These categories overlap in practice: a regulatory gap may frustrate procedures, weak institutions may increase the evidentiary burden, and stigma may prevent victims from using remedies that formally exist.¹¹ The state must therefore take active steps to make rights effective, rather than treating the availability of a rule as sufficient.

1. Normative barriers

Indonesia has not yet enacted legislation that expressly classifies deepfakes as a separate criminal offence. This represents a regulatory gap and fragmentation of existing norms, not an absolute legal vacuum.¹² Existing provisions may potentially apply to different acts. Article 27(1) of the ITE Law, as amended by Law No. 1 of 2024, concerns the distribution or transmission of electronic content that violates public decency; it does not expressly regulate the act of creating synthetic content.¹³ Other provisions may become relevant where the conduct involves misuse of personal data, sexual violence, pornography, identity fraud, reputational harm, or unlawful distribution. These are legally distinct acts and should not be collapsed into a single offence. Article 492 of the new Criminal Code may be relevant to certain forms of fraud or identity-related conduct,

¹⁰ Rini Apriyani, Reza Pramasta Gegana, and Nurafifah Ayu Puspitasari, "Perlindungan Hukum Terhadap Korban Kejahatan Pornografi Berbasis Teknologi Artificial Intelligence," *Jurnal Hukum, Politik Dan Ilmu Sosial* 5, no. 3 (2026).

¹¹ Sonya Sesmita and Andes Robensyah, "Implementasi Undang - Undang No . 35 Tahun 2014 Jo Undang – Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak Dalam Kasus Tindak Pidana Perkosaan Terhadap Anak," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 4 (2026): 13842–54.

¹² Naufal Budi et al., "Urgensi Dan Kecukupan Pengaturan Deepfake Dalam Undang-Undang Informasi Dan Transaksi Elektronik Di Indonesia," *Judge : Jurnal Hukum* 06, no. 09 (2026): 1665–76.

¹³ Gunawan, "Limitasi Normatif Pertanggungjawaban Pidana Atas Penyalahgunaan Deepfake Berbasis Artificial Intelligence Di Indonesia," *JIHHP: Jurnal Ilmu Hukum, Humaniora Dan Politik* 6, no. 5 (2026): 3929–36.

but its application to AI-generated sexual content requires separate analysis. The central difficulty is that the existing framework does not clearly define the synthetic nature of the content, the role of non-consent, or the relationship between creation, distribution, and resulting harm.¹⁴

A related gap concerns the processing of personal data. The PDP Law recognizes facial and other biometric information as protected personal data and provides a framework for lawful processing, including consent and other recognized legal bases. The fact that an image is publicly accessible does not automatically mean that it may be collected, repurposed, or transformed into sexual or deceptive synthetic content without legal consequences. The relevant questions include the purpose of processing, the reasonable expectations of the data subject, the proportionality of the processing, the existence of a lawful basis, and the harm caused by the transformation. The legal problem is therefore not simply that public data falls outside protection, but that the current framework and its implementation do not yet provide sufficiently specific guidance for identity manipulation through deepfake technology.¹⁵

This limitation reflects a mismatch between existing legal categories and the nature of deepfakes. A deepfake may not be an authentic recording of the victim, but it can still use or reproduce identifiable facial, vocal, or other biometric features and can create a false association between the victim and conduct that never occurred. The legal analysis should therefore distinguish the authenticity of the underlying recording from the unlawful use of identity, data, image, or likeness and from the harm caused by dissemination. Treating synthetic content as legally irrelevant merely because it is not

¹⁴ Elenta Firnanda, "Reconstruction of Indonesian Cyber Criminal Law in the Era of AI and Deepfake," *Literasi Hukum Indonesia*, 2026.

¹⁵ Reza, Utama, and Yuningsih, "Artificial Intelligence–Generated Deepfake Pornography: A Normative Analysis of Criminal Liability and Victim Protection in Indonesian Law."

authentic would leave a significant gap in privacy and dignity protection.¹⁶

The statutory right to the removal of sexually explicit content under Article 68(g) and Article 70(2)(l) of the TPKS Law is potentially important for privacy restoration. Article 68(g) concerns the victim's right to the removal of sexually explicit content in cases of sexual violence through electronic media, while Article 70(2)(l) addresses the same form of removal as part of recovery before and during judicial proceedings. These provisions should not automatically be treated as creating criminal liability for every synthetic image. The article therefore proposes a cautious, contextual interpretation for victim protection and removal, while recognizing that the creation of an explicit deepfake offence, the definition of its elements, and comprehensive cross-platform procedures require legislative or regulatory action.¹⁷

2. Procedural obstacles

The most evident procedural obstacles concern the practical implementation of the RtBF. Although victims may have a legal basis to request removal of electronic sexual content, they still need a clear procedure identifying who may submit the request, what evidence is required, which institution assesses eligibility¹⁸, how platforms and internet service providers must respond, and what review or remedy is available when a request is refused. Article 26(3) of the ITE Law and Article 68(g) of the TPKS Law may provide relevant legal foundations, but the absence of operational coordination rules can make those rights difficult to exercise.¹⁹

¹⁶ Inez Maria Nuna Larantukan, "Peringatan International Women' Day 2026: Dosen HAM FH UNAIR Tekankan Urgensi Perlindungan Martabat Perempuan Dari Ancaman Deepfake Porn," Fakultas Hukum Unair, 2026.

¹⁷ Kevin David Sirait et al., "Pertanggungjawaban Pidana atas Deepfake Ai dalam Produksi dan Distribusi Pornografi Digital di Indonesia," *Rewang Rencang: Jurnal Hukum Lex Generalis* 7, no. 7 (2026): 4.

¹⁸ Dea Tri Afrida, "Penguatan Regulasi Right to Be Forgotten: Upaya Menghapus Luka Korban Digital Penyebaran Konten Intim Tanpa Izin," *Hukum Online*, 2025.

¹⁹ Dea Tri Afrida, "Prosiding Konferensi Pengetahuan Dari Perempuan IV: Inovasi Yang Inklusif Untuk Penghapusan Kekerasan Berbasis Gender Terhadap Perempuan," in *Optimalisasi Pemenuhan Right to Be Forgotten Bagi Perempuan*

Implementation also suffers from limited public awareness, technical difficulties in removing replicated content, and weak coordination among platforms, internet service providers, law-enforcement agencies, and victim-support institutions. Digital forensics is essential to authenticate the content, establish the chain of custody, identify relevant accounts or servers, and distinguish synthetic material from authentic recordings. The evidentiary burden should not be shifted entirely onto traumatized victims at the reporting stage. A victim-centred procedure should allow institutions to assist with preservation and authentication while protecting the victim from repeated exposure to the material.²⁰

The evidentiary problem has at least three dimensions. First, detecting manipulation requires specialized expertise and infrastructure.²¹ Second, the chain of custody may be disrupted because content circulates across multiple platforms and foreign servers.²² Third, victims are often expected to preserve and explain evidence before the legal status of the case has been determined.²³ These difficulties demonstrate that procedural access depends on institutional assistance, standardized digital-forensic protocols, and cooperation with platforms and foreign authorities. They should not be treated merely as a private burden that the victim must overcome alone.

3. Structural barriers

Structural barriers arise from the design and operation of the criminal justice system. A system that places the perpetrator and the criminal case at the centre may treat the victim primarily as a witness, while failing to provide rapid privacy restoration, psychosocial

Korban Kekerasan Seksual Berbasis Elektronik Melalui Penguatan Regulasi (Malang: Komisi Nasional Anti Kekerasan Terhadap Perempuan, 2024).

²⁰ Setyawan Darma Diputra, “Tinjauan Yuridis Terhadap Penerapan Undang-Undang Tindak Pidana Kekerasan Seksual Dalam Kasus Berbasis Digital Di Indonesia,” *Jurnal Legalitas* 2, no. 2 (2024): 83–92.

²¹ Ibid.

²² Afrida, “Penguatan Regulasi Right to Be Forgotten: Upaya Menghapus Luka Korban Digital Penyebaran Konten Intim Tanpa Izin.”

²³ Afrida, “Prosiding Konferensi Pengetahuan Dari Perempuan IV: Inovasi Yang Inklusif Untuk Penghapusan Kekerasan Berbasis Gender Terhadap Perempuan.”

support, and protection against secondary victimization. For deepfake victims, the institutional consequence is concrete: reporting, preservation of evidence, requests for removal, investigation, and recovery may be divided among institutions with different mandates and procedures.²⁴ Access to justice therefore requires coordination mechanisms that treat removal and victim recovery as integral parts of the legal response, not as matters secondary to prosecution.

The digital divide reinforces these structural barriers. Reporting a deepfake, preserving metadata and links, submitting platform complaints, and participating in digital-forensic processes require access to devices, stable connectivity, digital literacy, and institutional assistance.²⁵ Rural communities, older persons, persons with disabilities, and low-income groups may face particular difficulties. Digitalization of courts or case management does not automatically eliminate inequality; without assisted procedures and accessible channels, formally equal rules may reproduce unequal access to remedies.²⁶

South Korea's response illustrates the value of cooperation between gender-equality institutions and specialized police or cybercrime teams.²⁷ Its relevance to Indonesia lies in the function performed by the arrangement: rapid victim support, technical

²⁴ Sendi Pratama Sugandi and Haidan Angga Kusumah, "Kesenjangan Implementasi Undang-Undang Tindak Pidana Kekerasan Seksual Analisis Empiris Perlindungan Hukum Bagi Pekerja Perempuan Korban Pelecehan Seksual Di Tempat Kerja," *Mahkamah: Jurnal Riset Ilmu Hukum* 3, no. 3 (2026).

²⁵ Pradipta Pandu Mustika, "Anak Dan Remaja Dilibatkan Langsung Dalam Riset Kekerasan Seksual Berbasis Daring," *Kompas.Id*, 2026.

²⁶ "LembarFakta Refleksi Empat Tahun Implementasi UU TPKS: Kasus Kekerasan Seksual Meningkat, Negara Penting Percepat Strategi Sistem Terpadu Pencegahan, Pelindungan, Penanganan, Dan Pemulihan Pada Korban," Komnas Perempuan, 2026, <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-refleksi-empat-tahun-implementasi-uu-tpks>.

²⁷ Cho Joon Tag, Youngjin Song, and Jaekyung Ann, "Improving Digital Sex Crime Response System in South Korea," *Korean Institute of Criminology and Justice*, 2024.

investigation, and institutional coordination.²⁸ The model should not be copied automatically. The transferable elements are a clear referral pathway, specialized expertise, and shared protocols, not necessarily the same institutional structure. Any Indonesian reform should clarify the mandates of the police, victim-support bodies, Komnas Perempuan, prosecutors, and platforms and ensure that proposed functions are compatible with their legal authority.²⁹

4. Cultural barriers

Cultural barriers affect whether victims can use remedies that formally exist. Victim-blaming, stigma, patriarchal attitudes, fear of disclosure, and distrust of institutions may discourage reporting, delay evidence preservation, and limit participation in proceedings.³⁰ Gendered stigma and institutional insensitivity can prevent victims from converting formal rights into effective access to justice and can produce secondary victimization.³¹

The National Commission on Violence Against Women's (Komnas Perempuan) 2025 Annual Report (CATAHU) reinforces this picture while highlighting the ever-growing scale of the problem. A total of 376,529 cases of gender-based violence against women were recorded throughout 2025, an increase of 14.07 percent compared to the 330,097 cases in 2024.³² These figures are aggregate data compiled from various sources, including court rulings,

²⁸ Lee Jung-hyun, "Badan Kepolisian Nasional Dan Pemerintah Metropolitan Seoul Berkolaborasi Dalam Penghapusan Video Korban Kejahatan Seksual Digital," *Yonhap News*, 2022.

²⁹ Komnas Perempuan, "Peraturan Komisi Nasional Anti Kekerasan Terhadap Perempuan Nomor 3 Tahun 2025 Tentang Rencana Strategis Komisi Nasional Anti Kekerasan Terhadap Perempuan 2025-2029" (2025).

³⁰ Basuki Eka Purnama, "Stigma Patriarki Hambat Korban Kekerasan Seksual Melapor, Ini Kata Psikiater," *Media Indonesia*, 2026.

³¹ Ferinda K Fachri, "Kekerasan Berbasis Gender Online: Korban Terjebak Konflik UU TPKS Dan Ancaman UU ITE," *Hukum Online*, 2025.

³² "CATAHU 2025: Memperkuat Data, Mengatasi Kerentanan, Mendesak Negara Bersikap Untuk Keadilan Korban," Komnas Perempuan, 2026, <https://komnasperempuan.go.id/catatan-tahunan-detail/catahu-2025-menguatkan-data-mengatasi-kerentanan-mendesak-negara-bersikap-untuk-keadilan-korban>.

government agencies, public service institutions, and complaints filed directly with the National Commission on Violence Against Women (Komnas Perempuan). In the public sphere, online gender-based violence (KBGO) was recorded as the most prevalent form of violence, with 1,091 cases, approximately 90 percent of which were sexual in nature.³³ The National Commission on Violence Against Women (Komnas Perempuan) itself emphasizes that the recorded figures do not fully reflect reality. Behind every set of data lies the experience of women who face fear, stigma, power imbalances, and structural barriers to accessing justice. It is precisely this culture of stigma that leads to underreporting in official data, meaning the true scale of the problem is likely far greater than what is recorded.

For victims whose synthetic intimate material can be copied and redistributed indefinitely, stigma creates a double disincentive. Reporting may expose the victim to further circulation and humiliation, while not reporting allows the harm to continue without a remedy. This dilemma shows that cultural barriers are not merely social consequences; they operate as access-to-justice mechanisms by affecting reporting, evidence, institutional participation, and the possibility of obtaining removal, restitution, and recovery.³⁴

The four dimensions therefore form an interlocking cycle. Regulatory fragmentation makes the legal route uncertain, the absence of implementing procedures weakens rights that are formally recognized³⁵, institutional limitations increase the burden of reporting

³³ “Kampus Bukan Ruang Impunitas, Bangun Ruang Aman Dan Setara, Termasuk Dalam Ruang Digital,” Komnas Perempuan, 2026, <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-tentang-penyelesaian-dugaan-pelecehan-seksual-berbasis-online-di-lingkungan-kampus>.

³⁴ Mohammad Krisna Wibowo, Sigit Sapto Nugroho, and Anik Tri Haryani, “Analisis Kelemahan Perlindungan Korban Perempuan Victim Blaming Dala Kekerasan Seksual,” *Rewang Rencang: Jurnal Hukum* 7, no. 7 (2026): 1–19.

³⁵ Nurul Afifah, Azwad Rachmat Hambali, and Andi Tenri Sapada, “Tinjauan Yuridis Terhadap Tindak Pidana Kekerasan Seksual Berbasis Elektronik,” *Jurnal Dialogica* I, no. 2 (2026): 1–10.

and proof, and stigma discourages victims from approaching a system that may already be insensitive. The interaction of these barriers explains why access to justice must be assessed by the effectiveness of remedies, not by the existence of legal provisions alone.³⁶

B. The Urgency of Synthesizing Access to Justice and Progressive Law in Ensuring Substantive Protection of the Privacy Rights of Deepfake Victims

Access to Justice identifies the barriers, institutional responsibilities, and remedial pathways required for victims to obtain effective protection. Progressive Law provides a victim-centred orientation for interpreting existing legal principles when technological change exposes regulatory gaps.³⁷ It does not authorize judges to disregard statutory limits or create a new criminal offence. In the deepfake context, a bounded progressive approach may support prompt protection and removal where existing provisions and principles provide a legal basis, while the legislature remains responsible for defining offences, elements, sanctions, and comprehensive procedures.³⁸

Progressive interpretation must therefore be disciplined by legality, foreseeability, proportionality, and institutional competence. Access to Justice supplies that discipline by asking what remedy, procedure, and institution is required for rights to become effective.³⁹ A

³⁶ Ferinda K Fachri, "Tiga Setengah Tahun Berlaku, Implementasi UU TPKS Di Daerah Sulteng Dinilai Belum Efektif," *Hukum Online*, 2026.

³⁷ Al Fitri, "Hakim Progresif Dan Masa Depan Reformasi Peradilan," *Marinews*, 2026.

³⁸ Dina Wanda and Setiawan Putri, "Perlindungan Hak Privasi Dalam Penyalahgunaan Teknologi Deepfake Di Indonesia," *Rechts Vinding* 14, no. 2 (2025): 195–210.

³⁹ Irena Puspa Mega and Irwan Triadi, "Media of Law and Sharia Penafsiran Hakim Dalam Tindak Pidana Siber : Dilema Asas Legalitas Dan," *Media of Law and Sharia* 7, no. 1 (2026): 40–57.

judicial or administrative interpretation may clarify the application of an existing provision to a new factual context when the text, purpose, and legal principles support that reading. It may not add a new prohibited act or an essential element of a criminal offence that the legislature has not enacted. Temporary interpretive solutions should be made transparent and should lead to legislative or regulatory clarification rather than permanent judicial substitution.⁴⁰

It is important to emphasize that the third wave in the Cappelletti-Garth theory is not merely about providing more courts, but about redesigning the dispute resolution institutions themselves.⁴¹ Further developments in this theory indicate that the concept of access to justice has moved beyond the idea of access as representation by an attorney in the courtroom toward a broader approach that includes restorative justice, since legal aid alone still reflects the norms of the adversarial system, which is oriented toward individual representation in court rather than the holistic restoration of victims.⁴² This is directly relevant to victims of deepfakes; who need not only representation in criminal court but also faster, victim-centered redress mechanisms such as content takedown procedures under Article 68(g) in conjunction with Article 70(2)(l) of the TPKS Law, psychological counseling, and restitution which are far more urgent than lengthy conventional litigation processes.

However, within the reality of Indonesia's constitutional system which adheres to the civil law system the root cause of the first wave of issues (legal aid) cannot be addressed simply by increasing the number of legal aid institutions without first clarifying the normative basis for the rights to be defended. This is where the Cappelletti-Garth theory of

⁴⁰ Fabrizio Richardo et al., "Analisis Normatif Terhadap Penyebaran Deepfake Sebagai Bentuk Kejahatan Siber Di Indonesia," *Majelis : Jurnal Hukum Indonesia* 3, no. 1 (2026).

⁴¹ Muhammad Aris Saifuddin, "Stratifikasi Sosial Dan Ketidaksetaraan Akses Keadilan : Analisis Sosio-Legal Terhadap Sistem Peradilan Indonesia," *International Journal of Demos* 7, no. 4 (2025): 238–52.

⁴² Dewi Setyowati, "Memahami Konsep Restorative Justice Sebagai Upaya Sistem Peradilan Pidana Menggapai Keadilan," *Pandecta Research Law Journal* 15, no. 1 (2020), <https://doi.org/10.15294/pandecta.v15i1.24689>.

access to justice has its inherent limitations; this theory was designed in the context of common law countries and European welfare states that already have a relatively clear foundation of rights, so its focus is more on mechanisms for enforcing rights,⁴³ not in the creation or reinterpretation of the right itself when positive law has not yet explicitly regulated it exactly the situation faced by deepfake victims in Indonesia.

Rahardjo's concept of rule breaking should be understood in this limited sense: a legal breakthrough through creative interpretation of existing legal texts and principles, not a licence to break the law. In criminal cases, the distinction is essential. Judges and law-enforcement officials may interpret existing provisions consistently with their text, purpose, constitutional values, and victim-protection principles; they may not invent a new offence or extend punishment beyond the statutory basis.⁴⁴ Where the existing law cannot support criminal liability, the appropriate response is referral to legislative reform, while non-criminal remedies such as removal, protection, assistance, and recovery may still be pursued where legally available.⁴⁵

For Satjipto Rahardjo, true law is always a work in progress (law as a process, law in the making) that is, a living entity that continually evolves in tandem with the dynamics of society, rather than a final system that loses its ability to solve problems once it is deemed complete and absolute.⁴⁶ This progressive thinking subsequently spurred the transformation of Indonesia's criminal justice system from the retributive approach inherited from the colonial era toward a more dynamic system that emphasizes substantive justice. The concrete implementation of this spirit is evident in the provisions on restorative

⁴³ Mauro, Garth, Bryant, "Access to Justice : The Newest Wave in the Worldwide Movement to Make Rights Effective."

⁴⁴ Irwan Rosady, "Menjaga Independensi Hakim Di Era AI: Batas Etika Penggunaan AI Dalam Peradilan," *DANDAPALA*, 2026.

⁴⁵ Subagyo Sri Utomo, *KUHAP & KUHP NASIONAL (Sejarah, Implementasi, Dan Penerapan)* (Sidoarjo: Inti Litera, 2026).

⁴⁶ Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Yogyakarta: Genta Publishing, 2009).

justice and alternative sanctions in the new Criminal Code (Law No. 1 of 2023).⁴⁷

The synthesis can therefore be expressed as a sequence: Access to Justice identifies the normative, procedural, structural, and cultural barriers; Progressive Law supplies a bounded, victim-centred orientation for responding to technological change within existing legal principles; and legislative reform subsequently institutionalizes and clarifies the interim solution. Access to Justice without interpretive responsiveness may preserve procedural formalism, while Progressive Law without an access-to-justice framework may become abstract discretion. Their relationship is useful only when the interpretive proposal is connected to a defined institution, procedure, remedy, and legal limit.

With regard to Article 68(g) in conjunction with Article 70(2)(l) of the TPKS Law, the strongest preliminary argument concerns the removal of such content and the restoration of privacy, rather than the automatic establishment of criminal liability. A contextual interpretation may acknowledge that synthetic intimate content can cause the same harm to privacy and dignity as authentic recordings and may therefore support a victim's request for removal, subject to the statutory text, applicable procedure, and safeguards against abuse. The interpretation should be presented as a victim-protection bridge while implementing rules and legislative clarification are pursued, not as conclusive proof that every synthetic image falls within every criminal element of the TPKS Law.⁴⁸

Article 32 of the ITE Law requires a step-by-step analysis of each element before it can be proposed as an alternative legal basis. Generating a new synthetic representation may not automatically be equivalent to altering an existing electronic document.⁴⁹ Therefore, Article 32 can only be explored as a possible basis if the factual acts and

⁴⁷ "Teori Hukum Progresif (Satijpto Rahardjo)," Beranda Hukum.Com, 2021.

⁴⁸ Vanessa and Nasution, "Addressing Deepfake Pornography and the Right to Be Forgotten in Indonesia : Legal Challenges in the Era of AI - Driven Sexual Abuse."

⁴⁹ Arung Rahmat Sijaya, Ivan Zairani Lisi, and Alfian Alfian, "Legal Implications Of Software Abuse Artificial Intelligence in Photo and Video Editing," *International Journal of Sociology and Law* 2, no. 1 (2025): 220–26.

elements of the law can be proven without resorting to analogies prohibited by the principle of legality.⁵⁰

The three jurisdictions are assessed by five functions: the conduct addressed by the legal framework; remedies available to victims; responsibilities of platforms and public institutions; enforcement and evidence; and the relationship between criminal sanctions and non-criminal measures. The comparison is functional, not a claim that the systems are legally identical. It asks which institutional problem each mechanism responds to and whether that function can be adapted to Indonesia without disregarding the ITE, TPKS, PDP, and other applicable laws.

South Korea is relevant because the comparative materials describe an expansion of legal and institutional responses to sexually explicit deepfake conduct and the development of specialized support and coordination for victims. Its significance for Indonesia is therefore twofold: clearer definition of prohibited conduct and a coordinated pathway linking reporting, technical assistance, investigation, and victim support. The South Korean approach does not automatically determine Indonesian criminal liability, and its institutional structure should not be transplanted without examining Indonesian mandates. The transferable lesson is functional: Indonesia needs a clearly designated referral pathway, specialized digital expertise, and procedures that reduce the evidentiary and reporting burden on victims.⁵¹

The United Kingdom provides a second point of comparison, as parliamentary and government materials address criminal responses to non-consensual sexual deepfakes alongside platform liability and the rapid removal of content.⁵² This illustrates the relationship between criminal liability for prohibited acts and non-criminal measures aimed

⁵⁰ Siti Nurkholisah et al., “Tantangan Kriminalisasi Deepfake Dalam Hukum Pidana Indonesia,” *Jurnal USM Law Review* 8, no. 3 (2025).

⁵¹ Nawa Khaerina and Tabina Ascarya Leandra, “Penyalahgunaan Artificial Intelligence Dalam Pembuatan Gambar Yang Melanggar Norma Kesusilaan : Studi Komparatif Indonesia Dan Korea Selatan,” *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia Penyalahgunaan* 8, no. 1 (2026): 24–28.

⁵² Alex Davies-Jones MP, “Government Crackdown on Explicit Deepfakes,” Gov.UK, 2025.

at limiting continued dissemination and restoring privacy. For Indonesia, the relevant lesson is not to copy the British model, but rather to clarify the division of responsibilities among law enforcement, the courts, and platforms; identify the legal basis and time limits for removal; and provide guarantees for review if content is removed or a request is denied.⁵³

Australia is used in a narrower sense to describe law enforcement and judicial proceedings in a specific case involving deepfakes (see the landmark case of William Hamish Yeates, 2026, as the first prosecution under Commonwealth law regarding sexual deepfakes),⁵⁴ rather than as a comprehensive regulatory model. The facts of that case highlight the importance of identifying the act, proving the link between the defendant and the synthetic content, and imposing sanctions through a court with jurisdiction. These facts, by themselves, do not constitute a comprehensive regime for platform takedowns or victim redress.

Overall, these three comparisons support a limited reform agenda for Indonesia: defining the creation, distribution, and other forms of misuse separately; establishing victim-centered removal and redress procedures; clarifying platform and institutional obligations; strengthening digital evidence and forensic capabilities; and coordinating criminal and non-criminal redress. These functions must be adapted to Indonesia's civil law framework, constitutional guarantees, statutory mandates, and institutional capacities, rather than imported as off-the-shelf rules.

⁵³ "Ofcom to Crack down on Spread of Illegal Intimate Images and Deepfakes, Boosting Protections for Women and Girls Online," Ofcom, 2026.

⁵⁴ Eva Blandis, "Landmark Plea as Teen Admits Creating or Altering Sexually Explicit Deepfakes," ABC News, 2026.

Conclusion

Deepfakes threaten privacy and dignity in Indonesia. This study establishes that Indonesian law provides forms of protection through the ITE Law, TPKS Law, PDP Law, Pornography Law, and new Criminal Code, which may apply to particular acts or harms. The central finding is not that Indonesia has no legal protection, but that the existing provisions remain fragmented and are not yet sufficiently adapted to the synthetic creation, identity misuse, and rapid redistribution characteristic of deepfakes.

Using Access to Justice and Progressive Law, the study identifies four interlocking barriers: normative uncertainty about the treatment of creation, distribution, data use, and resulting harm; procedural difficulties involving reporting, digital evidence, coordination, and removal; structural limitations involving institutional design, digital inequality, and capacity; and cultural barriers involving stigma, victim-blaming, and institutional insensitivity. The article's contribution is a bounded model in which Access to Justice identifies the barriers and required remedial pathways, Progressive Law provides a victim-centred interpretive orientation within existing legal principles, and legislative and regulatory reform subsequently institutionalizes and clarifies those interim solutions. Progressive interpretation should support privacy restoration and other lawful remedies, not create offences or expand criminal liability beyond statutory text. The resulting priorities are clearer regulation of deepfake-related conduct, rapid and safeguarded removal, stronger digital-forensic and institutional capacity, and coordinated procedures for reporting, evidence preservation, investigation, and victim recovery.

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