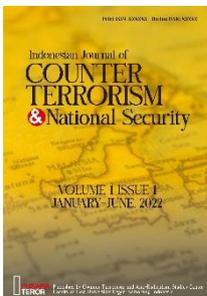


The Essential Things for Victims of Terrorism in Indonesia: Medical Assistance, Psychosocial and Psychological Rehabilitation

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ABSTRACT: Terrorism is a crime that endangers the security, peace and welfare of people while posing a severe threat to the sovereignty of every nation. This was inextricably linked to the suffering of victims of terrorism-related crimes, who needed the government to provide them with legal protection. The study aims to analyze and compare some cases concerning how victims of terrorist crimes in Indonesia are protected by the law, particularly with regard to medical assistance, psychosocial and psychological rehabilitation. With a legal empirical methodology and descriptive analytical research criteria, this study used qualitative research techniques. The study was carried out in Jakarta at the National Counterterrorism Agency. Primary data and secondary data are also used. Using interviews and a literature review, the data is collected. The data were reduced, displayed, and categorized using the methods described above. using qualitative analytical techniques to provide data as narrative text descriptions. According to the study's findings, there are advantages and disadvantages to Indonesia's legal protection of those who have been victims of terrorist crimes. One issue is that the filing deadline for claims made on behalf of those who have already been victims of terrorism crimes is only June 22, 2021. The legal protection of victims of terrorist crimes is hampered

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by a number of reasons in Indonesia's legal protection of those who have been the victims of terrorist crimes.

KEYWORDS: Medical Assistance, Physcosocial, Psychological Rehabilitation, Victim of Terrorism



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I. INTRODUCTION

Terrorism is a crime against humanity that can threaten the sovereignty of every country.¹ Acts of terrorism in Indonesia itself occurred since the leadership of President Soekarno until the current President Joko Widodo, which shows an increase.² Indonesia has become aware of terrorist attacks, that's why the government is trying to make special laws that regulate terrorism. It is the same with Within terrorism and counter-terrorism studies, one of the criteria used to differentiate researchers is whether or not they were active

¹ Adesta, Ghazi Mutasim Fayez, and Sapto Priyanto, "Human Rights of Terrorism Suspects: A Comparative Study Between Indonesia and Malaysia," *Journal of Terrorism Studies*, 1, 4, no. 1 (2022): 3, <https://doi.org/10.7454/jts.v4i1.1046>.

² Indra Martian, "Intelligence Movement on Terrorism Cases in Indonesia From the Jihad Command to ISIS Indonesia," *International Conference on Islamic Civilization and Technology Management* 6, no. 7 (November 2019): 3-4.

pre-9/11 or post-9/11.³ The importance of special laws governing terrorism was increasingly felt by the Government after the Bali bombing incident on October 12, 2002. Indonesia is considered a country prone to terror which in turn seems frightening to anyone who wants to visit.⁴ Terrorism Crime Arrangements in Indonesia are regulated in special laws that regulate terrorism, namely Law Number 5 of 2018 concerning Amendments to Law No. 15 of 2003 concerning Implementation of Government Regulations in Lieu of Law No. 1 of 2002 concerning Eradication of Criminal Acts of Terrorism (UU No. 5 of 2018). This regulation aims to create an orderly and safe atmosphere, as well as to provide a strong legal basis and legal certainty in overcoming urgent problems in eradicating criminal acts of terrorism in Indonesia. Goes along with it According to Kenneth Tucker, terrorism will continue to occur as long as the ideological understanding of radicalism thrives and as long as the ideals of their struggle have not been achieved.⁵

Muchsin's opinion regarding legal protection is an activity to protect individuals by harmonizing the relationship of values or principles that are embodied in attitudes and actions in creating order in social life among human beings.⁶ UU no. 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism, of course, is a solution in the legal protection of victims of criminal acts of terrorism in Indonesia. The urgency in Law no. 5 of 2018 has given its duties and

³ John F. Morisson, "Talking Stagnation: Thematic Analysis of Terrorism Experts' Perception of the Health of Terrorism Research," *Journal of Terrorism and Political Violence* 34, no. 8 (2022): 1509–29, <https://doi.org/10.1080/09546553.2020.1804879>.

⁴ Folman P Ambarita, "Combating Criminal Acts of Terrorism," *Journal of Binamulia Hukum* 7, no. 2 (December 2018): 141.

⁵ Kenneth Tucker, "Ideological and Social Movements," *The Contribution of Habermas Journal University of California* 59, no. 1 (January 1989): 5.

⁶ Muchsin, *Protection and Legal Certainty for Investors in Indonesia* (Surakarta: Universitas Sebelas Maret, 2003).

authorities to the National Counterterrorism Agency (BNPT) to coordinate victim recovery programs, including having the authority to designate a person as a victim of criminal acts of terrorism related to submitting requests for compensation, restitution, psychological and other assistance. This means that since the existence of Law no. 5 of 2018, the recovery program for victims of criminal acts of terrorism is under the coordination of the BNPT.

The progressive steps regulated in Law no. 5 of 2018 is a provision in Article 35 A Paragraph (1) which explicitly states that the victim is the responsibility of the state, which in the previous law, namely Law no. 15 of 2003 does not regulate the role and responsibility of the state. It also includes an expansion of the types of victim protection, which does not only focus on compensation and restitution but also comprehensive medical assistance, psychosocial and psychological rehabilitation of victims, up to compensation for the families of victims who die. The existence of these regulations shows that Law no. 5 of 2018 is a regulation that is oriented towards legal protection for victims of criminal acts of terrorism in Indonesia. It's just that the implementation has not run optimally.

The protection for victims of criminal acts of terrorism is explained in Chapter VI Article 35A point 4, namely:

The form of state responsibility as referred to in paragraph (1) is in the form of:

- a. Medical Assistance;
- b. Psychosocial and Psychological Rehabilitation;
- c. Compensation for the family in the event that the victim dies; and
- d. Compensation.

In this article the author will focus on legal protection for victims of criminal acts of terrorism in the aspects of medical assistance,

psychosocial and psychological rehabilitation. Article 43 G letter (c) Law No. 5 of 2018 stipulates that the BNPT is tasked with coordinating the victim recovery program. Meanwhile, the handling of compensation, medical assistance, or psychosocial and psychological rehabilitation is carried out by institutions that carry out affairs in the field of witness and victim protection. Based on this, the BNPT coordinates with the LPSK, including law enforcement agencies such as the POLRI, the Attorney General's Office, Courts that have handled terrorism cases where there were victims of terrorism crimes with *locus* and *tempus delicti* before June 2018 to obtain victim data. This includes coordinating with hospitals that have treated victims and also foundations or organizations that provide shelter for victims of terrorism.

II. METHODS

The research was conducted at the National Counterterrorism Agency, Jakarta. The data used includes primary data and secondary data. Methods of data collection through interviews and literature study. The data obtained is processed by data reduction, data display, and data categorization. Presentation of data in the form of narrative text descriptions, with qualitative analysis methods.

III. MEDICAL ASSISTANCE, PSYCHOSOCIAL, AND PSYCHOLOGICAL REHABILITATION

Angkasa in his book *Victimology* gives an opinion regarding legal protection, namely all rights that are owned and given to every legal subject based on applicable laws and regulations.⁷The existence of

⁷ Angkasa Angkasa, *Victimology* (Jakarta: Rajawali Press, 2020).

legal protection is something that is deemed necessary, desired and expected (*desiderata*) by victims as a logical consequence of the suffering and losses they experience, however this is not in line with the existing reality.⁸ Medical assistance in Indonesia is regulated in Article 35 A (4) of Law no. 5 of 2018, Article 6 of Law no. 31 of 2014, Article 37 Paragraph 2 PP No. 35 of 2020 which was given as a form of restoring the victim's physical health as explained by the Head of Victim Recovery Section, that:

“Victims who were hit by a bomb explosion and needed medical assistance, namely in the form of skin ointment which had to be used routinely, and if given it would cause a burning sensation in the burn area, there was also a treatment for changing the eyeballs which were replaced every 2 years. The incident occurred in Australia, so far victims have received assistance from the Australian Ambassador, and in this law the LPSK must support it. Currently, medical assistance is only given for 2 years.”⁹

Based on the explanation from the informant above regarding victims affected in Australia, normatively, medical assistance is obtained by victims of criminal acts of terrorism outside the Republic of Indonesia as stipulated in PP No. 35 of 2020 as follows:

⁸ Rani Hendriana, "Legal Protection of Victims of Crime: Between *Desiderata* and Reality," *Journal of Cosmic Law*, Faculty of Law, Muhammadiyah University, Purwokerto 16, no. 1 (January 2016): 30–33.

⁹ Head of BNPT Victim Recovery Section, Provision of Medical, Psychosocial and Psychological Assistance, nd

Article 44 J

- 1) Medical assistance as referred to in Article 441 paragraph (1) letter a is given to Indonesian citizens who become victims of criminal acts of terrorism outside the territory of the Republic of Indonesia immediately after the criminal acts of terrorism occur.
- 2) Medical assistance as referred to in paragraph (1) when Indonesian Citizens who are victims of criminal acts of terrorism are outside the territory of the Republic of Indonesia, it is coordinated by the ministry in charge of government affairs in the foreign affairs sector.
- 3) In the case of an Indonesian citizen who becomes a victim of a criminal act of terrorism as referred to in paragraph (2), when he returns to Indonesia, he still needs medical assistance, the Indonesian citizen concerned can submit an application to the LPSK.
- 4) The request for medical assistance as referred to in paragraph (3) is submitted by an Indonesian citizen who is a victim of a criminal act of terrorism, his family, or their proxies.
- 5) The application for medical assistance as referred to in paragraph (4) shall be submitted in writing in Indonesian on sufficiently stamped paper to the LPSK.
- 6) The application as referred to in paragraph (5) at least contains: *a.* the identity of Indonesian Citizens who are Victims of criminal acts of terrorism outside the territory of the Republic of Indonesia; *b.* identity of the family or their proxies, if the application is not submitted by an Indonesian citizen who is a victim of a criminal act of terrorism outside the territory of the Republic of Indonesia; and *c.* a description of the occurrence of a criminal act of terrorism.
- 7) The application as referred to in paragraph (6) must attach:

- a. photocopy of the identity of an Indonesian citizen who becomes a victim of a criminal act of terrorism outside the territory of the Republic of Indonesia which is legalized by an authorized official;
 - b. a certificate from the Representative of the Republic of Indonesia abroad stating that the person concerned is a victim of a criminal act of terrorism based on the provisions in force in the country where the crime of terrorism occurred by attaching a medical resume;
 - c. family relationship certificate, if the application is filed by the family; and D. special power of attorney, if the application is filed by the attorney of an Indonesian citizen who is a victim of a criminal act of terrorism outside the territory of the Republic of Indonesia or a family power of attorney.
- 8) In the event that the country where the crime of terrorism occurs does not use the term terrorism crime, the issuance of the statement as referred to in paragraph (7) letter b by the Representative of the Republic of Indonesia abroad can be carried out in coordination with the National Counterterrorism Agency.
- 9) LPSK conducts administrative and substantive examination of the application as referred to in paragraph (6).
- 10) In the event that the application for medical assistance is approved, the provision of medical assistance shall be stipulated by the LPSK Decree.
- 11) Further provisions regarding procedures for requesting and providing medical assistance are regulated by LPSK Regulations.

Talking about the effectiveness of the BNPT's role in legal protection for victims of Terrorism Crime in Indonesia as explained by Informants that:

"The effectiveness of the BNPT in Indonesia so far has been quite effective, but it will be more effective if there are complete regulations or guidelines, besides that legal protection for victims of criminal acts of terrorism will run more effectively, efficiently and optimally if the BNPT becomes the coordinator."¹⁰

Regarding the form of legal protection for criminal acts of terrorism in Indonesia, as conveyed by the informant that what has been carried out by the BNPT is related to the provision of designations as victims of criminal acts of terrorism for the purposes of filing compensation, restitution, medical assistance, psychosocial and psychological rehabilitation as follows:

"Determination of victims is a task carried out by the BNPT. As for compensation, psychological rehabilitation and medical assistance, these are part of the recovery of victims carried out by the LPSK, but in practice this is also the duty of the BNPT as an example of medical assistance immediately after the incident. The BNPT's duty is to ensure that those who provide medical assistance are right on target so that the role of the BNPT is to better coordinate this."¹¹

Article 43 L Paragraph (3) stipulates that for direct victims resulting from criminal acts of terrorism before this Law comes into effect, applications for compensation, medical assistance, or psychosocial

¹⁰ Head of BNPT Victim Recovery Section, Provision of Medical, Psychosocial and Psychological Assistance, nd

¹¹ Head of BNPT Victim Recovery Section, Provision of Medical, Psychosocial and Psychological Assistance, nd

and psychological rehabilitation must be accompanied by a victim determination letter issued by the BNPT.

There are consequences to the enactment of Law no. 5 of 2018, namely that the determination of victims of criminal acts of terrorism is carried out by investigators based on the results of TKP processing of victims with *locus* and *tempus delicti* after June 2018. However, for victims of past acts of terrorism, namely before the existence of this law and have not received compensation, medical assistance, or psychosocial and psychological rehabilitation, therefore in order to obtain this right one of the conditions that must be met is the existence of a victim determination from the BNPT.

Victims of criminal acts of terrorism are also entitled to psychological rehabilitation, namely assistance provided by psychologists to victims who suffer from trauma or other psychiatric problems to restore the victim's psychological condition. As for understanding psychological rehabilitation is assistance provided by psychologists to victims who suffer from trauma or other mental problems to restore the victim's mental condition. The legal basis for Psychological Rehabilitation is regulated in Article 35 A (4) of Law no. 5 of 2018, Article 6 of Law no. 31 of 2014, Article 37 Paragraph 2 PP No. 35 of 2020. Regarding the implementation of psychological rehabilitation services for victims of criminal acts of terrorism in Indonesia, as explained by the informants, that:

"Talking about the bombing case in Sibolga, there is a psychological service, namely trauma healing in collaboration with the Jakarta and North Sumatra Indonesian Psychological Association HIMPSI, where victims of criminal acts of terrorism need this treatment a

lot. When the state must be responsible and cooperate with various parties including the LPSK."¹²

Psychosocial services as a form of legal protection for victims of criminal acts of terrorism are all forms of psychological and social services and assistance aimed at helping to relieve, protect and restore the victim's physical, psychological, social and spiritual conditions so that they are able to carry out their social functions normally again. LPSK and BNPT seek to improve the quality of life of victims by collaborating with relevant authorities in the form of assistance in fulfilling clothing, food, shelter, assistance in obtaining employment, or assistance in continuing education.

Arrangements regarding psychosocial rehabilitation are regulated in Article 35 A (4) of Law no. 5 of 2018, Article 6 of Law no. 31 of 2014, Article 37 Paragraph 2 PP No. 35 of 2020. Article 35 A Paragraph (4) Law no. 5 of 2018 The form of state responsibility as referred to in paragraph (1) is in the form of: a. medical assistance; b. psychosocial and psychological rehabilitation; c. compensation for the family in the event that the victim dies; and D. compensation. Article 37 Paragraph 2 PP No. 35 of 2020 (1) Witnesses and/or victims of gross human rights violations, acts of terrorism, crimes of trafficking in persons, crimes of torture, crimes of sexual violence, and serious abuse are entitled to receive assistance. (2) The assistance referred to in paragraph (1) is in the form of: a. medical assistance; and b. psychosocial and psychological rehabilitation assistance. from the Ministry of Social Affairs provided assistance and social advocacy to the families of the victims who died and were injured in the bombings of three churches

¹² Head of BNPT Victim Recovery Section, Provision of Medical, Psychosocial and Psychological Assistance, nd

in Surabaya and Rusunawa Wonocolo, Sidoarjo Regency. Psychosocial services provided by LPSK 1 child of the North Sumatra Police Headquarters Bombing victim was facilitated to take part in the police education selection and successfully participated in the selection and the victims of the Australian Bombing terrorism were given business cart assistance and venture capital by PT. Pawnshop in the amount of Rp. 10,250,000. (Ten million two hundred and fifty thousand rupiah).

The BNPT also seeks to bring together victims and perpetrators, namely when there is a national gathering forum involving former perpetrators who wish to apologize to victims of criminal acts of terrorism. The victim has opened the door of his apology, so this friendly moment has become a model that only exists in Indonesia. These matters explained by the informant, that:

"National Gathering Forum activities as an effort to bring together victims and perpetrators have been carried out. There was a positive response from the victim and there was a moment of acknowledgment from the perpetrator that he was guilty and apologized. This activity is a model that only exists in Indonesia, there are one hundred and twenty-one (121) former perpetrators and fifty-one (51). As for the example of a victim who was hit by a bomb explosion and needed medical assistance in the form of a skin ointment which had to be used routinely, and if not given it would result in a burning sensation in the burn area, there is also an eye recovery treatment which must be replaced every 2 years in the case of a bomb in Australia, so far victims have received assistance from the

Australian embassy, and in this law, the LPSK must support the victim's recovery."¹³

IV. FACTORS INHIBITING THE PROTECTION OF VICTIMS OF TERRORISM: MEDICAL ASSISTANCE, PSYCHOSOCIAL, AND PSYCHOLOGICAL REHABILITATION

Victims of terrorism attacks experience the phenomenon of anonymity where the victims who fall are victims who are randomly selected or randomly selected and are not at all guilty.¹⁴ Meanwhile, the perpetrators can be individuals, groups or countries. While the expected results are the emergence of fear, extortion, radical political changes, demands for human rights and basic freedoms for innocent parties as well as the satisfaction of other political demands.¹⁵

To analyze this research, the theory used is the legal system theory of Lawrence M. Friedman. The theory from Lawrence M. Friedman quoted by Esmi Warrasih stated that law is a combination of legal structure, legal substance, and legal culture.¹⁶

There are factors that hinder the implementation of legal protection for victims of criminal acts of terrorism in Indonesia and India, both from the aspect of legal structure, legal substance, as well as legal culture and society. The research results are as follows.

¹³ Head of BNPT Victim Recovery Section, Provision of Medical, Psychosocial and Psychological Assistance, nd

¹⁴ Muhammad Alfath Tauhidillah, "Victims as a Result of Criminal Acts of Terrorism: The Anonymous and Forgotten," *Journal of Indonesian Criminology* 5, no. 2 (August 2009): 19–30.

¹⁵ Muladi, "Muladi, The Nature of Terrorism and Some Regulatory Principles in Criminalization," *Indonesian Journal of Criminology* 2, no. 3 (December 2022): 1.

¹⁶ Esmi Warrasih, *Legal Institutions A Sociological Study* (Semarang: PT Suryandanu Utama, 2005).

A. Factors Inhibiting Legal Protection for Victims of Criminal Acts of Terrorism in Indonesia

Factors inhibiting legal protection for victims of criminal acts of terrorism in Indonesia, after the enactment of Law No. 5 of 2018 concerning Amendments to Law No. 15 of 2003, among others as follows:

1. Legal Substance

Government Regulation from Law No. 5 of 2018 does not yet exist, so it must refer to Government Regulations from Law No. 31 of 2014, namely PP No. 7 of 2018 concerning Compensation, Restitution and Assistance to Witnesses and Victims which has now been updated with PP No. 35 of 2020. This is as follows explained by the informant, that:

"We still don't have PP from Law No. 5 of 2018, while the PP is still sitting on the table and has not been ratified. So, we are still referring to PP from LPSK."¹⁷

As a result, the protection of victims is not direct and *in concreto*.¹⁸ Based on the informant's statement that PP UU no. 35 of 2020 is a guideline for providing legal protection. As for PP from Law no. 5 of 2018 has not been ratified by the government. Based on the description of legal protection for victims of criminal acts of terrorism in Indonesia from psychological and psychosocial aspects, and medical assistance. Therefore, it can be seen in Figure

¹⁷ Esmi Warrasih

¹⁸ J Hattu, "Legal Protection for Victims of Economic Crime in the Banking Sector," Sasi Journal 16, no. 4 (December 2010): 39.

1 regarding the facts regarding the forgotten rights of victims of criminal acts of terrorism:

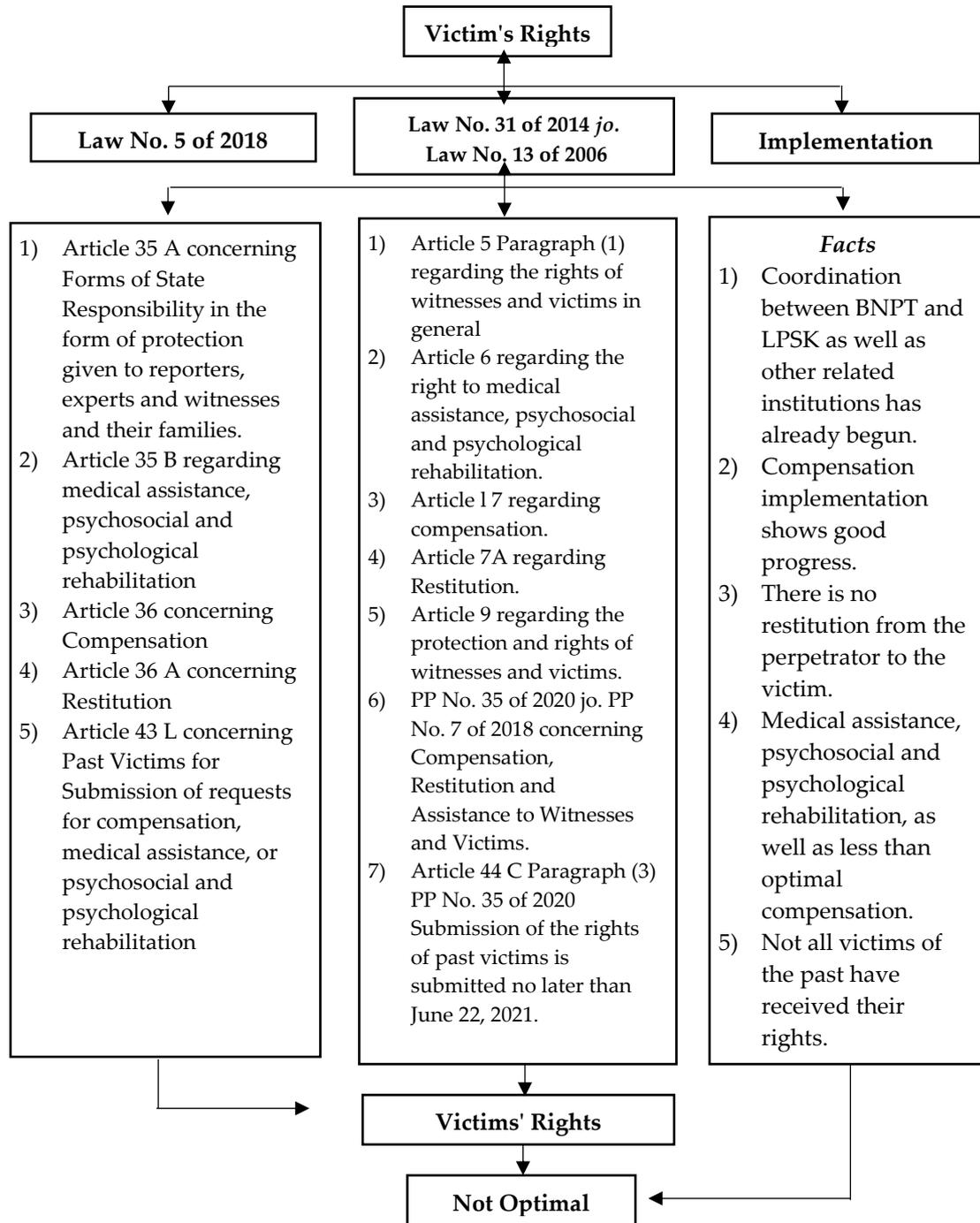


FIGURE 1. Scheme for the Implementation of Legal Protection for Victims of Terrorism in Indonesia

The condition of not optimal legal protection for victims as mandated in the law is due to Law no. 5 of 2018 itself is not familiar to the victims. Furthermore, this law is only a concern for legal practitioners and academics. On the other hand, the public pays little attention to and understands the law because they have no interest whatsoever in the law if they have not become victims. In fact, it becomes an obligation for the state to fulfill legal protection for victims.

2. Legal Structure

The inhibiting factor in the legal structure is inseparable from the limited budget for victims of criminal acts of terrorism, which causes medical assistance for victims to be limited to only two years. This is as explained by Informant, that:

*"The budget is not maximized, especially for medical assistance given to victims in only 2 years"*¹⁹

Another inhibiting factor is related to the lack of Human Resources (HR) at the BNPT. This is as explained by Informant, that:

*"Handling victims is of course something extraordinary, but human resources at the BNPT are still lacking, therefore we need large human resources so that they will be upgraded to become a directorate in the hope that the human resources will increase"*²⁰

¹⁹ J Hattu

²⁰ J Hattu

The development of law is carried out through legal renewal while taking into account the plurality of the applicable legal order and the influence of globalization.²¹

3. Legal Culture

Based on the results of the interviews, it shows that there are no inhibiting factors from the aspect of legal culture. This is as explained by the informant that:

*"Differences in perspective between the prosecutor's office and the LPSK, as well as with the National Police, are normal. Each agency has its own SOP. However, so far this has not hindered because there is already the same perspective regarding the handling of victims. This is inseparable from the role of the BNPT as the coordinator of victim recovery in building a common perspective between related agencies/agencies."*²²

This includes victims of terrorism. There is a tendency for victims to be cooperative in applying for legal protection. However, there are still victims who do not want to apply for legal protection while legal protection must be provided on the basis of a request, so this becomes an obstacle. This is as explained by Informant, that:

"It doesn't hinder the aspect of the victim. However, there are also victims who do not want to be called victims because they are still traumatized

²¹ Hibnu Nugroho, "Paradigm of Indonesian Law Enforcement in the Global Era," *Journal of Pro Justicia* 26, no. 4 (2008): 320–21.

²² Hibnu Nugroho

by the incident. So don't want to apply. Therefore, we call them now survivors."²³

V. CONCLUSION

Overall, legal protection for victims of criminal acts of terrorism has its advantages and disadvantages in terms of regulations and implementation which regulate psychological, psychosocial services, medical assistance, and assistance to the victim's family in the event that the victim dies. Therefore, the inhibiting factors in Legal Substance, Legal Structure, and Legal Culture by using an approach theory from Lawrence M. Friedman.

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COMPETING INTEREST

None

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*No Religion is Responsible
for Terrorism. People are
Responsible for Violence
and Terrorism.*

Barack Obama