

Effectiveness of Legal Protection for Victims of Malways Arrested in Criminal Justice Process

Difa Maulana²⁾ & Sri Endah Wahyuningsih¹⁾

¹⁾Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: difamaulana.std@unissula.ac.id

²⁾Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: sriendahwahyuningsih@unissula.ac.id

Abstract. *This study aims to describe and analyze effective legal protection for victims of mistaken arrest in the criminal justice process and to describe and analyze the weaknesses of effective legal protection for victims of mistaken arrest in the criminal justice process and its solutions also to describe and analyze the effectiveness of legal protection for victims of mistaken arrest in the criminal justice process. This study uses a sociological juridical method with analytical descriptive specifications. Primary data were obtained directly through interviews and analyzed using legal theory. The results of this study legal protection for victims of mistaken arrest in the criminal justice process is regulated in Law Number 8 of 1981 concerning Criminal Procedure Law. This protection is reflected in Article 95 and Article 97 of the Criminal Procedure Code which regulates the mechanism of compensation and rehabilitation, which is also clarified by Government Regulation Number 27 of 1983 and Decree of the Minister of Finance Number 983/KMK.01/1983. The investigator's responsibility is regulated in Law Number 2 of 2002, while the consequences of intent or negligence are listed in Articles 333, 334, and 335 of the Criminal Code. Protection for witnesses and victims is regulated in Law Number 13 of 2006. Weaknesses in legal protection for victims of mistaken arrest in the criminal justice process include, ineffective compensation and rehabilitation mechanisms, limited budget and resources, lack of awareness of law enforcement officers, lack of empathy in handling cases of mistaken arrest, suboptimal rehabilitation process, and a careless investigation system. And the effectiveness of legal protection for victims of mistaken arrest in the criminal justice process in the future includes, regulatory reform for legal certainty, increasing the capacity of law enforcement officers, strengthening the oversight mechanism, simplifying the compensation process, enforcing the principles of justice and legal*

effectiveness, periodic evaluation of the justice system and cooperation between institutions.

Keywords: Justice; Legal; Protection; Process.

1. Introduction

Indonesia is a unitary state in the form of a Republic. This country was idealized and aspired to by the nation's founders as a country of law. This is emphasized in the 1945 Constitution of the Republic of Indonesia, especially in the fourth amendment Article 1 paragraph (3) which states that "the State of Indonesia is a State of Law". According to Logemann, the state is a social organization that aims to regulate and organize

community life by using its power. Meanwhile, according to Achmad Ali, law is a set of rules or regulations arranged in a system that determines what humans as citizens may and may not do in community life.

Law is an abstract concept it has no physical form that can be seen or touched. However, law has one main purpose, which is to regulate human life. This purpose is based on the fact that in everyday life, humans basically always establish relationships with each other through communication, and each individual has different goals and desires. Because of these differences in goals and desires, law serves as a tool to regulate and balance these diverse traits and desires. With the existence of law, it is hoped that relations between humans can be established in an atmosphere of peace and order. Law plays a role in establishing rules that must be followed by each individual, so as to prevent conflict and ensure that everyone can live together in harmony.

Criminal law is one of the laws in Indonesia whose regulations are expressly stated in the Criminal Code (KUHPidana) as one of the positive laws in Indonesia. As with other legal sciences such as civil law, international law, customary law, constitutional law, and others, criminal law has general functions and special functions. Its general function is to regulate social life, to organize social life in society. Then its special function, namely for criminal law, is to protect legal interests against acts that intend to rape it *Legal protection (legal services)*, sanctions in the form of criminal penalties that are sharper in nature when compared to sanctions found in other branches of law. Criminal law is closely related to the general view of law, state and society and about criminality (crime).

The criminal justice process is the main mechanism in law enforcement to ensure justice for perpetrators and victims of crime. Every action, such as arrest, investigation, and trial, must follow the principles of justice and legal certainty, as stipulated in the Criminal Procedure Code. However, in practice, mistakes often occur, such as mistaken arrests or naming someone

as a suspect without sufficient evidence. Wrongful arrests are a serious problem because they harm victims psychologically, socially, and economically. Psychologically, victims can experience trauma due to treatment during arrest or detention, as well as the social stigma that is attached. From an economic perspective, victims may lose their jobs and experience financial losses, including legal costs or restoration of good name. In this case, the state has an obligation to protect the rights of citizens through effective legal protection, as mandated by Article 28D paragraph (1) of the 1945 Constitution concerning the right to legal certainty and fair treatment.

Wrongful arrest cases violate principles *presumption of in no cence* which is set in Article 8 paragraph (1) of the Criminal Procedure Code, which states that a person must be considered innocent until there is a final and binding court decision. The act of arrest without sufficient evidence is a serious violation of the law and has the potential to violate human rights, especially the right not to be detained arbitrarily, as regulated in Article 9 of the ICCPR. Wrongful arrests also often occur due to the unprofessionalism of officers or pressure to resolve cases quickly. Article 18 of the Criminal Procedure Code stipulates that arrests must be based on a warrant and sufficient preliminary evidence. Victims of wrongful arrest have the right to rehabilitation and compensation according to Article 95 of the Criminal Procedure Code, but its implementation is still weak. In addition, social stigma and discrimination against victims are also challenges. Therefore, legal reform and strict supervision of law enforcement officers need to be carried out to ensure justice for victims of wrongful arrest, so this study aims to describe and analyze effective legal protection for victims of wrongful arrest in the criminal justice process and to describe and analyze the weaknesses of effective legal protection for victims of wrongful arrest in the criminal justice process and its solutions also to describe and analyze the effectiveness of legal protection for victims of wrongful arrest in the criminal justice process.

2. Research Methods

This study uses a sociological legal method with a descriptive analytical approach. Primary data were collected through direct interviews with related parties, then analyzed using relevant legal theories. This approach aims to describe in detail the phenomena that occur in legal practices in society, as well as to analyze the relationship between legal norms and existing social behavior. Thus, this study not only looks at the legal aspects theoretically, but also considers social factors that influence the application of law in the field.

3. Results and Discussion

3.1 Legal protection for victims of mistaken arrest in the criminal justice process.

Legal protection for victims of mistaken arrest in the criminal justice process

is expressly regulated in Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP). This regulation emphasizes the importance of human rights, especially the rights of individuals who are victims of unlawful actions by law enforcement officers. This regulation aims to ensure that every victim of wrongful arrest receives justice and compensation for the violations they have experienced. In the Criminal Procedure Code, Articles 95 and 97 are the legal basis that provides a mechanism for submitting compensation and rehabilitation for victims. These two articles stipulate that victims have the right to receive protection for their rights that have been harmed due to an unlawful legal process. Thus, this legal protection does not only involve recognition of rights, but also concrete steps to restore the victim's condition.

The compensation mechanism regulated in Article 95 of the Criminal Procedure Code provides space for victims to obtain compensation for losses suffered due to mistaken arrest. The compensation includes material and immaterial losses arising from illegal actions by law enforcement officers. This article provides legal certainty that the state is responsible for violations committed by investigators or other law enforcers in the criminal justice process. Furthermore, it emphasizes that the state's responsibility includes recovery for victims, both economically and psychologically. The compensation application process is also explained so that victims have clear guidance in fighting for their rights.

Article 97 of the Criminal Procedure Code emphasizes the importance of rehabilitation for victims of mistaken arrest. This rehabilitation aims to restore the good name, dignity, and legal standing of victims who have been harmed due to an invalid legal process. In this context, rehabilitation is a form of state recognition of the mistakes that have occurred in the law enforcement process. The rehabilitation process is regulated by involving the court as an institution that decides the validity of the victim's rehabilitation claim. This shows that efforts to restore victims are not only administrative but also have a strong legal basis.

To strengthen the implementation of compensation and rehabilitation, Government Regulation Number 27 of 1983 provides technical guidance related to the implementation of this legal protection. This regulation is designed to ensure that the mechanisms regulated in the Criminal Procedure Code can be implemented effectively and efficiently. One of the important things regulated is the procedure for submitting claims for compensation and rehabilitation, including document requirements and administrative steps that need to be taken by victims. With this regulation, it is hoped that victims can access their rights without complicated bureaucratic obstacles.

Minister of Finance Decree Number 983/KMK.01/1983 also has a significant role in supporting the implementation of legal protection for victims.

mistaken arrest. This decision regulates the budget allocation used to pay compensation to victims. This shows the state's commitment to providing real compensation to victims. In addition, this decision also emphasizes the mechanism for disbursing compensation funds so that the process can be carried out transparently and accountably. With adequate budget support, the state can ensure that victims' rights are optimally protected.

On the other hand, the responsibility of investigators as the main actors in the investigation process is also regulated in Law Number 2 of 2002 concerning the Indonesian National Police. This law emphasizes the importance of professionalism and accountability in carrying out investigative duties. Investigators have an obligation to ensure that every legal action taken is in accordance with applicable legal procedures. Mistakes in unlawful arrest or detention can have serious legal consequences for the investigator concerned.

The consequences of deliberate or negligent actions by investigators are regulated in Articles 333, 334, and 335 of the Criminal Code. These articles regulate criminal sanctions for investigators who commit arbitrary acts, such as illegal detention or abuse of authority. In this case, the regulation aims to provide a deterrent effect for law enforcement officers who violate the rules, while protecting the rights of individuals who are victims. In addition, this regulation also provides a legal basis for victims to file lawsuits against investigators who act beyond their authority.

Legal protection for victims of mistaken arrest is not only regulated in the Criminal Procedure Code and the Criminal Code, but is also strengthened by Law Number 13 of 2006 concerning Protection of Witnesses and Victims. This law provides guarantees for victims to receive physical, psychological, and legal protection during the trial process. In addition, victims also have the right to receive legal assistance and other assistance needed to restore their condition. In this context, legal protection does not only involve restitution of losses but also prevention of potential revictimization.

The Witness and Victim Protection Agency (LPSK) plays an important role in implementing Law Number 13 of 2006. LPSK provides direct protection to victims of wrongful arrest, including assistance in accessing compensation and rehabilitation rights. With this institution, victims have institutional support that can help them navigate the often complex legal process. The presence of LPSK also strengthens the sense of justice in society, especially for victims who are in a vulnerable position or without adequate access to legal resources.

The importance of legal protection for victims of mistaken arrest also reflects the state's commitment to upholding the principles of justice and

human rights. Through the various regulations mentioned, the state shows its responsibility to protect the rights of victims and prevent similar violations in the future. However, the implementation of these regulations often faces various challenges, such as the lack of socialization of victims' rights or bureaucratic obstacles in the claim submission process.

Strengthening the capacity of law enforcement officers is also an important element in ensuring effective legal protection for victims of mistaken arrest. Continuous training and education are needed to improve officers' understanding of human rights and the legal consequences of their actions. In addition, stricter internal supervision is needed to prevent abuse of authority. With these steps, it is hoped that incidents of mistaken arrest can be minimized and victims' rights better protected.

All of these arrangements show that legal protection for victims of wrongful arrest is an integral part of the criminal justice system in Indonesia. The state has a great responsibility to ensure that every individual who is harmed by an unlawful legal process can obtain justice and recovery. By continuing to evaluate and improve existing regulations and mechanisms, it is hoped that legal protection for victims of wrongful arrest can be implemented more optimally. In addition, collaboration between various related institutions, such as the police, courts, and LPSK, is key to implementing this legal protection. With good synergy, the recovery process for victims can be carried out more quickly and efficiently. This will also increase public trust in the criminal justice system in Indonesia. This trust is very important to support legal reform efforts that aim to create justice for all parties involved in the criminal justice process.

Future steps also need to focus on increasing public awareness of their rights in facing the legal process. Legal education campaigns can help the public understand the legal protection mechanisms available, including the right to seek compensation and rehabilitation. In this way, victims of wrongful arrest can be more proactive in fighting for their rights and accessing the justice they need.

Through comprehensive legal protection and consistent implementation, it is hoped that the criminal justice system in Indonesia can run in accordance with the principles of justice and human rights. This effort is not only important to provide justice for victims of wrongful arrest but also to build a more humane and accountable legal system. With a strong commitment from all parties, this goal can be achieved in order to realize a more just and civilized society.

3.2 Weaknesses in legal protection for victims of mistaken arrest in the criminal justice process

The weakness of legal protection for victims of mistaken arrest in the criminal justice process is a complex issue and requires in-depth attention.

One of the main weaknesses is the ineffective compensation and rehabilitation mechanism. This process often takes a long time and is bureaucratic, making victims even more depressed. In addition, the lack of transparency in determining the amount of compensation is an obstacle in itself. In many cases, the value of compensation is not comparable to the material and immaterial losses suffered by the victim. This condition reflects a gap in the implementation of regulations that should protect the rights of victims to the maximum.

Budget and resource constraints are another significant obstacle.

The allocation of funds to compensate victims is often considered inadequate. This causes the process of disbursing compensation to be slow or even not implemented at all. In addition, the limited human resources and facilities available in law enforcement agencies also affect their ability to handle cases of mistaken arrest effectively. The lack of budget also impacts the quality of rehabilitation services provided to victims.

The lack of awareness of law enforcement officers regarding the rights of victims of mistaken arrest is also a weakness that needs to be considered. Officers often do not fully understand the importance of providing adequate legal protection to victims. In many cases, the actions of officers tend to prioritize resolving cases without considering the psychological and social impacts experienced by the victim. This shows

Lack of empathy in handling cases of mistaken arrest often makes victims feel neglected. Handling cases that are carried out formally without considering the emotional condition of the victim creates a sense of injustice. Victims not only experience material losses but also deep psychological suffering. Empathy from law enforcement officers should be part of efforts to restore the condition of the victim. However, in practice, this aspect is often ignored, making victims feel even more that they are not getting proper protection.

The suboptimal rehabilitation process is also a glaring weakness in legal protection for victims of mistaken arrest. Although rehabilitation is regulated by law, its implementation often does not run as it should.

Many victims do not receive adequate rehabilitation, either in the form of restitution or psychological support. The lack of coordination between institutions involved in the rehabilitation process is also a serious obstacle. This indicates the need for an evaluation of existing rehabilitation mechanisms to be more responsive to the needs of victims.

A careless investigation system is the root of many cases of wrongful arrests. Mistakes in evidence collection and decision-making often result in innocent individuals becoming victims. A careless investigation process reflects a lack of professionalism in law enforcement. In many cases, the pressure to quickly resolve cases causes officers to take steps that are not in accordance

with legal procedures. This not only harms the victim but also damages the credibility of the criminal justice system as a whole.

In the context of ineffective redress and rehabilitation mechanisms, system reform is urgently needed. Simpler and more transparent procedures need to be implemented so that victims can access their rights more easily. In addition, the government needs to provide an adequate budget to ensure that all victims receive proper compensation. This effort must be accompanied by strict supervision to prevent abuse of authority in the compensation process.

Increasing awareness of law enforcement officers should be a priority in addressing weaknesses in legal protection for victims of wrongful arrest. Training programs that focus on human rights and victim protection need to be implemented continuously. In addition, stricter internal supervision should be implemented to ensure that every action of officers is in accordance with the principles of law and justice.

These steps are expected to reduce incidents of wrongful arrest in the future. Efforts to increase empathy in handling cases of mistaken arrest also need to be made. Law enforcement officers must be trained to understand the psychological and social impacts experienced by victims. A more humane approach in handling cases can help improve the relationship between victims and the legal system. In addition, the presence of professional companions, such as psychologists, in the legal process can provide better support to victims. Weaknesses in legal protection for victims of mistaken arrest indicate the need for comprehensive reform in the criminal justice system. From the regulatory aspect to implementation in the field, every element needs to be improved to ensure that victims receive proper protection. With commitment from all parties, it is hoped that these weaknesses can be overcome, so that justice and human rights can be realized in real terms in the Indonesian legal system.

3.3 The effectiveness of legal protection for victims of mistaken arrest in future criminal justice processes

The effectiveness of legal protection for victims of wrongful arrest in the criminal justice process in the future requires comprehensive reform, starting with regulatory reform for legal certainty. Existing regulations must be aligned with the needs of victim protection, including improving rules regarding compensation and rehabilitation mechanisms. Clearer and more assertive regulations will provide legal certainty for victims and prevent wrongful arrests in the future. In addition, regulatory reform must include adjustments to the dynamics of society and developments in international law, to be more relevant and effective.

Increasing the capacity of law enforcement officers is the next important step to increase the effectiveness of legal protection. Law enforcement

officers must be given in-depth training related to human rights and professional investigation techniques. Their capacity in managing cases of mistaken arrest must also be improved, so that they can provide maximum protection to victims. In addition, it is important to strengthen the officers' understanding of the principles of justice so that every action taken remains in line with applicable legal regulations.

Strengthening the oversight mechanism for the criminal justice process is also very important. Effective supervision can minimize the chances of errors in the legal process, including wrongful arrests. The establishment of an independent institution tasked with overseeing the performance of law enforcement officers can be a solution to increase accountability. In addition, stricter internal supervision within law enforcement agencies is also needed to ensure that every procedure runs according to established standards.

Simplifying the compensation process for victims of mistaken arrest is an important element in legal protection reform. Complicated procedures often become obstacles for victims to obtain their rights. By simplifying this mechanism, victims can more easily access appropriate compensation and rehabilitation. This simplification must be accompanied by a transparent and accountable system to avoid potential abuse of authority.

Enforcing the principles of justice and legal effectiveness must also be a priority in improving protection for victims of wrongful arrest. This principle can be realized through strengthening coordination between law enforcement agencies and improving judicial procedures. Fair law enforcement not only provides a sense of security to the community but also increases trust in the justice system. In addition, it is important to ensure that every legal decision is based on valid evidence and a transparent process.

Periodic evaluation of the criminal justice system is necessary to identify existing weaknesses and find effective solutions. This evaluation should cover all aspects, from regulations to implementation in the field. Through structured evaluation, the government and related institutions can formulate policies that are more responsive to the needs of victims. This evaluation also allows for continuous improvement in the criminal justice system so that it is more efficient and fair.

Cooperation between institutions is key to realizing effective legal protection in the future. Synergy between the police, prosecutors, judges, and other independent institutions is needed to create an integrated system. This cooperation must also include support from civil society organizations that play a role in providing advocacy and assistance to victims. With a collaborative approach, it is hoped that legal protection for victims of mistaken arrest can be realized more effectively and sustainably.

4. Conclusion

Legal protection for victims of mistaken arrest in the criminal justice process is regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code, specifically Articles 95 and 97, which regulate compensation and rehabilitation mechanisms. These provisions are clarified by Government Regulation Number 27 of 1983 and Decree of the Minister of Finance Number 983/KMK.01/1983. The responsibilities of investigators are regulated in Law Number 2 of 2002, while the consequences of negligence are listed in Articles 333-335 of the Criminal Code. However, weaknesses still occur, such as ineffective compensation mechanisms, lack of budget, and empathy from officers. To increase the effectiveness of protection, regulatory reform, increased capacity of officers, strengthened supervision, simplification of the compensation process, and periodic evaluation of the justice system are needed.

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