

## **Legal Protection Against Victims of Illegal Investment in Purbalingga District (Study in Witness and Victim Protection Institutions)**

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### **Abstract**

*Illegal investment fraud has become increasingly discussed in the media. Many Indonesians are still unfamiliar with new investment instruments and focus more on potential profits than on proper investment methods. Often, people are only interested in the returns they will receive. This study aims to understand the legal protection for victims of illegal investments in Purbalingga Regency and the obstacles they face. The approach used is a socio-legal approach, which examines the influence of society on the law. The study's findings indicate that victims of illegal investment fraud in Purbalingga are entitled to restitution under Article 7A, paragraph (1) of Law No. 31 of 2014, which amends Law No. 13 of 2006 on the Protection of Witnesses and Victims. This article states that victims of criminal acts are entitled to restitution. However, there are several obstacles to legal protection for victims of illegal investments. Structural obstacles include the large number of victims applying for restitution and the limited human resources at the Witness and Victim Protection Agency (LPSK), causing delays in the application process. Cultural obstacles include the difficulty in organizing victims who apply individually and the fact that many victims do not report their cases to the police, which is necessary for restitution claims. This is due to a lack of understanding among victims about handling illegal investment cases. To date, few victims in Purbalingga have applied for restitution to the LPSK because restitution is only granted upon application*

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## **1. INTRODUCTION**

As a legal state, Indonesia is regulated by the 1945 Constitution, which emphasizes that this state is not based on mere power, but on law (Sunny, 1981). Along with the development of the era of globalization, the Indonesian economy has also experienced significant development. Globalization in the financial system and technological advances and financial innovation have created a complex, dynamic and interconnected system between financial subsectors, both in terms of financial institutional products and services (Hermansyah, 2005). Financial services companies that have ownership relationships in various financial sub sectors add to the complexity of transactions and interactions between financial service institutions in the financial system. Law plays an important role in regulating the wheels of the economy, providing clear and definite boundaries regarding what is permitted and not permitted in business activities. This legal certainty creates comfortable conditions for carrying out economic activities.

Investment is an important element in a country's economic system. Investment has two main functions: first, it shows the relationship between the level of investment and the

level of national income; second, to purchase capital goods and production equipment with the aim of replacing and adding capital goods in the economy, which will be used to produce goods and services in the future (Sukirno, 2000). Article 16 of Law Number 10 of 1998 concerning Banking states that every party carrying out activities to collect funds from the public in the form of savings must first obtain a business license as a Commercial Bank or Rural Bank from the Management of Bank Indonesia, unless the activity is regulated by its own law (Sinuor, 2010). Indonesia, as a developing country, is a very potential market for business investment. Apart from a growing economy, a large population is also an important factor in investing. Through investment, both domestic and foreign, it is hoped that it can move the wheels of the country's economy.

However, illegal investment has become a form of crime that is widely discussed in the mass media, both print and electronic. Indonesian people in general are still very unfamiliar with various types of new investment instruments and are often more focused on the profits they will get than on the correct investment method. Many people are tempted by the lure of high profits without paying attention to the risks they face (Gosita, 2010). Illegal investments clearly violate statutory provisions. This practice is often carried out by brokers or dealers who do not have a license or have bad intentions and intend to deceive investors. Illegal investments are carried out by collecting public funds in a deviant way and avoiding banking regulations, using public facilities to carry out their business activities. Legally, the state has provided protection for consumers and investors in investment. This legal protection includes compensation for loss of wealth or income which is guaranteed by Law Number 31 of 2014 concerning Protection of Witnesses and Victims.

Even though there is a legal basis to protect consumers and investors, illegal investment cases still occur frequently. This is caused by the public's lack of legal awareness, which opens up loopholes for the investment mafia to raise funds without permission. Understanding the law and legal awareness for investors is very important because by understanding the law, they can find out about existing legal compliance and protection. The Witness and Victim Protection Agency (LPSK), which is mandated by the Witness and Victim Protection Law, has implemented progressive steps to facilitate applications for restitution or return of losses for victims of illegal investment fraud. The role of law is not only to provide a deterrent effect for perpetrators of criminal acts, but also to restore the rights of victims who have been taken away by the crimes they have experienced.

Based on initial interviews with lawyer Sugeng Riyadi, who handles various cases of illegal investment fraud in Purbalingga Regency, many people still easily believe the lure of illegal investments that promise big profits. Since 2003, many residents of Purbalingga Regency, including ASN, have been deceived by illegal investments. Even though this incident often happens, many people are still tempted by illegal investments even though there are supervisory institutions such as the Financial Services Authority (OJK). An example of this is the illegal investment made by residents of Selabaya Village, who promised profits of up to 70 percent per transaction for those who wanted to invest in the business. souvenir. With such large profits, many are tempted to invest tens or even hundreds of millions of rupiah in capital. This investment system uses a Ponzi scheme, where the profits paid to investors come from their own money or money paid by subsequent investors, not from profits earned by the individuals or organizations running these operations.

Illegal investments harm many people and violate banking laws and hinder national economic activities. The negative impact of illegal investment is the growth and development of violations of the national legal system, such as violations of the provisions of Law Number 10 of 1998 concerning Banking. Even though there are legal instruments

that prohibit illegal investment activities, this practice continues to grow and develop, attracting the interest of many people. Legal awareness and understanding of the law are an important part because in this way there is legal compliance and protection for the parties. By understanding the law, investors can know their rights and obligations as well as the legal protection available. This is important to prevent illegal investment fraud and protect investor rights.

Basically, the negative impact of illegal investment is the growth and development of violations of the national legal system, especially investment law. The problem is the existence of legal instruments that prohibit activities, but this kind of investment activity continues to grow and develop and attracts a lot of interest and membership from the public. This problem is of course closely related to the attitudes and legal culture of society itself, considering that in general the people involved and victims of illegal investment are people who have excess money, so the level of awareness and understanding of the law relating to investment in particular and banking in general is questionable. Legal awareness and understanding of the law is an important part because in this way there is legal compliance and protection for the parties (Djumhana, 2013). Investment law in this case is more closely related to regulations based on Banking Law which strictly threatens imprisonment and fines for investment actors illegal, which is based on legal threats against perpetrators who carry out business activities without permission to collect funds from the public, which in addition to set and subject to criminal penalties under the banking law can also be linked to criminal provisions for investment activities illegal This is closely related to corporate crime and the scope of its criminal liability. A closely related problem is that in practice and in a number of cases, the status of the legal entity is unclear. In fact, to collect funds from the public it should be in the form of a legal entity which is part of the licensing or legality of the business. Legal regulations and criminal threats to investment activities are illegal closely related to the criminal act of investment fraud as punishable under Article 378 of the Criminal Code. Legal Protection for Victims of the Criminal Act of Dairy Cattle Investment Fraud in the Muaro Jambi Regency Area (Case Study of CV. Nur Asrof Sejahtera). The second previous research discusses legal protection for victims of investment fraud (Studies Case in Palembang City). Meanwhile, this research discusses legal protection for victims of illegal investment in Purbalingga Regency and what are the obstacles in legal protection for victims of illegal investment in Purbalingga Regency. Thus, this research is the researcher's original work and does not contain elements of plagiarism.

Illegal investment is a serious problem that disturbs society and violates the law. Even though there is legal protection for consumers and investors, illegal investment cases still occur frequently due to the lack of public legal awareness. The Witness and Victim Protection Agency (LPSK) plays an important role in facilitating applications for restitution for victims of illegal investment fraud. Awareness and understanding of the law is essential to protect investors and prevent illegal investment practices. The aim of this research is to analyze the implementation of legal protection for victims of illegal investment in Purbalingga Regency and analyze the obstacles to legal protection for victims of illegal investment in Purbalingga Regency. Then what is the legal protection for victims of illegal investment in Purbalingga Regency; and what are the obstacles in legal protection for victims of illegal investment in Purbalingga Regency.

## 2. RESEARCH METHOD

This research uses a sociological juridical approach, which studies the influence of society on the law and vice versa, and departs from the empirical science paradigm (Soekanto, 2005). This approach focuses on law as reality (*law in action*) and is empirical (Soekanto & Mamudji, 2009). According to Comte, social research is carried out by analyzing various symptoms and realities (Ma'u & Nur, 2016). This approach aims to determine legal protection for victims of illegal investment in Purbalingga Regency. The specification of this research is descriptive analysis, which describes ongoing conditions or circumstances to provide data regarding the research object (Ali, 2009). Research locations include the Purbalingga Police, the Witness and Victim Protection Agency in the Yogyakarta and Central Java regions, as well as the Law Faculty and General Soedirman University libraries. The flow of this research framework is as follows:

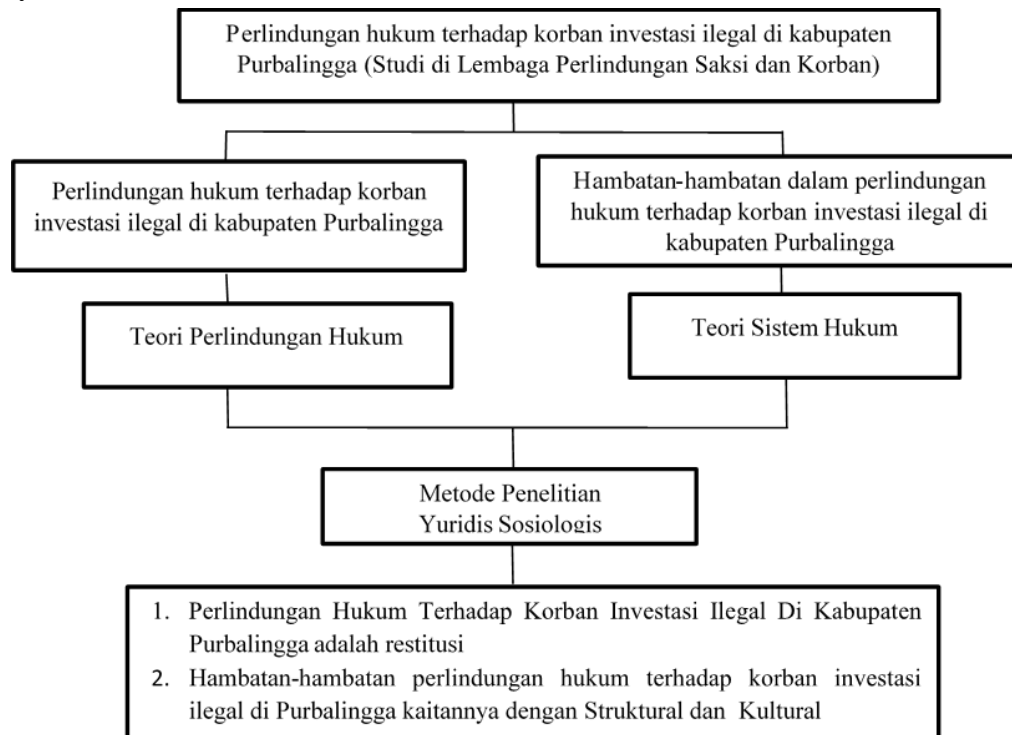


Figure 1. Research Framework Flow

Source: Legal Research Methods (Ali, 2009)

The data used consists of primary and secondary data. Primary data was collected directly from the first sources, such as the Purbalingga Police and the Witness and Victim Protection Agency (Sugiyono, 2009). Secondary data includes relevant literature, articles and journals. Primary legal materials include the 1945 Constitution, the Criminal Code, and various related laws. Secondary legal materials provide explanations of primary legal materials, such as draft laws and research results in the legal field (Ishaq, 2017). Tertiary legal materials include legal dictionaries and encyclopedias.

The sampling method used purposive sampling and snowball sampling techniques (Faesal, 1990). Primary data was collected through field research with direct observation and interviews (Meolong, 2012). Secondary data was collected through literature study by reading and browsing relevant literature (Supriyadi, 2016). Data is presented in the form of systematic and logical narrative text. Data analysis was carried out qualitatively by understanding and assembling the legal materials that had been collected, then arranging them systematically and explaining them in orderly and logical sentences (Marzuki, 2006). This analysis connects research results with legal theory, legal postulates, and positive law to explain problems scientifically.

### 3. RESEARCH RESULTS AND DISCUSSION

### **General Description of the Witness and Victim Protection Agency (LPSK)**

The description of LPSK is that it is an independent institution, not under any government agency, even though it is fully supported by state finances (Wicaksono, 2022). LPSK is tasked with providing protection and other rights to witnesses and victims in accordance with Law Number 13 of 2006. LPSK can establish representatives in regions as needed, especially in areas with high cases of intimidation. However, establishing a representative office requires large resources and a strategic long-term plan (Wicaksono, 2022). The choice to establish representatives in the regions is the right step considering the vast territory of Indonesia and the limited access to information and communication between regions. LPSK representatives can be established at regional, provincial or even certain district levels, depending on needs and supporting situations. Ideally, LPSK has representatives in every province, but this requires large resources, both in terms of financing, infrastructure and human resources (Wicaksono, 2022).

LPSK has duties and authorities spread out in Law Number 13 of 2006, such as receiving requests for protection, making protection decisions, terminating protection programs, and applying for rights to compensation and restitution (Wicaksono, 2022). LPSK can also make regulations regarding assistance and support for witnesses in court, as well as collaborate with related agencies in implementing protection and assistance (Wicaksono, 2022). LPSK's duties and authorities include:

1. Accepting witness and/or victim applications for protection (Article 29).
2. Provide decisions on providing protection for witnesses and/or victims (Article 29).
3. Provide protection to witnesses and/or victims (Article 29).
4. Terminate the witness and/or victim protection program (Article 32).
5. Submit to the court the right to compensation in cases of serious human rights violations, and the right to restitution or compensation for losses that are the responsibility of the perpetrator of the criminal act (Article 7).
6. Receive written requests from victims or persons representing victims for assistance (Articles 33 and 34).
7. Determine the feasibility, time period and amount of costs required to provide assistance to witnesses and/or victims (Article 34).
8. Cooperate with relevant authorized agencies in providing protection and assistance (Article 39).

LPSK also has the authority to make regulations relating to assistance and support for witnesses while in court, providing special places for witnesses in court, consultations for witnesses, and other matters deemed necessary to provide services for witnesses in court (Wicaksono, 2022).

### **Legal Protection for Victims of Illegal Investment in Purbalingga Regency**

Illegal investment is the practice of collecting funds from the public illegally which often involves fraud. Legal protection for victims of illegal investment in Purbalingga includes fulfilling the right to compensation (restitution) which can be submitted to the LPSK. LPSK will accompany the victim in the process of applying for compensation, both during the case and after the decision is handed down (Wicaksono, 2022).

Investment plays an important role in the economy, both domestic and foreign (Nuzula & Nurlaily, 2020). However, illegal investment has become a problem that worries society because many are deceived by the lure of high profits without understanding the risks (Gosita, 2010). Illegal investments violate the law and are often carried out by brokers or dealers who do not have a license or have bad intentions and intend to deceive investors. Illegal investments are carried out by collecting public funds in a deviant way and avoiding banking regulations, using public facilities to carry out their business activities. Legal

protection for victims of illegal investment in Purbalingga includes fulfilling the right to compensation (restitution) which can be submitted to the LPSK. LPSK will accompany the victim in the process of applying for compensation, both during the case and after the decision is handed down (Wicaksono, 2022). Legal protection aims to seek justice and provide a sense of security to the community (Ishaq, 2009).

### **Legal Protection in a Victimology Perspective**

Victimology is the study of crime victims and legal protection for them. Legal protection for victims of victimization in Indonesia emerged with the promulgation of Law Number 13 of 2006 concerning Protection of Witnesses and Victims, which was later updated with Law Number 31 of 2014 (Angkasa, 2020). This legal protection includes the right to compensation and restitution, as well as medical assistance and psychosocial rehabilitation (Angkasa, 2020). Legal protection for victims of victimization aims to provide a sense of security to witnesses and/or victims in providing information in any criminal justice process. This protection includes the right to compensation in cases of serious human rights violations, and the right to restitution or compensation for losses that are the responsibility of the perpetrator of a criminal act (Angkasa, 2020).

### **Legal Protection in the Criminal Justice System**

Legal protection for crime victims is part of the criminal justice system which aims to provide a sense of security and justice for victims. Victims of criminal acts of illegal investment fraud are often in a weak position and need adequate legal protection (Hadjon, 2010). This legal protection includes the right to receive compensation for losses experienced, as well as the right to receive physical and psychological protection (Hadjon, 2010). The existence of the Law on Witness and Victim Protection is within the framework of completing procedural institutions in the criminal justice process. In an examination of a criminal case, the need to reveal the facts in order to seek truth and justice is closely related to the strength of the evidence during the examination at trial. Witnesses and victims play an important role in efforts to reveal material truth in assessing the strengths and weaknesses of evidence in criminal cases. The position of the witness and/or victim in this scenario has the potential to threaten their psychological or physical integrity. For this reason, based on the principle of equality before the law, witnesses and victims in the criminal justice process must be guaranteed legal protection.

### **The Role of LPSK in Legal Protection**

LPSK has an important role in providing legal protection for victims of illegal investments. LPSK is tasked with ensuring that victims receive their rights, including the right to compensation and restitution. LPSK also collaborates with related agencies to provide protection and assistance to victims (Wicaksono, 2022). The protection provided through the Witness and Victim Protection Law is special protection given to witnesses and victims where the severity of the threat or the level of damage suffered by the witness and/or victim is determined through a determination process by the LPSK. In this law, protection is intended as all efforts to fulfill rights and provide assistance to give sense of security for witnesses and/or victims which must be carried out by LPSK or other institutions in accordance with the provisions of the law. Providing protection itself is fully aimed at providing a sense of security to witnesses and/or victims in providing information at all stages.

### **Barriers to Legal Protection for Victims of Illegal Investment in Purbalingga Regency**

Legal protection for victims of illegal investment in Purbalingga Regency faces various obstacles which can be categorized as structural and cultural obstacles. These barriers hinder efforts to provide effective and comprehensive protection for victims. The following is a discussion of these obstacles:

#### 1. Structural Barriers

- a. **Lack of Human Resources at LPSK** The Witness and Victim Protection Agency (LPSK) has limitations in terms of human resources. The minimal number of employees means that the verification process and handling of requests for restitution rights is very slow. This has an impact on delays in providing protection and fulfilling the rights of victims of illegal investment. This limitation also hampers LPSK's ability to establish representation in various areas in need, including Purbalingga Regency.
- b. **The Number of Victims Applying for Restitution** The large number of victims applying for the right to restitution increases the LPSK's workload. The process of verifying application documents requires a lot of time and effort. With limited human resources, LPSK finds it difficult to handle all requests quickly and efficiently. As a result, many victims have to wait a long time to receive their right to restitution.
- c. **Coordination Between Relevant Agencies** Legal protection for victims of illegal investment requires good coordination between LPSK and other relevant agencies, such as the police, prosecutor's office and courts. However, this coordination often does not run smoothly. Problem jurisdiction and support from relevant agencies in representative areas often become obstacles in implementing legal protection. This lack of coordination results in case handling being hampered and ineffective.
- d. **Limited Infrastructure and Financing** Establishing LPSK representatives in various regions requires adequate infrastructure and large financing. These limited infrastructure and financing are obstacles in efforts to expand the reach of legal protection for victims of illegal investment. Without adequate infrastructure, LPSK finds it difficult to provide optimal protection for victims in areas that need it.

#### 2. Cultural Barriers

- a. **Lack of Public Understanding of Investments** Many Indonesians are still unfamiliar with various types of investment instruments. They are often tempted by the lure of high profits without understanding the risks they face. This lack of understanding makes people vulnerable to becoming victims of illegal investment fraud. People tend to focus on the results they will get without paying attention to correct and safe investment methods.
- b. **Victims Do Not Report Their Cases to the Police** Many victims of illegal investments do not report their cases to the police. This is caused by a lack of understanding by victims regarding the handling of illegal investment cases and distrust of the legal process. Without a police report, the victim cannot submit a request for restitution to the LPSK. As a result, many victims do not receive the legal protection they should receive.
- c. **Submitting Individual Applications** Many victims submit individual requests for the right to restitution, making it difficult for LPSK to organize them. This individual submission makes it difficult for LPSK to manage and process applications efficiently. Apart from that, individual submissions also result in a lack of coordination between victims, who should be able to support each other in the application submission process.
- d. **Lack of Public Legal Awareness** Indonesian society's legal awareness is still low. Many people do not understand their rights as victims and the legal procedures that

must be followed to obtain protection. This lack of legal awareness opens up loopholes for illegal investment actors to continue carrying out their fraudulent practices. People who are not aware of the law tend not to report cases of fraud they experience and do not apply for the right to restitution.

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#### **Efforts to Overcome Obstacles**

To overcome the obstacles as explained above, various efforts are needed involving various parties inside it because it is a shared responsibility, including the government, LPSK, and the community. Here are some efforts that can be made:

1. **Increasing Human Resources at LPSK** The government needs to increase the number and quality of human resources at LPSK. The addition of competent and trained employees will help LPSK handle requests for restitution rights more quickly and efficiently. Apart from that, training and capacity building for LPSK employees also needs to be carried out regularly.
2. **Increasing Coordination Between Relevant Agencies** LPSK needs to improve coordination with related agencies, such as the police, prosecutor's office and courts. Good coordination will speed up the process of handling cases and fulfilling victims' rights. LPSK can also make cooperation agreements or Joint Statement Letters (SKB) with related agencies to minimize conflicts of authority and clarify the duties and responsibilities of each party.
3. **Improving Infrastructure and Financing** The government needs to provide adequate infrastructure and sufficient financing to support LPSK operations. Establishing LPSK representatives in various regions requires large infrastructure and financing support. With adequate infrastructure, LPSK can provide optimal protection for victims in areas that need it.
4. **Education and Outreach to the Community** Education and outreach regarding safe investments and the legal procedures that must be followed to obtain protection need to be improved. LPSK and related agencies can work together with mass media, educational institutions and community organizations to disseminate correct information regarding investment and victims' rights. This education and outreach will increase the public's legal understanding and awareness, so that they can be more careful in investing and more proactive in reporting cases of fraud.
5. **Assistance and Support for Victims** LPSK needs to be more proactive in assisting and supporting victims of illegal investment. LPSK can contact victims directly and offer assistance in the process of submitting a request for restitution rights. This assistance and support will help victims who do not understand the compensation mechanism and do not have the funds to hire the services of an advocate.

By overcoming these obstacles, it is hoped that legal protection for victims of illegal investment in Purbalingga Regency can be more effective and comprehensive. Adequate legal protection will provide a sense of security and justice for victims, as well as increase public trust in the legal system.

#### **4. CONCLUSION**

Protection Law Against Victims of Illegal Investment in Purbalingga Regency, that victims of criminal acts have the right to obtain restitution in the form of compensation for loss of wealth or income; compensation for losses incurred as a result of suffering directly related to criminal acts; and/or reimbursement for media and/or psychological treatment costs.

Obstacles to legal protection for victims of illegal investment in Purbalingga are related to 1) Structural, Human resources from LPSK employees are still very minimal so



the process of requesting restitution rights is progressing very slowly. 2) cultural, bThere are so many victims who apply individually that the LPSK finds it difficult to organize them, there are still many victims of illegal investment who do not report their cases to the police as a basis for requesting the right to restitution so they are not registered as case files, there is a lack of understanding of victims regarding the handling of illegal investment cases and to date there are still very few victims of illegal investment in Purbalingga who apply for the right of restitution to the Witness and Victim Protection Agency because the right to restitution is given if they submit an application for the right to restitution.

In the realm of implementation, the financial services authority, through its duties and authority, has formed an Investment Alert Task Force (Task Force), with the authority to provide outreach and education to the public regarding illegal fundraising and investment management practices, so that with this outreach and education the public can differentiate between legal/official investment companies and illegal companies so as to minimize the number of people who become victims, as well as further improve coordination between the police, LPSK and OJK so that legal protection can be maximized.

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