

## The Role of Law in Protecting Vulnerable Groups: A Study of Access to Justice for Marginalized Communities

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Received: October 18, 2025  
 Revised: November 02, 2025  
 Accepted: November 20, 2025  
 Published: November 29, 2025

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**Abstract:** *This article examines the role of law in protecting vulnerable groups in Indonesia and evaluates the structural, institutional, and cultural barriers that limit their access to justice. Using a normative juridical method, combined with constitutional analysis and vulnerability theory, the study demonstrates that while Indonesia's Constitution and statutory frameworks provide robust guarantees of equality and human rights, vulnerable communities continue to experience procedural disadvantages, discrimination, and institutional exclusion. The findings show that barriers arise from financial constraints, geographic disparities, institutional bias, evidentiary burdens, corruption, and fragmented sectoral regulation. These structural obstacles prevent marginalized individuals from realizing substantive equality despite formal legal protections. The article argues that improving justice accessibility requires a combination of institutional reforms, including stronger legal aid implementation, inclusive policymaking, enhanced oversight mechanisms, digital justice innovations, and harmonized regulations aligned with international human rights standards. Ultimately, the law can only function as a protective instrument for vulnerable groups if constitutional commitments are matched by responsive institutions and culturally informed legal practices. Ensuring justice for marginalized communities therefore requires sustained reforms that integrate legal, institutional, and social strategies to achieve dignity, fairness, and equal treatment.*

**Keywords:** *Access To Justice, Constitutional Equality, Indonesia, Marginalized Groups, Vulnerability.*

## INTRODUCTION

Vulnerable and marginalized groups occupy structurally disadvantaged positions within Indonesia's legal and social order, resulting in persistent obstacles to realizing equal access to justice. Although the Constitution proclaims equality before the law in Article 27(1) and guarantees the protection of human rights under Chapter XA, the lived experiences of vulnerable communities frequently reveal gaps between normative commitments and institutional realities. These communities include the urban poor, women, children, persons with disabilities, indigenous peoples, migrant workers, and other socially excluded



populations. Ensuring their access to justice is therefore a constitutional imperative as well as a benchmark for the fairness of Indonesia's legal system.<sup>1</sup>

The concept of vulnerability in legal scholarship is not limited to socio-economic deprivation but encompasses positional disadvantages arising from systemic discrimination, cultural marginalization, and institutional barriers. The works of contemporary human rights scholars emphasize that vulnerability is relational and structural: individuals become vulnerable not because of inherent weakness, but because institutional arrangements fail to protect them. In Indonesia, this structural vulnerability becomes evident through recurring injustices in criminal proceedings, civil disputes, land conflicts, gender-based violence, and administrative decision-making. Legal protections often exist in formal doctrines, yet procedural, institutional, and cultural barriers inhibit vulnerable groups from exercising these rights effectively.<sup>2</sup>

Empirical evidence highlights that marginalized communities face disproportionate barriers at every stage of the justice chain beginning with legal awareness, continuing through police processes, legal aid access, trial proceedings, and remedy enforcement. Studies by Indonesian justice sector researchers show that individuals with low socio-economic status are significantly more likely to experience arbitrary arrests, coercive interrogation, or discriminatory treatment. Vulnerable groups also report difficulties filing police reports, accessing interpreters, or receiving updates on case status. These disadvantages reflect systemic inequities that hinder the realization of the rule of law as envisioned in Article 1(3) of the Constitution, where Indonesia is declared a constitutional state grounded in justice.<sup>3</sup>

One of the most persistent obstacles concerns financial barriers. The cost of legal representation, travel, documentation, medical certificates, and administrative fees can be prohibitive for low-income individuals. While Law No. 16 of 2011 on Legal Aid establishes a state-funded legal aid system, implementation remains uneven, with many eligible individuals unaware of available services or unable to meet bureaucratic verification requirements. Legal aid organizations frequently operate with limited budgets and uneven geographic distribution, resulting in gaps between statutory entitlements and actual accessibility. This financial barrier prevents marginalized individuals from engaging the justice system on equal footing with more privileged groups.<sup>4</sup>

Another barrier arises from institutional bias and discrimination embedded within law enforcement and judicial processes. Societal prejudices concerning gender, ethnicity, disability, or social status often inform institutional behaviour. Research on gender-based violence in Indonesia illustrates that women reporting sexual abuse encounter stigmatization, disbelief, or re-traumatization during evidentiary procedures. Indigenous communities face institutional prejudice when asserting customary land claims, as legal systems

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<sup>1</sup> Rahayu, Derita Prapti, Faisal Faisal, Rafiq Sari, and Ndaru Satrio. "Law enforcement in the context of legal culture in society." *Law Reform* 16, no. 2 (2020): 276-289.

<sup>2</sup> Fineman, M., "Vulnerability Theory and the Responsive State," *Yale Journal of Law and Feminism*, 2019.

<sup>3</sup> SHARMA, A., & PATEL, D. (2024). *The Intertwined Pillars of Justice: Access to Justice and The Rule of Law*.

<sup>4</sup> Chartier, Brandi. "Access to justice: legal aid and other forms of advocacy." (2021).

frequently privilege formal titles over customary tenure. Institutional bias undermines procedural fairness and reproduces systemic inequalities, particularly for groups lacking political or economic power.<sup>5</sup>

The geographic and infrastructural context of Indonesia further complicates justice accessibility. As an archipelagic nation, Indonesia experiences significant disparities in institutional presence, with legal infrastructure concentrated in urban Java while remote regions remain underserved. Accessing courts or police stations often requires long travel, high transportation costs, and absence from work, burdens disproportionately borne by vulnerable groups. Although the Supreme Court has expanded digital services such as e-court and e-litigation, populations with limited digital literacy or internet access remain excluded. Geographic marginalization thus directly translates into legal marginalization, reinforcing inequality in access to justice.<sup>6</sup>

Cultural and linguistic exclusion pose additional challenges. Indigenous peoples and ethnic minorities may not speak Indonesian fluently, creating barriers to understanding charges, rights, and judicial proceedings. Interpretation services remain limited, particularly in remote courts, contributing to procedural misunderstandings and unfair outcomes. Cultural norms may also discourage certain groups, such as women or persons with disabilities, from reporting rights violations or participating in public hearings. The failure to accommodate cultural and linguistic diversity undermines the constitutional mandate to protect cultural identity and dignity as recognized in Article 28I(3).<sup>7</sup>

Evidence laws also create disproportionate burdens for vulnerable groups. Indonesia's legal system relies heavily on documentary evidence, which is often inaccessible to marginalized populations. Victims of labour exploitation may lack contracts; indigenous communities may lack land certificates; victims of gender-based violence may lack medical reports. The emphasis on documentary proof restricts the ability of vulnerable individuals to succeed in litigation or criminal complaints, even when substantive injustices are clear. Human rights scholars have argued for victim-centred evidentiary approaches, yet such reforms remain limited in practice.<sup>8</sup>

Corruption in legal institutions additionally affects vulnerable people more severely than other populations. Informal payments or administrative "fees" in police processes, court administration, or local bureaucracy create unequal access, as vulnerable individuals cannot afford such costs. Transparency International's assessments of Indonesia highlight that corruption risks remain particularly high at the local level, where

<sup>5</sup> Pérez-Martín, Sabela, Paula Frieiro, Carmen Verde-Diego, and Iria Vázquez Silva. "Institutional Sexism Against Women Subjected to Gender-Based Violence and their Children. An International Systematic Review." *Trauma, Violence, & Abuse* (2025): 15248380251325213.

<sup>6</sup> Wardhani, Lita Tyesta Addy Listya, Muhammad Dzikirullah H. Noho, and Aga Natalis. "The adoption of various legal systems in Indonesia: an effort to initiate the prismatic Mixed Legal Systems." *Cogent Social Sciences* 8, no. 1 (2022): 2104710.

<sup>7</sup> Dhiaulhaq, Ahmad, and John F. McCarthy. "Indigenous rights and agrarian justice framings in forest land conflicts in Indonesia." *The Asia Pacific Journal of Anthropology* 21, no. 1 (2020): 34-54.

<sup>8</sup> Osiro, Moses Adama. "Victim-Centred or System-Serving?: The Legal Framework for Victim Participation in Sentencing in Kenya." In *Comparative criminology across western and African perspectives*, pp. 108-136. IGI Global Scientific Publishing, 2022..

discretionary authority is greater and oversight is weaker. Corruption thus functions as a structural barrier to justice, exacerbating poverty and deepening distrust in legal institutions.<sup>9</sup>

Fragmentation within Indonesia's legal system further restricts justice accessibility. Issues affecting vulnerable groups (land disputes, environmental harm, domestic violence, social assistance) span multiple regulatory regimes and institutional jurisdictions. Overlapping mandates among ministries, local governments, police, and courts cause procedural delays, inconsistent interpretations, and institutional inertia. For marginalized individuals lacking resources and networks, navigating this complex bureaucracy becomes nearly impossible, causing many to abandon legal claims or accept unfair settlements.<sup>10</sup>

Comparative legal studies emphasize that meaningful access to justice requires the integration of preventive, remedial, and structural protections within the legal system. Preventive measures such as public legal education and community outreach must be strengthened. Remedial measures such as legal aid, victim support, and simplified procedures must be effectively implemented. Structural measures including judicial independence, anti-corruption oversight, harmonization of laws, human rights-based policymaking, must be institutionalized. In Indonesia, these dimensions are advancing at different speeds and with varying degrees of political commitment, leaving justice accessibility for vulnerable groups highly uneven.<sup>11</sup>

A further legitimacy concern arises from the limited representation of marginalized communities in the policymaking process. While Article 96 of Law No. 12 of 2011 mandates public participation in legislation, marginalized groups are rarely included in deliberative forums. As a result, laws regulating land, environment, welfare, gender equality, or disability rights often fail to reflect the lived realities of those most affected. Exclusion from policymaking reproduces structural marginalization, as laws are crafted without considering the specific vulnerabilities encountered by disadvantaged groups.<sup>12</sup>

Lastly, the concept of access to justice must be understood not only in terms of availability of legal mechanisms but in terms of effective empowerment. Empowerment requires removing structural barriers, strengthening institutional accountability, and transforming power relations that sustain inequality. Without these transformations, justice remains accessible in form but not in substance. Indonesia's legal system therefore faces the constitutional and moral imperative to evolve beyond formal equality and adopt a substantive justice approach that recognizes vulnerability as a legal condition warranting enhanced protection.<sup>13</sup>

## METHODOLOGY

This research employs a normative juridical method to examine the legal role in protecting vulnerable groups and ensuring their access to justice within the Indonesian legal system. The normative juridical approach focuses on legal norms, statutory frameworks, constitutional provisions, and doctrinal interpretations, allowing for a systematic evaluation of how Indonesia's legal order constructs, recognizes,

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<sup>9</sup> Efendi, Razif Arfan, and Arfianita Sukasih. "Assessing the Effectiveness of Indonesia's Criminal Justice System in Combatting Corruption: A Juridical Analysis." *Law and Economics* 18, no. 2 (2024): 110-121.

<sup>10</sup> Bosio, Erica, and Ana Palacio Jaramillo. "Increasing Access to Justice in Fragile Settings." (2023).

<sup>11</sup> Hämäläinen, Hanna, and Janne Salminen. "Inclusive participation in law-making: good governance or a constitutional obligation?." *The Theory and Practice of Legislation* (2025): 1-23.

<sup>12</sup> Rosser, A., "Democratic Deficits in Indonesian Policymaking," *Journal of Contemporary Asia*, 2020.

<sup>13</sup> Fineman, M., "The Responsive State and Structural Inequality," *Yale Journal of Law and Feminism*, 2019.

and safeguards the rights of marginalized communities. Primary legal materials include the 1945 Constitution, Law No. 39 of 1999 on Human Rights, Law No. 16 of 2011 on Legal Aid, sectoral statutes on women's protection, disability rights and indigenous peoples, as well as relevant Constitutional Court decisions. These sources are complemented by secondary materials such as academic journals, doctrinal commentaries, and empirical legal studies that analyze structural barriers to justice. The normative method is particularly appropriate for this study because the issue of vulnerability is conceptually and institutionally embedded in legal doctrine, requiring doctrinal analysis rather than empirical measurement to assess whether the Indonesian state meets its constitutional mandate to provide equal access to justice for all citizens.<sup>14</sup>

In addition to the statutory and doctrinal analysis, this research incorporates a conceptual approach by engaging theories of vulnerability, legal empowerment, procedural justice, and human rights-based governance. These theoretical perspectives are employed to interrogate whether Indonesian laws and institutions operate responsively toward the needs of groups that experience structural marginalization. This method enables a critical examination of the alignment between legal norms and institutional practices, identifying gaps between constitutional commitments and administrative or judicial implementation. A comparative component is also utilized, drawing on international human rights standards and comparative access-to-justice research to evaluate Indonesia's compliance with global principles. This combination of normative and conceptual analysis allows for a comprehensive assessment of how law functions as both a protective mechanism and a potential source of inequality for marginalized populations.<sup>15</sup>

## RESULTS AND DISCUSSION

### The Constitutional Foundations of Legal Protection for Vulnerable Groups in Indonesia

Indonesia's constitutional framework provides explicit foundations for the protection of vulnerable groups, anchoring their rights within a broader human rights architecture that binds the state. Article 27(1) of the Constitution affirms equality before the law, while Article 28D guarantees fair legal protection and just treatment. These provisions establish the normative baseline that all citizens, regardless of socio-economic status, gender, disability, ethnicity, or cultural background, possess equal entitlements to justice. However, constitutional guarantees must be read alongside Article 28I(4), which places affirmative obligations on the state to protect and promote human rights. This creates a dual structure of rights and duties: one that recognizes the universality of legal protection and another that requires state intervention where inequalities persist. Scholars argue that these constitutional norms collectively impose a proactive mandate on the government to identify and mitigate structural barriers that impede justice accessibility for vulnerable populations.<sup>16</sup>

A critical aspect of constitutional protection lies in the principle of non-discrimination. Article 28I(2) prohibits discriminatory treatment based on any grounds, reinforcing Indonesia's commitment to substantive equality. Substantive equality moves beyond formal equality by recognizing that certain groups require differentiated treatment to achieve fair outcomes. This principle is particularly relevant for

<sup>14</sup> Soekanto, S., *Metode Penelitian Hukum*, UI Press, 2019.

<sup>15</sup> Cane, P., *The Oxford Handbook of Empirical Legal Studies*, Oxford University Press, 2018.

<sup>16</sup> Asshiddiqie, J., "Equality Before the Law in Indonesian Constitutionalism," *Jurnal Konstitusi*, 2020.

marginalized communities that experience layered disadvantages, such as indigenous peoples facing historical dispossession or women encountering patriarchal norms that shape institutional responses to violence. Constitutional jurisprudence from the Indonesian Constitutional Court demonstrates an increasing recognition of substantive equality, yet its operationalization remains inconsistent across statutory frameworks and administrative practices. Scholars argue that achieving substantive equality requires institutional reforms that address power imbalances within legal processes.<sup>17</sup>

The Constitution further embeds the principle of human dignity, which underpins protection for groups experiencing structural vulnerability. Article 28G safeguards personal security, including protection from violence, discrimination, and threats to dignity. In the context of vulnerable groups, human dignity operates as both an individual right and a collective guarantee. For instance, indigenous communities assert dignity through cultural continuity and land stewardship, while persons with disabilities assert dignity through equitable participation in legal and social processes. Legal protection of dignity obliges institutions to design procedures that do not humiliate, exclude, or disadvantage individuals on the basis of their identities or circumstances. Indonesian scholars note that dignity-based legal analysis is essential to evaluating whether procedural norms, evidentiary burdens, and institutional practices align with constitutional commitments.<sup>18</sup>

Legislative frameworks operationalize constitutional protections through sectoral statutes. The Human Rights Law (Law No. 39 of 1999) articulates rights to legal protection, remedy, and equal treatment. The Disability Law (Law No. 8 of 2016) mandates reasonable accommodation in judicial processes, including interpretation services and accessible facilities. Laws on the protection of women and children recognize gender-specific vulnerabilities in contexts of violence and exploitation. While these laws represent significant progress, the extent to which they are effectively implemented remains variable. Implementation gaps arise from limited institutional capacity, insufficient budget allocations, and inadequate training of legal professionals. Scholars emphasize that legal protection for vulnerable groups must be evaluated not only through legal texts but through institutional practices that give effect to statutory guarantees.<sup>19</sup>

The Constitutional Court has played an important role in advancing protections for vulnerable groups through judicial review. In several landmark decisions, the Court has invalidated discriminatory laws, strengthened victims' rights, and recognized the constitutional status of customary communities. These decisions expand the normative boundaries of legal protection by clarifying how constitutional principles apply in contexts of structural inequality. However, judicial progress remains case-dependent and subject to political and institutional constraints. Critics note that constitutional jurisprudence often advances in narrow increments, leaving significant areas of vulnerability unaddressed. The Court's reliance on petitioners to initiate review also means that many issues affecting marginalized groups remain unlitigated due to lack of resources or awareness.<sup>20</sup>

<sup>17</sup> Alfons, Saartje Sarah, Miracle Soplanit, and Syed Muhammad Huzaif Mail. "Creating Substantive Justice in State Administrative Courts: A Theoretical, Philosophical, and Human Rights Review." *Jurnal Suara Hukum* 6, no. 2 (2024).

<sup>18</sup> Setiawan, R., "Human Dignity and Legal Protection," *Journal of Human Rights Law*, 2021.

<sup>19</sup> Pérez-Martín, Sabela, Paula Frieiro, Carmen Verde-Diego, and Iria Vázquez Silva. "Institutional Sexism Against Women Subjected to Gender-Based Violence and their Children. An International Systematic Review." *Trauma, Violence, & Abuse* (2025): 15248380251325213.

<sup>20</sup> Efendi, Razif Arfan, and Arfianita Sukasih. "Assessing the Effectiveness of Indonesia's Criminal Justice System in Combatting Corruption: A Juridical Analysis." *Law and Economics* 18, no. 2 (2024): 110-121..

International human rights instruments also inform constitutional interpretation. Indonesia is a party to multiple treaties, including the ICCPR, ICESCR, CEDAW, and CRPD, all of which require state protection of vulnerable groups and equal access to justice. Although international treaties do not automatically override domestic law, the Constitutional Court has stated that ratified treaties may function as interpretive guides in assessing constitutional rights. This enhances the normative basis for legal protection but also highlights the need for harmonization between domestic statutes and international obligations. Gaps persist in areas such as gender-based violence, disability accommodations, and indigenous land rights, suggesting that Indonesia's domestic frameworks have not fully internalized international standards.<sup>21</sup>

Legal institutions serve as the operational arm of constitutional protection, yet institutional weaknesses often undermine the realization of rights. Courts, law enforcement agencies, and administrative bodies frequently lack the resources, training, or incentives necessary to implement protections for vulnerable groups. Problems such as case backlogs, procedural delays, and inconsistent jurisprudence further complicate access to justice. Scholars argue that without institutional reform, constitutional guarantees remain aspirational rather than actionable. Strengthening institutional capacity requires not only legal reforms but also political commitment and budgetary support.<sup>22</sup>

Access to justice remains one of the most important constitutional rights for vulnerable groups, directly linked to the broader concept of the rule of law. Article 28D(1) guarantees the right to fair and timely legal protection, yet procedural barriers (ranging from complex administrative requirements to evidentiary burdens) limit effective realization of this right. Constitutional theorists argue that access to justice encompasses not only entry into the legal system but also the ability to navigate procedures, receive fair treatment, and obtain remedies. For vulnerable groups, these elements are often compromised by socio-economic, geographic, and cultural barriers. A constitutional approach to access to justice therefore requires attention to structural inequalities that prevent individuals from fully exercising their rights.<sup>23</sup>

The constitutional architecture also recognizes the importance of legal aid as a mechanism for equalizing access to justice. Law No. 16 of 2011 codifies the state's obligation to provide free legal representation for the poor. However, budget constraints, bureaucratic hurdles, and uneven distribution of legal aid organizations limit the law's reach. Constitutional interpretation suggests that legal aid is not merely an administrative program but a component of the right to fair trial and equality before the law. Scholars argue that insufficient legal aid undermines the constitutional promise of justice for vulnerable groups, necessitating stronger state intervention and oversight.<sup>24</sup>

Ultimately, Indonesia's constitutional framework establishes a robust normative foundation for protecting vulnerable groups, yet persistent gaps between law and practice impede full realization of constitutional ideals. These gaps reflect broader challenges in governance, institutional capacity, and socio-legal culture.

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<sup>21</sup> Harisman, Harisman. "Protection of Human Rights in the Amendment of the 1945 Constitution of The Republic of Indonesia." In *1st International Conference on Law and Human Rights 2020 (ICLHR 2020)*, pp. 384-389. Atlantis Press, 2021.

<sup>22</sup> Wasia, Zacilasi, and Zulkifli Andrian. "Urgensi Masuknya Lembaga Penegak Hukum sebagai Oversight dan Accountability Committee Danantara." *Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora* 4, no. 2 (2025): 145-157.

<sup>23</sup> SHARMA, A., & PATEL, D. (2024). The Intertwined Pillars of Justice: Access to Justice and The Rule of Law.

<sup>24</sup> Chartier, Brandi. "Access to justice: legal aid and other forms of advocacy." (2021).

A constitutional analysis reveals that protecting vulnerable groups requires more than formal recognition of rights; it demands structural reforms that address institutional bias, procedural complexity, and systemic inequality. This establishes the context for examining how legal, institutional, and social barriers interact to restrict justice accessibility for marginalized communities, which is explored further in subsequent sections.<sup>25</sup>

## Structural Barriers to Justice Accessibility for Marginalized Groups in Indonesia

Legal accessibility for marginalized communities in Indonesia is limited by structural, institutional, and socio-economic barriers that prevent vulnerable groups from realizing the constitutional right to equality before the law. These barriers manifest across multiple stages of the justice chain, from initial reporting and investigation to adjudication and enforcement. Although legal norms guarantee equal protection, empirical studies show that vulnerable populations such as the poor, women, indigenous peoples, migrants, and persons with disabilities encounter distinct disadvantages within legal processes. These disadvantages reflect systemic failures in administrative coordination, legal education, institutional oversight, and resource distribution, indicating that the Indonesian justice system remains insufficiently responsive to structural inequalities.<sup>26</sup>

A central structural barrier relates to financial constraints, which remain a dominant determinant of whether marginalized individuals can access legal services. Although Indonesia has established a statutory legal aid framework under Law No. 16 of 2011, implementation challenges significantly constrain the reach of legal aid organizations. Many poor individuals struggle to obtain verification letters certifying their eligibility, while legal aid providers often operate with restricted budgets and inadequate staffing. Empirical analyses reveal that the distribution of legal aid posts is concentrated in urban Java, leaving rural and remote communities with limited access. This uneven distribution of legal aid undermines constitutional guarantees of equal justice and intensifies socio-economic disparities.<sup>27</sup>

Institutional bias constitutes a second significant barrier. Vulnerable groups face discriminatory treatment throughout legal processes due to entrenched cultural stereotypes and institutional norms. Gender bias, for example, affects women reporting domestic violence or sexual assault; victims often confront disbelief, victim-blaming attitudes, or procedural insensitivity during police examinations or evidentiary assessments. Indigenous communities face structural discrimination when asserting customary land rights, as land governance institutions privilege formal titles over customary claims. These biases indicate that legal protection is mediated not only by formal rules but by institutional behaviour shaped by socio-cultural hierarchies and systemic prejudice.<sup>28</sup>

Geographical inequality further restricts justice accessibility, particularly in an archipelagic state where legal infrastructure is unevenly distributed. Court facilities, police stations, and legal aid offices are

<sup>25</sup> Hämäläinen, Hanna, and Janne Salminen. "Inclusive participation in law-making: good governance or a constitutional obligation?." *The Theory and Practice of Legislation* (2025): 1-23.

<sup>26</sup> Rahayu, Derita Prapti, Faisal Faisal, Rafiqah Sari, and Ndaru Satrio. "Law enforcement in the context of legal culture in society." *Law Reform* 16, no. 2 (2020): 276-289.

<sup>27</sup> Chartier, Brandi. "Access to justice: legal aid and other forms of advocacy." (2021).

<sup>28</sup> Pérez-Martín, Sabela, Paula Frieiro, Carmen Verde-Diego, and Iria Vázquez Silva. "Institutional Sexism Against Women Subjected to Gender-Based Violence and their Children. An International Systematic Review." *Trauma, Violence, & Abuse* (2025): 15248380251325213.

concentrated in major urban centres, while remote regions in Eastern Indonesia face chronic shortages of legal service providers. For marginalized individuals living in remote areas, long travel distances and transportation costs create significant barriers to filing reports, attending hearings, or engaging counsel. The Supreme Court's digital reforms, including e-court and e-litigation systems, aim to address these gaps, but digital exclusion persists for communities lacking stable internet access, smartphones, or technological literacy. This geographic and digital divide creates a structural imbalance that hinders meaningful access to justice.<sup>29</sup>

Language and cultural barriers also impede vulnerable populations, especially indigenous groups and ethnic minorities who may not speak Indonesian fluently. Court proceedings, documentation, and police communication primarily rely on the Indonesian language, placing non-Indonesian-speaking communities at a disadvantage. Interpretation services remain limited, and cultural sensitivity training for legal actors is insufficient. Miscommunication during investigations or trials can lead to procedural irregularities, misinterpretation of testimony, and unfair verdicts. In communities where traditional norms govern dispute resolution, the formal legal system may appear alien or intimidating, reducing the likelihood that individuals pursue formal remedies.<sup>30</sup>

Procedural complexity constitutes another barrier to justice accessibility. Vulnerable communities often lack knowledge of legal procedures, filing requirements, or evidentiary obligations. Indonesia's justice system relies heavily on documentary evidence, placing structurally disadvantaged groups at risk, as they frequently lack contracts, certificates, or medical documentation necessary to substantiate claims. Victims of labour exploitation, domestic workers, and indigenous communities are frequently unable to meet evidentiary burdens due to the informal nature of their work or the absence of official land documentation. The rigid application of evidentiary standards thus disproportionately harms marginalized populations and reduces their likelihood of obtaining remedies.<sup>31</sup>

Corruption and informal payments within legal and administrative institutions further hinder equal access to justice. Transparency organizations report that informal fees influencing case handling, document issuance, or administrative processing remain a persistent challenge. Vulnerable communities lacking financial resources are disproportionately affected by such corrupt practices, as they cannot afford to navigate illegal payments or exploit personal networks that wealthier individuals utilize to accelerate legal processes. Corruption undermines legal certainty and deepens the structural injustices faced by marginalized groups, eroding trust in judicial institutions and discouraging legal engagement.<sup>32</sup>

Administrative fragmentation across sectoral laws and institutions also restricts justice accessibility. Vulnerable groups often encounter overlapping jurisdiction among ministries, local governments, police,

<sup>29</sup> Wardhani, Lita Tyesta Addy Listya, Muhammad Dzikirullah H. Noho, and Aga Natalis. "The adoption of various legal systems in Indonesia: an effort to initiate the prismatic Mixed Legal Systems." *Cogent Social Sciences* 8, no. 1 (2022): 2104710.

<sup>30</sup> Dhiaulhaq, Ahmad, and John F. McCarthy. "Indigenous rights and agrarian justice framings in forest land conflicts in Indonesia." *The Asia Pacific Journal of Anthropology* 21, no. 1 (2020): 34-54.

<sup>31</sup> Osiro, Moses Adama. "Victim-Centred or System-Serving?: The Legal Framework for Victim Participation in Sentencing in Kenya." In *Comparative criminology across western and African perspectives*, pp. 108-136. IGI Global Scientific Publishing, 2022.

<sup>32</sup> Efendi, Razif Arfan, and Arfianita Sukasih. "Assessing the Effectiveness of Indonesia's Criminal Justice System in Combatting Corruption: A Juridical Analysis." *Law and Economics* 18, no. 2 (2024): 110-121.

and courts, particularly in land disputes, environmental harms, domestic violence, and welfare entitlements. These administrative overlaps create procedural delays, conflicting interpretations of law, and bureaucratic inertia. Marginalized individuals lacking knowledge and resources are often unable to navigate complex multi-agency procedures, resulting in unresolved disputes or withdrawal from legal processes. Scholars emphasize that such fragmentation reflects a deeper governance problem, where legal frameworks lack coherence and institutional mandates are insufficiently harmonized.<sup>33</sup>

Lack of effective oversight mechanisms further compounds these barriers. Internal monitoring systems within law enforcement and judicial institutions often fail to address misconduct, discrimination, or maladministration that disproportionately harm vulnerable communities. Oversight bodies such as the Judicial Commission and the National Police Commission have limited jurisdiction or enforcement power, and external complaints mechanisms are frequently inaccessible to the poor or uneducated. Without credible oversight, structural injustices persist unchallenged, allowing discriminatory practices to become normalized within legal institutions.<sup>34</sup>

Finally, participatory exclusion in policymaking denies marginalized groups the opportunity to shape the laws and institutions that directly affect them. Although Indonesian law mandates public participation in legislative processes, vulnerable communities are often underrepresented or entirely absent in these deliberations. As a result, statutes concerning land, environment, gender protection, disability rights, and social welfare may not accurately reflect the needs or lived realities of those most affected. This democratic deficit not only reduces the legitimacy of legal frameworks but also perpetuates structural inequalities. Ensuring justice accessibility therefore requires participatory reforms that include marginalized voices in legal development and institutional design.<sup>35</sup>

## **Institutional and Regulatory Reforms to Strengthen Legal Protection and Justice Accessibility for Vulnerable Groups**

Strengthening legal protection for vulnerable groups in Indonesia requires institutional reforms that address structural inequalities embedded within legal and administrative systems. The first critical reform area concerns enhancing the capacity and responsiveness of legal institutions that administer justice. Courts, police, prosecutors, and administrative bodies must adopt procedural standards that reflect sensitivity to vulnerability, including simplified procedures, trauma-informed approaches, and non-discriminatory practices. International models of vulnerability-responsive justice emphasize institutional training, clear protocols for handling cases involving marginalized individuals, and accountability mechanisms to address misconduct or neglect. In Indonesia, such reforms remain partial, with variations across regions and institutions. Improving institutional responsiveness requires sustained investment in capacity-building, monitoring systems, and performance evaluation frameworks tailored to the experiences of marginalized communities.<sup>36</sup>

<sup>33</sup> Bosio, Erica, and Ana Palacio Jaramillo. "Increasing Access to Justice in Fragile Settings." (2023).

<sup>34</sup> Wasia, Zacilasi, and Zulkifli Andrian. "Urgensi Masuknya Lembaga Penegak Hukum sebagai Oversight dan Accountability Committee Danantara." *Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora* 4, no. 2 (2025): 145-157..

<sup>35</sup> Hämäläinen, Hanna, and Janne Salminen. "Inclusive participation in law-making: good governance or a constitutional obligation?." *The Theory and Practice of Legislation* (2025): 1-23.

<sup>36</sup> SHARMA, A., & PATEL, D. (2024). The Intertwined Pillars of Justice: Access to Justice and The Rule of Law.

A second reform area concerns the redesign of legal aid implementation to ensure greater accessibility and substantive effectiveness. While the Legal Aid Law creates a strong statutory framework, implementation limitations undermine its transformative potential. Reforms should include expanding the number and distribution of accredited legal aid organizations, increasing state funding, simplifying eligibility verification, and integrating community-based paralegals into the formal legal aid ecosystem. Evidence from other jurisdictions indicates that community paralegals play an essential role in empowering vulnerable groups by providing legal information, facilitating documentation, and bridging cultural gaps between communities and formal institutions. For Indonesia, strengthening legal empowerment at the grassroots level is necessary to complement formal legal aid and ensure that constitutional guarantees translate into actual accessibility.<sup>37</sup>

The strengthening of oversight mechanisms represents a third vital reform dimension. The effectiveness of legal protection depends on credible mechanisms capable of detecting and addressing misconduct, discrimination, corruption, or procedural violations. Currently, oversight bodies such as the Judicial Commission, Ombudsman, and supervisory units within the police and judiciary face limitations in resources, enforcement authority, and public accessibility. Reforms should enhance the mandates, budgets, and enforcement capacities of oversight institutions, and ensure that complaint mechanisms are accessible to marginalized groups, including through mobile reporting units, language support, and protection from retaliation. Comparative studies demonstrate that robust oversight contributes to improved institutional behaviour and greater public trust, which are essential for marginalized individuals who may be reluctant to engage with legal institutions due to fear or past negative experiences.<sup>38</sup>

Regulatory harmonization is a fourth key reform priority. Vulnerable groups often navigate legal issues that cut across sectoral laws, creating uncertainty and delays. Harmonizing regulations relating to land governance, environmental protection, gender-based violence, disability rights, and social welfare is essential to reducing administrative fragmentation. Scholars argue that Indonesia's overlapping legal frameworks lead to conflicting rules and inconsistent enforcement, which disproportionately harm individuals without legal literacy or resources. A comprehensive regulatory harmonization program, supported by inter-ministerial coordination, clearer jurisdictional boundaries, and standard operating procedures, is necessary to improve coherence within the justice system. This effort must also include the integration of international human rights standards into domestic regulatory frameworks, ensuring alignment with obligations under CEDAW, CRPD, ICESCR, and ICCPR.<sup>39</sup>

Digital transformation presents a significant opportunity for reform, yet also requires careful design to avoid reproducing existing inequalities. E-court systems, online dispute resolution mechanisms, and digital legal information portals can expand access to justice by reducing geographic barriers, simplifying processes, and increasing transparency. However, vulnerable groups often lack the technological access or literacy

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<sup>37</sup> Durojaye, Ebenezer, Gladys Mirugi-Mukundi, and Oluwafunmilola Adeniyi. "Legal empowerment as a tool for engendering access to justice in South Africa." *International Journal of Discrimination and the Law* 20, no. 4 (2020): 224-244.

<sup>38</sup> Wasia, Zacilasi, and Zulkifli Andrian. "Urgensi Masuknya Lembaga Penegak Hukum sebagai Oversight dan Accountability Committee Danantara." *Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora* 4, no. 2 (2025): 145-157.

<sup>39</sup> Harisman, Harisman. "Protection of Human Rights in the Amendment of the 1945 Constitution of The Republic of Indonesia." In *1st International Conference on Law and Human Rights 2020 (ICLHR 2020)*, pp. 384-389. Atlantis Press, 2021.

necessary to benefit from digital reforms. Effective digital transformation must include inclusive design principles, such as low-bandwidth interfaces, mobile accessibility, multilingual content, and on-site digital assistance centres. Empirical research indicates that digital justice reforms succeed only when technological accessibility is paired with user education and institutional adaptation. For Indonesia, digital justice must be framed as part of a broader equity strategy rather than a purely administrative modernization effort.<sup>40</sup>

Reforming evidentiary rules and judicial procedures also plays a crucial role in strengthening access to justice for marginalized groups. The heavy reliance on written documentation in Indonesian legal proceedings disadvantages individuals without formal records, such as landless farmers, informal workers, and survivors of gender-based violence. Procedural reforms should incorporate flexibility in evidentiary evaluation, allowing greater use of oral testimony, community verification, and contextual assessments. International jurisprudence in human rights courts highlights that rigid evidentiary burdens often silence vulnerable groups and perpetuate structural injustice. Indonesia can strengthen procedural fairness by adopting victim-centred approaches, particularly in cases involving violence, labour exploitation, and land dispossession.<sup>41</sup>

Meaningful participation in policymaking is another essential reform dimension. Legal frameworks governing land, environment, social protection, and human rights must be developed through inclusive mechanisms that incorporate the voices of communities most affected by structural vulnerabilities. Indonesia's statutory requirement for public participation must be actualized through targeted outreach, participatory forums in rural and remote regions, and consultation mechanisms accessible to women, indigenous peoples, and persons with disabilities. Comparative research indicates that inclusive lawmaking enhances regulatory legitimacy, improves policy effectiveness, and mitigates the risk of unintended consequences for vulnerable populations. Without meaningful participation, legal reforms risk reproducing existing inequalities and overlooking contextual realities faced by marginalized groups.<sup>42</sup>

Strengthening data governance is also critical. The absence of comprehensive, disaggregated data on vulnerable populations hampers the development of targeted legal and institutional reforms. Data disaggregation by gender, disability, ethnicity, location, and socio-economic status enables policymakers to identify inequities and monitor the impact of legal interventions. In Indonesia, data collection often remains fragmented across ministries and local governments, with inconsistent methodologies and limited integration across systems. Establishing a unified data governance framework would support evidence-based policymaking and allow monitoring of justice accessibility indicators, enabling more responsive governance.<sup>43</sup>

Lastly, advancing a vulnerability-responsive legal culture requires long-term social and institutional transformation. Legal actors must internalize principles of equality, non-discrimination, and human dignity

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<sup>40</sup> Latif, Muhamad, and Ar-Rahiim Innash. "Digital Transformation In The Justice System: Enhancing Efficiency And Accessibility Of Legal Services." *JIL: Journal of Indonesian Law* 5, no. 2 (2024): 179-198.

<sup>41</sup> Osiro, Moses Adama. "Victim-Centred or System-Serving?: The Legal Framework for Victim Participation in Sentencing in Kenya." In *Comparative criminology across western and African perspectives*, pp. 108-136. IGI Global Scientific Publishing, 2022.

<sup>42</sup> Hämäläinen, Hanna, and Janne Salminen. "Inclusive participation in law-making: good governance or a constitutional obligation?." *The Theory and Practice of Legislation* (2025): 1-23.

<sup>43</sup> Parker, Oakley. "Data Governance and Ethical AI: Developing Legal Frameworks to Address Algorithmic Bias and Discrimination." (2024)..

in their daily professional practices. This requires curriculum reform in legal education, mandatory training for judges, prosecutors, and police officers, and continuous professional development. Global literature on legal culture demonstrates that cultural transformation is as important as legal reform in ensuring that vulnerable groups receive fair treatment. For Indonesia, fostering a legal culture sensitive to vulnerability is essential to bridging the gap between constitutional ideals and institutional realities.<sup>44</sup>

## CONCLUSIONS

Indonesia's legal framework provides extensive constitutional and statutory protections for vulnerable groups, yet structural, institutional, and cultural barriers continue to undermine effective access to justice. The analysis shows that inequality persists not because of a lack of legal norms, but because institutional capacities, procedural safeguards, and oversight mechanisms remain insufficiently aligned with the needs of marginalized populations. Discrimination, financial constraints, geographic disparities, linguistic barriers, evidentiary burdens, and fragmented legal regimes collectively restrict the realization of equality before the law. Strengthening legal protection therefore requires a systemic approach that integrates constitutional principles with institutional reforms, including more accessible legal aid, inclusive policymaking, responsive procedures, and stronger oversight. Long-term improvement in justice accessibility also depends on cultivating a vulnerability-responsive legal culture that recognizes the structural nature of marginalization. Reforms must address not only the formal institutions of justice but also the socio-legal environment in which those institutions operate. Empowerment of communities through participation, legal literacy, and data-informed policy design is essential to ensuring that law functions as an instrument of equality rather than reinforcement of inequality. A just legal system requires that vulnerable groups are not merely recognized in legal texts but are effectively protected through institutional practices that reflect dignity, fairness, and equality.

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<sup>44</sup> Rahayu, Derita Prapti, Faisal Faisal, Rafiqah Sari, and Ndaru Satrio. "Law enforcement in the context of legal culture in society." *Law Reform* 16, no. 2 (2020): 276-289.

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