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Client Legal Protection in Psychological Services: An Analysis of Regulatory Frameworks, Ethical Norms, and Practical Challenges in Indonesia

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This study aims to critically examine the legal protection system for clients of psychological services in Indonesia, particularly in relation to violations of informed consent, data confidentiality, and malpractice.

The research method uses a normative juridical approach, focusing on the analysis of relevant legislation, professional codes of ethics, and jurisprudence. This approach is supported by a literature review and qualitative analysis to compare the normative ideal (das Sollen) with empirical reality (das Sein). A comparative approach is also applied to identify gaps, overlaps, and weaknesses in regulations.

The novelty of this research lies in its integration of health law, psychological ethics, and digital service regulations within a single analytical framework. Unlike previous studies that discussed these aspects separately, this study offers a holistic and systematic model to harmonize *lex specialis* regulations, strengthen ethical and legal enforcement, and institutionalize victim-centered accountability mechanisms in psychological services.

The results of the study show that there is a significant imbalance between the protection afforded to victims of physical harm in medical malpractice and victims of psychological harm in psychological malpractice. While victims of medical malpractice can access civil or criminal legal remedies and receive compensation, clients of psychological services often face limited options, with most cases being resolved through administrative sanctions without material compensation.

The conclusions of this study indicate that Indonesia must strengthen legal protections for clients of psychological services by harmonizing regulations, standardizing informed consent procedures, improving legal literacy, consistently enforcing ethical and legal obligations, and ensuring accessible complaint and compensation mechanisms. These steps are essential to protect clients' rights, promote justice, and improve accountability in the mental health care sector.

Keywords: Client Protection; Psychological Services; Legal Framework; Informed Consent; Consumer Rights; Malpractice Indonesia.

Abstrak

Penelitian ini bertujuan untuk mengkaji secara kritis sistem perlindungan hukum bagi klien layanan psikologis di Indonesia, khususnya terkait pelanggaran persetujuan yang terinformasi, pelanggaran kerahasiaan data, dan malpraktik.

Metode penelitian ini menggunakan pendekatan yuridis normatif, dengan fokus pada analisis peraturan perundang-undangan, kode etik profesional, dan yurisprudensi yang

relevan. Pendekatan ini didukung oleh tinjauan literatur dan analisis kualitatif untuk membandingkan ideal normatif (*das Sollen*) dengan realitas empiris (*das Sein*). Pendekatan komparatif juga diterapkan untuk mengidentifikasi celah, tumpang tindih, dan kelemahan regulasi.

Kebaruan penelitian ini terletak pada integrasinya antara hukum kesehatan, etika psikologi, dan regulasi layanan digital dalam kerangka analitis tunggal. Berbeda dengan penelitian sebelumnya yang membahas aspek-aspek ini secara terpisah, studi ini menawarkan model holistik dan sistematis untuk mengharmonisasikan regulasi *lex specialis*, memperkuat penegakan etika dan hukum, serta menginstitusionalisasikan mekanisme pertanggungjawaban yang berpusat pada korban dalam layanan psikologi.

Hasil penelitian menunjukkan bahwa ketimpangan signifikan antara perlindungan yang diberikan kepada korban kerugian fisik dalam malpraktik medis dan korban kerugian psikologis dalam malpraktik psikologis. Sementara korban malpraktik medis dapat mengakses ganti rugi hukum sipil atau pidana dan menerima kompensasi, klien layanan psikologis sering menghadapi pilihan terbatas, dengan sebagian besar kasus diselesaikan melalui sanksi administratif tanpa ganti rugi materiil.

Kesimpulan penelitian ini menunjukkan bahwa Indonesia harus memperkuat perlindungan hukum bagi klien layanan psikologis dengan mengharmonisasikan peraturan, menstandarkan prosedur persetujuan terinformasi, meningkatkan literasi hukum, menegakkan kewajiban etika dan hukum secara konsisten, serta memastikan mekanisme pengaduan dan ganti rugi yang dapat diakses. Langkah-langkah ini esensial untuk melindungi hak klien, mempromosikan keadilan, dan meningkatkan akuntabilitas di sektor perawatan kesehatan mental.

Kata Kunci: Perlindungan Klien; Layanan Psikologis; Kerangka Hukum; Persetujuan Terinformasi; Hak Konsumen; Malpraktik Indonesia.

1. INTRODUCTION

Public awareness of mental health in Indonesia has increased significantly over the past two decades. The demand for professional psychological services has expanded not only in educational settings, but also in the workforce, family systems, and broader community spaces. According to the 2018 Indonesian National Mental Health Survey (Risikesdas), approximately 9.8% of adults in Indonesia experience emotional mental disorders, while severe mental illnesses such as schizophrenia affect approximately 7 per 1,000 individuals. Globally, the World Health Organization (WHO) reported in 2022 that 1 in 8 people live with mental or neurological disorders, a figure that has increased even further after the COVID-19 pandemic. This phenomenon highlights the importance of greater attention to mental health, both in public health policies and in efforts to reduce the stigma that still exists in many communities.¹ In Indonesia, demand for online psychological services tripled between 2020 and 2022, demonstrating growing public awareness of the importance of professional, safe, and reliable mental health services. This increase reflects a positive shift in public attitudes toward mental health, with more people now feeling comfortable seeking psychological help through online platforms, especially amid the uncertainty caused by the pandemic and the pressures of

¹ World Health Organization, "World Mental Health Report: Transforming Mental Health For All. World Health Organization," In *World Mental Health*, 2022, <https://www.who.int/publications/i/item/9789240049338>.

modern life.²³

However, this increased demand has given rise to fundamental legal and ethical tensions between *das Sein*, i.e., the current practical state of psychology, and *das Sollen*, i.e., the normative ideal embedded in professional and legal standards. This tension arises from the need to align rapidly evolving psychological practices with the demand to maintain service quality in accordance with applicable ethical and legal guidelines. This poses a major challenge for psychology professionals to ensure that the services provided are not only effective but also meet strict legal standards and high professional ethics.⁴ While professional codes of ethics, such as those established by the Indonesian Psychological Association (HIMPSI), aim to provide guidance for psychologists in providing safe and accountable care, the legal infrastructure surrounding client protection remains fragmented and unresponsive. Despite efforts to strengthen regulations, many legal aspects have not been able to keep pace with the rapid development of online psychological services, creating gaps in the protection of client rights. This calls for more comprehensive and adaptive legal reforms to address new challenges in the provision of mental health services in the digital age.⁵ Clients remain vulnerable to ethical breaches, confidentiality violations, and even malpractice, often without access to robust mechanisms for restitution or legal redress.

This gap is particularly significant in the digital age, where the proliferation of online psychological services introduces greater risks related to data privacy, informed consent, and cross-jurisdictional accountability. In this context, the protection of clients' personal data becomes a central issue, given that online psychological services often involve the collection and processing of sensitive data. In addition, legal uncertainty regarding cross-border regulation exacerbates the challenge of ensuring that the services provided comply with applicable legal and ethical standards, especially when clients and psychologists are located in different jurisdictions.⁶ Empirical evidence shows that, prior to the enactment of Law No. 23 of 2022 on Psychological Services and Education, many client complaints were handled merely through internal ethical sanctions or through generic labor or consumer protection laws that do not adequately capture the unique nature of psychological harm.⁷ As a result, non-material damages such as induced trauma, psychological distress, or diminished autonomy are often dismissed or inadequately addressed within existing legal frameworks.

² M. S. Sh. Marzuki, P. M., *Pengantar Ilmu Hukum*. (Prenada Media., N.D.).

³ Yoyok Uruk Suyono, "Perlindungan Hukum Terhadap Anak Korban Kekerasan Psikologis Didalam Rumah Tangga Dari Orang Tua," *Lex Journal: Kajian Hukum & Keadilan* 3, No. 1 (2019): 1–41, <https://doi.org/10.25139/Lex.V3i1.1814>.

⁴ Saraya Royhan, Jenniefer; Gaisan, "Hukum Dan Moralitas: Dimensi Filosofis Dalam Penegakan Hukum," *Jurnal Filsafat Terapan* 03:01, No. April (2023): 1–12, <https://journal.forikami.com/index.php/praxis/article/view/974>

⁵ Himpsi, "Kode Etik Himpunan Psikologi Indonesia," 2010, 12240, <https://himpsi.or.id/kode-etik>.

⁶ Grace Annie Chintoh Et Al., "Cross-Jurisdictional Data Privacy Compliance In The U.S.: Developing A New Model For Managing Ai Data Across State And Federal Laws," *Gulf Journal of Advance Business Research* 3, No. 2 (2025): 537–48, <https://doi.org/10.51594/Gjabr.V3i2.96>.

⁷ M.H. Dinar Mahardika, S.H. And M.H Erwin Aditya Pratama, S.H., *Perlindungan Hukum Terhadap Korban Perkosaan Dalam Perspektif Psikologi Hukum*, 2011.

From a theoretical standpoint,⁸ emphasized that legal protection must encompass both preventive aspects such as regulation, education, and supervision and repressive aspects, including enforcement of sanctions and the restoration of victims' rights. In the context of psychological services, this entails the client's right to transparent information, guaranteed data confidentiality, informed consent, and effective grievance mechanisms. Despite these theoretical principles, legal acknowledgment of psychological harm remains unequal compared to the well-established framework for medical malpractice, which provides clear standards for liability, sanctions, and compensatory justice.⁹

The urgency of this research lies in the increasing legal vacuum faced by clients in psychological services particularly those receiving care from unregulated or under-supervised practitioners. Although Indonesia now possesses several relevant legal instruments such as the Indonesian Code of Ethics for Psychologists (HIMPSI, 2010), Law No. 23/2022, Law No. 8/1999 on Consumer Protection, and the 2022 Personal Data Protection Law their implementation has been hampered by low legal literacy among both psychologists and clients, inconsistent application of informed consent procedures, and weak institutional enforcement mechanisms.

Compared to previous studies, which have largely focused on ethical dilemmas, clinical practice guidelines, or the role of professional associations, this study offers a unique contribution by systematically analyzing the legal vacuum in client protection from a normative-empirical perspective. It positions itself at the intersection of health law, psychological ethics, and digital service regulation domains that have often been treated separately in prior research. Furthermore, by incorporating a doctrinal legal approach combined with critical literature analysis, this study formulates a comprehensive framework for harmonizing *lex specialis* regulations, strengthening enforcement of ethical standards, promoting legal literacy among stakeholders, and institutionalizing victim-centered mechanisms of accountability.¹⁰

This article therefore addresses the following central questions: What constitutes an ideal model of legal protection for clients in psychological services in Indonesia? What regulatory and practical challenges hinder its implementation? Through this inquiry, the study aims to bridge the existing gap between normative ideals and empirical realities and to contribute to the development of a more just and rights-based mental health system in Indonesia.

To concretely strengthen the legal protection of clients in psychological services, the author recommends the harmonization of regulations between the Law on Psychological Practice, the Consumer Protection Law, and the Indonesian Civil Code, ensuring that victims of psychological harm have access to clear and effective formal legal pathways. It is imperative

⁸ B. Arwanto, "Perlindungan Hukum Bagi Rakyat Akibat Tindakan Faktual Pemerintah.," *Jurnal Yuridika* (3). (2016): 31.

⁹ S. Dobson-Wainwright, *A Historical Analysis Of Medical Malpractice Tort Law in The United States*. Central Michigan University, N.D.

¹⁰ Irvan Rizqian, "Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Kekerasan Seksual Dikaji Menurut Hukum Pidana Indonesia," *Journal Justiciabelen (Jj)* 1, No. 1 (2021): 51, <https://doi.org/10.35194/Jj.V1i1.1115>.

to standardize and enforce informed consent procedures and strengthen written reporting systems so that each violation can be addressed fairly and transparently.

Professional organizations, educational institutions, and the government should regularly promote legal education and ethical literacy for both psychologists and clients, thereby enhancing shared understanding of rights, responsibilities, and complaint mechanisms. Furthermore, providing accessible reporting systems, material compensation, psychological rehabilitation, and the restoration of clients' reputations must become a priority in the governance of psychological services.¹¹

The formation of legal precedents through court decisions is also essential to reinforcing legal certainty and client protection in the future. Further research is highly recommended to examine the effectiveness of these recommendations across various regions and to develop models for legal advocacy, compensation mechanisms, and adaptive ethical oversight systems that respond to the dynamics of modern psychological practice in Indonesia.

2. METHOD

This study employed a normative juridical approach, which focuses on the analysis of written legal norms, including statutory regulations, professional codes of ethics, and relevant jurisprudence, supported by illustrative case studies concerning legal protection for clients of psychological services in Indonesia.¹² This approach is particularly appropriate for examining the gap between *das Sollen* (the normative ideal) and *das Sein* (the empirical reality), especially in cases involving ethical violations and psychological malpractice.¹³ The objects of analysis include national regulations, court decisions, and scientific literature addressing legal protection and malpractice in psychological practice. Data were collected through documentary and literature review, with primary legal sources consisting of statutory laws, the Indonesian Code of Ethics for Psychologists, and documented case reports.

The operational definition of the research variable is legal protection for clients, defined as a legal mechanism that ensures client safety, fairness, and the restoration of rights in the event of professional misconduct or violation¹⁴. Data were analyzed using normative juridical and qualitative analysis, complemented by a comparative approach to evaluate regulatory implementation, identify legal gaps or normative overlaps, and propose systematic recommendations for strengthening legal protection.¹⁵

3. DISCUSSION

Client protection in psychological services is rooted in the legal principle of the

¹¹ Marza Nadya Rahayu Et Al., "Surabaya Sebagai Upaya Perlindungan Hukum Anak" 3, No. 11 (2025).

¹² M. S. Diantha, I. M. P., & Sh, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum*. (Prenada Media., N.D.).

¹³ Pasolang Pasapan S. H., *Moral Dan Hukum: Perspektif Filsafat Hukum, Praktik Hukum Dan Kasus-Kasus Viral*. (Nas Media Pustaka., N.D.).

¹⁴ Rizki Salsabillah, Yudhia Ismail, And Kristina Sulatri, "Perlindungan Hukum Korban Kekerasan Seksual Di Satuan Pendidikan Dalam Perspektif Tujuan Hukum," *Juris Delict Journal* 1, No. 2 (2025): 176–87, <https://doi.org/10.52429/Zzqa4b95>.

¹⁵ L. B. B. P. Fardiansyah, H., Rizkia, N. D., Is, M. S., Busroh, F. F., Lobo, F. N., Pratama, F. M., & Sinaga, *Pengantar Ilmu Hukum*. (Cv. Intelektual Manifes Media., N.D.).

rechtsstaat (rule of law), which guarantees every citizen's right to safety, justice, and legal certainty.¹⁶ In Indonesia, the legal protection of psychology clients is based on three fundamental pillars: statutory regulations, professional codes of ethics, and consumer protection norms. Law No. 23 of 2002 on Psychological Education and Services explicitly states that one of the main objectives of psychological services is to provide legal protection and certainty for both clients and psychologists.¹⁷ In parallel, Law No. 8 of 1999 on Consumer Protection affirms the right of clients to accurate information, a sense of safety, and fair compensation in the event of loss or harm resulting from psychological services.¹⁸

The Indonesian Code of Ethics for Psychologists (HIMPSI, 2010), as well as the *APA Ethical Principles of Psychologists and Code of Conduct* (APA, 2017), both emphasize that psychologists are obligated to uphold the dignity, rights, confidentiality, and informed consent of their clients. Violations of ethical principles may result in professional sanctions, and if such violations cause real harm, they may be subject to legal proceedings. As service consumers, clients of psychological services are legally entitled to protection, accurate information, and compensation mechanisms for losses incurred. Consequently, psychologists bear legal responsibility for all aspects of the services they provide.¹⁹

Indonesian law categorizes clients of psychological services as consumers of professional services, thereby granting them the rights and protections stipulated in the Consumer Protection Act (Law No. 8 of 1999). Article 1(1) of the Act defines consumer protection as any effort that ensures legal certainty for safeguarding consumers. Article 1(2) further defines a consumer as any individual who uses goods or services available in society for personal, family, or others' benefit, and not for commercial resale. Article 2 establishes the foundational principles of consumer protection: benefit, justice, balance, safety, consumer security, and legal certainty.

Article 4 of the Consumer Protection Act explicitly guarantees a set of rights for consumers, which also apply to clients in psychological services. These rights include the right to comfort, security, and safety in using services, as well as the right to freely choose and obtain services in accordance with the promised value, conditions, and guarantees. Consumers are also entitled to truthful, clear, and honest information regarding the services and their guarantees, and they have the right to express opinions and file complaints about the services received. In addition, they are granted the right to advocacy, protection, and fair dispute resolution. The Act further emphasizes the right to consumer education and development, as well as the right to be treated fairly, honestly, and without discrimination. If the services provided do not conform to the agreement or the established quality standards, consumers

¹⁶ Jasin J., *Penegakan Hukum Dan Hak Asasi Manusia Di Era Otonomi Daerah*. (Deepublish., N.D.).

¹⁷ Kasmiati Et Al, *Etika Profesi Dan Hukum Kesehatan*, Vol. 32, 2021.

¹⁸ Dwi Juwita Runjani, "Perlindungan Hak Konsumen Dalam Perspektif, Amanda Tikha Santriati Sekolah Tinggi Agama Islam Nahdhatul Ulama, And Sekolah Tinggi Agama Islam Nahdhatul Ulama.," *Opinia De Journal* 2, No. 2 (2022): 32–51.

¹⁹ Montolalu T. C., "Tanggung Jawab Hukum Layanan Psikologi Terhadap Klien Di Perusahaan. Lex Administratum," 12, No. (5). (N.D.).

are entitled to compensation, redress, and/or replacement. Moreover, consumers retain other rights as stipulated by applicable legislation, thereby ensuring comprehensive protection of their interests.

These provisions underscore that psychology clients are not merely recipients of professional care but also legal subjects entitled to transparent, just, and secure services under the protection of national law. In the case of errors, negligence, or misconduct by a psychologist, clients have a legal right to claim damages or compensation as outlined in Articles 19 through 23 of the Consumer Protection Act.

Table 1. Regarding Consumer Rights in Psychological Services

Consumer Rights	Implementation in Psychological Services
Comfort, Safety, and Security	Services must be based on informed consent, avoid potential harm, and prioritize the client's mental well-being.
Accurate and Clear Information	Clients have the right to receive comprehensive explanations about the services, including potential risks, costs, and expected outcomes.
Right to Be Heard	There must be accessible procedures for both internal and external complaints, as well as mechanisms for post-service feedback.
Advocacy and Dispute Resolution	Clients must have access to professional associations (e.g., HIMPSI), the Consumer Dispute Settlement Board (BPSK), or legal channels in the event of disputes or damages
Compensation and Restitution	Clients are entitled to material and immaterial compensation in cases of legal or ethical violations.

According to Article 7 of Law No. 8 of 1999 on Consumer Protection, business actors—including psychologists—are legally required to uphold several key obligations in providing their services. They must act in good faith throughout the course of their professional activities and ensure that all information regarding the conditions and guarantees of their services is conveyed accurately, clearly, and honestly. Additionally, they are expected to treat consumers fairly, honestly, and without any form of discrimination. Business actors are also responsible for maintaining the quality of the services they offer to meet appropriate standards. Furthermore, they are obliged to provide compensation, reimbursement, and/or substitution in the event that consumers experience any loss resulting from the use of their services.

If a psychology client suffers losses due to services that do not meet standards or are harmful, Article 19 of the same law requires service providers to provide compensation in the form of a refund, replacement with equivalent services, or other appropriate forms of compensation, which must be delivered within seven days after the transaction. Dispute resolution can be carried out through the Consumer Dispute Resolution Agency (BPSK) or the courts, as stipulated in Articles 45 and 46. This process aims to provide legal protection to

consumers and ensure that they obtain justice in the event of a violation of their rights to obtain appropriate psychological services.²⁰

Articles 8 to 17 of the Consumer Protection Law further prohibit business actors including psychologists from providing services that do not meet quality standards, disseminating misleading information, including harmful standard clauses in service agreements, or engaging in any actions that may harm or psychologically disturb the consumer. Violations of these provisions may result in administrative or criminal sanctions (Articles 60–63), including fines, business closure, license revocation, or imprisonment, depending on the severity of the offense.

Thus, psychology clients, as consumers, are entitled to several fundamental rights under the Consumer Protection Law. They have the right to comfort, safety, and security when receiving psychological services, as stated in Article 4, letter (a). Clients are also entitled to honest and clear information regarding the process, potential risks, and expected benefits of the psychological services provided, in accordance with Article 4, letter (c), and Article 7, letter (b). Furthermore, in the event of malpractice or psychological harm, clients have the right to seek compensation as stipulated in Article 19. Lastly, they possess the right to file complaints and pursue dispute resolution through the Consumer Dispute Settlement Agency (BPSK) or through the judicial system, as regulated in Articles 45 to 47.

Psychologists are therefore required to provide services professionally, transparently, and responsibly, in full compliance with ethical codes and relevant regulations. Any form of material or non-material loss resulting from malpractice may be subject to legal claims under the provisions of Law No. 8 of 1999.

Perlindungan hukum bagi klien dalam layanan psikologis dapat dibagi menjadi dua bentuk utama: perlindungan preventif dan perlindungan represif.²¹ Preventive protection involves mechanisms such as informed consent, data confidentiality guarantees, client rights education, enforcement of professional ethics, and the obligation of service providers to be transparent about the psychological services offered. Repressive protection, on the other hand, includes the enforcement of ethical sanctions, compensation, and restoration of rights through legal processes in cases of serious violations or client losses.

The scope of responsibility in protecting psychology clients covers three main dimensions: ethical, civil, and criminal. Ethical responsibility relates to compliance with the professional code of ethics, with possible sanctions including official warnings, temporary suspension, or even revocation of professional licenses for violations. Civil responsibility arises when the actions of a psychologist cause harm to a client, requiring compensation for material and immaterial damages as stipulated in Article 1365 of the Civil Code (KUHPerdata). Meanwhile, criminal liability applies in cases of intentional violations or gross negligence,

²⁰ Bintang Mahardhika Puter, "Tanggung Gugat Rumah Sakit Dan Dokter Atas Tindakan Penolakan Pasien Dengan Alasan Habisnya Jam Kerja Sehingga Kondisi Pasien Mengalami Gangguan Psikologis Ditinjau Dari Undang-Undang Nomor 44 Tahun 2009 Tentang Rumah Sakit Dan Undang-Undang Nomor 29 Tahun 2004 Tentang Hak Konsumen Dan Perlindungan Bagi Konsumen," *Al Qodiri: Jurnal Pendidikan, Sosial Dan Keagamaan* 18, No. 21 (2020): 1–23.

²¹ Syahrul Ramadhon And Info Artikel, "Tangga Secara Preventif Dan Represif," 1945, 205–17.

which lead to legal consequences in the criminal justice system.

3.1 Gap Analysis in Legal Protection

One of the main findings in this study is the clear disparity in legal protection between physical injury in medical malpractice and psychological harm in psychological malpractice. Victims of medical malpractice who suffer physical injury can generally file compensation claims through civil and criminal legal channels based on the Health Act and the Consumer Protection Act.²² In contrast, clients of psychological services who experience psychological harm, such as recurring trauma, loss of self-confidence, or breaches of confidentiality, often receive only administrative ethical sanctions through professional organizations, without material compensation or restoration of dignity.²³

This discrepancy clearly contradicts the core tenets of consumer protection law, which mandates equal treatment for all forms of harm, whether physical or psychological.^{24,25} As mental health services become more prevalent and accessible, the legal system must evolve to provide equal safeguards and remedies for non-physical injuries resulting from professional misconduct in psychological care.

Table 2. Comparison of Legal Protection in Medical and Psychological Malpractice in Indonesia

Protection Aspect	Medical Practice	Psychological Service
Main Legal Framework	Medical Practice Law, Health Law	Psychological Services Law, Code of Ethics for Psychologists
Type of Harm	Physical: injury, disability, death	Psychological: trauma, loss of self-confidence
Compensation Mechanism	Clearly regulated (civil/criminal litigation pathways available)	Often limited to administrative ethical sanctions
Restitution of Rights	Material and immaterial compensation	Still limited; access to compensation mechanisms remains challenging
Complaint and Enforcement	Formal legal channels, including public court procedures	Often handled internally by professional organizations
Data Protection	Available, with relatively strong enforcement	Improving, but digital-era challenges remain

²² R. Dwitasari, A., Fauzi, A., & Rofiana, "Perlindungan Hukum Terhadap Pasien Korban Kelalaian Dokter Pada Klinik Kecantikan Ditinjau Berdasarkan Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan. Legalitas,," *Jurnal Ilmiah Ilmu Hukum*, 10, No. (1) (2025): 77-88.

²³ Maranatha M. A., "'Kasus Malpraktik Dalam Praktik Psikologi: Elizabeth Loftus Dan Jane Doe,'" 2022, <https://Andinimanik.Medium.Com/Kasus-Malpraktik-Dalam-Praktik-Psikologi-Elizabeth-Loftus-Dan-Jane-Doe-304eed32ca43>.

²⁴ Scott C., "Enforcing Consumer Protection Laws. In Handbook Of Research On International Consumer Law, Second Edition, Edward Elgar Publishing,," N.D., (Pp. 466-490).

²⁵ Himpsti, "Kode Etik Himpunan Psikologi Indonesia."

3.2 Case Study: Ethical Violations and Legal Recourse in Psychological Practice – The Loftus and Jane Doe Case

The international case involving Elizabeth Loftus and Jane Doe in the United States has become a pivotal point in discussions on ethical violations in psychological research.²⁶ This case raises critical concerns regarding informed consent, privacy rights, and the responsibility of psychologists to adhere to established ethical standards. In this case, Elizabeth Loftus, a renowned psychologist, conducted interviews with Jane Doe's family and published her findings without obtaining the subject's consent. The actions taken by Loftus led to the public disclosure of Jane Doe's true identity, which not only violated her privacy but also caused significant emotional distress. This case serves as an example of how professional misconduct can lead to severe consequences for both the participants involved and the broader field of psychology.

3.2.1. The Ethical and Legal Implications of the Loftus Case

From a legal standpoint, Loftus's actions clearly violated Jane Doe's right to privacy and the principle of informed consent, which are cornerstones of ethical psychological practice. Informed consent requires that individuals voluntarily agree to participate in a study with full knowledge of the potential risks, the nature of the research, and the use of any personal data. In this case, Jane Doe was not given the opportunity to provide informed consent for the publication of her personal information, making her a victim of ethical malpractice.²⁷

Furthermore, the breach of privacy occurred when Jane Doe's real identity was publicly disclosed without her consent. This action not only violated her privacy rights but also exposed her to public scrutiny and caused significant emotional distress. The psychological harm resulting from the disclosure of her identity highlights the need for robust legal protections for research participants, ensuring that their personal information remains confidential and that they retain control over how it is used.

In the United States, such actions are governed by laws such as the Health Insurance Portability and Accountability Act (HIPAA) and the Common Rule, which set standards for the protection of personal health information and require researchers to obtain informed consent from participants. Loftus's failure to follow these legal frameworks led to a legal and ethical crisis. From the perspective of psychological ethics, the violation of Jane Doe's rights was not just a professional misstep but a failure to uphold the ethical obligations set forth by the American Psychological Association (APA, 2017).

3.2.2. Ethical Violations in the Indonesian Context

This case is not unique to the United States. In Indonesia, there have been instances of similar ethical violations in psychological practice, particularly concerning the unauthorized disclosure of client data and conducting psychological assessments without adequate informed consent. The ethical guidelines in Indonesia, as outlined by the Indonesian

²⁶ M. A., "Kasus Malpraktik Dalam Praktik Psikologi: Elizabeth Loftus Dan Jane Doe."

²⁷ And H. A. Mau. Halim, R. S., T. Y. Chandra, "Pemenuhan Hak Restitusi Terhadap Korban Tindak Pidana Kelalaian Medis Di Indonesia." : 30," *Jurnal Multidisiplin Indonesia* 2, No. (9) (N.D.): 48–75.

Psychological Association (HIMPSSI, 2010), emphasize the importance of confidentiality and informed consent. However, the implementation of these ethical standards in practice remains inconsistent.

For example, there have been cases where psychological assessments were conducted without clients fully understanding the purpose of the evaluation or the potential consequences. In some instances, client data was shared without explicit consent, leading to breaches of trust and psychological harm. These ethical violations in Indonesia have often been resolved through administrative sanctions imposed by professional organizations such as HIMPSSI. These sanctions typically involve warnings, suspensions, or fines for the offending psychologists, but they rarely offer any form of material compensation or psychological rehabilitation for the affected clients.

The absence of a comprehensive legal framework for addressing ethical violations in psychological practice in Indonesia raises significant concerns. While administrative sanctions can serve as a deterrent, they do not provide adequate redress for victims who have suffered harm. The lack of legal recourse for clients who experience psychological harm as a result of professional misconduct highlights the need for a more robust legal infrastructure that ensures justice for affected individuals.

3.2.3. The Principles of Tort Law and the Need for Legal Reform

According to the principles of tort law, individuals who suffer losses—whether material or immaterial—as a result of professional misconduct are entitled to restitution. This includes compensation for financial losses, psychological distress, and damage to reputation. In the case of Jane Doe, the harm caused by Loftus’s unethical actions would warrant compensation for both the emotional distress she suffered and the damage to her personal reputation. However, under the current legal frameworks in both the United States and Indonesia, there are significant gaps in the enforcement of these rights in psychological malpractice cases.

Tort law serves as a mechanism for holding individuals accountable for actions that cause harm to others, providing a pathway for victims to seek redress. In the case of psychological malpractice, restitution can help restore a victim’s dignity and offer compensation for the distress and harm caused by unethical practices. In Jane Doe’s case, for example, appropriate restitution would include material compensation for any financial losses incurred as a result of the disclosure of her identity and emotional damages resulting from the public exposure of her personal information.

In contrast, relying solely on administrative mechanisms without judicial remedies undermines clients’ legal rights and fails to uphold the standards of justice expected in professional psychology practice. Administrative sanctions, such as warnings or suspensions, are important for maintaining professional standards. However, they do not address the full scope of harm caused by ethical violations, especially when the harm is psychological in nature. This is particularly problematic in cases like Jane Doe’s, where emotional distress and reputational damage cannot be adequately addressed by administrative actions alone.

3.2.4. Enhancing Indonesia's Legal Infrastructure for Psychological Clients

The comparison between the Loftus case in the United States and ethical violations in Indonesia underscores the need for legal reform in the country's psychological practice. Indonesia's current legal infrastructure for protecting psychology clients is insufficient, particularly when it comes to addressing psychological harm and ensuring that clients have access to legal recourse when their rights are violated. Although HIMPSI provides ethical guidelines for psychologists, there is no clear legal framework for clients to seek compensation or restorative mechanisms when they experience harm due to professional misconduct.

To address these issues, Indonesia needs to strengthen its legal infrastructure in several ways. First, there must be clearer legal standards for informed consent and confidentiality in psychological practice, with specific penalties for violations. Second, there needs to be a legal mechanism that allows clients to seek compensation for psychological harm, similar to the restitution available in tort law for other forms of professional malpractice. Finally, Indonesia should establish a judicial process for resolving disputes in psychological practice, ensuring that clients have access to legal remedies when ethical violations occur.

Improving the legal infrastructure for psychological services in Indonesia will not only help protect the rights of clients but also enhance the credibility and accountability of the profession. By ensuring that psychologists are held accountable for their actions and that clients have access to justice, Indonesia can create a more ethical and trustworthy environment for psychological practice.

4. CONCLUSION

The increasing demand for professional psychological services in Indonesia is driven by the high prevalence of mental disorders and growing public awareness of the importance of mental health. However, this surge in demand has not been matched by an optimal legal protection system for clients as consumers of psychological services. Strong legal protection is urgently needed, particularly in light of recurring ethical violations, data breaches, and malpractice cases that have yet to receive fair and comprehensive resolution. Legal instruments are already in place, including the Indonesian Code of Ethics for Psychologists, Law No. 23 of 2022 on Psychological Education and Services, and Law No. 8 of 1999 on Consumer Protection. These instruments guarantee clients the right to comfort, safety, honest information, and access to complaints and compensation mechanisms, particularly as stipulated in Articles 4, 7, 19, and 45–47 of the Consumer Protection Law. However, in practice, legal protection remains weak due to low levels of legal literacy, suboptimal implementation of informed consent procedures, and weak oversight and sanction enforcement. The core issue lies in the protection gap between physical harm resulting from medical malpractice and psychological harm resulting from psychological malpractice. Victims of psychological harm often receive only administrative ethical resolutions without sufficient material compensation or restoration of dignity. Therefore, strengthening legal protection for clients of psychological services in Indonesia must focus on regulatory harmonization, consistent enforcement of ethical codes, improved legal literacy, and the establishment of victim-centered sanctions and grievance

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