Rehabilitation of Victims of Sexual Violence through Restitution and Compensation: A Human Rights Perspective

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Abstract

This study examines the implementation of restitution and compensation for crime victims in Indonesia from a human rights perspective, focusing on the realization of the right to an effective remedy, substantive justice, and the protection of human dignity. It contributes to the academic discourse by critically evaluating the coherence between Indonesia's victim compensation framework and international human rights standards, while identifying institutional and doctrinal gaps that hinder effective victim protection. The research employs a normative-analytical legal approach, combining doctrinal analysis of statutory regulations, judicial decisions, and international human rights instruments with a structured literature review. The doctrinal analysis examines the legal framework governing restitution and compensation, whereas the literature review contextualizes scholarly debates and identifies interpretative inconsistencies within the regulatory regime. The analysis encompasses the Indonesian Criminal Code (KUHP), the Criminal Procedure Code (KUHAP), and legislation on victim protection. The findings reveal that although Indonesia has strengthened the legal basis for restitution and compensation, significant obstacles persist, including weak enforcement mechanisms, limited execution of court decisions, burdensome evidentiary requirements, fragmented institutional coordination, and the absence of a clearly defined state responsibility framework. These shortcomings prevent victims from obtaining effective and timely remedies. The study concludes that improving victims' access to justice requires not only legislative reform but also an integrated, accessible, and accountable institutional mechanism that aligns with international human rights principles and ensures the effective realization of victims' rights.

Keywords: *Restitution, Compensation, Victim Recovery, Human Rights, Rehabilitation*

Introduction

Modern criminal law development is fundamentally connected to strengthening the human rights paradigm as a normative underpinning for establishing a rule-of-law state. While criminal law was formerly viewed largely as

a tool of state authority to maintain public order and punish criminals, recent developments necessitate a more proportional balance between the interests of the state, perpetrators, and victims. The traditional, perpetrator-oriented model of criminal justice has frequently been found to place victims in a peripheral and passive role in the judicial process, resulting in insufficient protection, participation, and reparation for victims.[1] As a result, there is a significant drive to realign the justice system to a more victim-centered approach, with victims viewed as rights-holders in the law enforcement process. Normatively, enhancing the status of victims is based on the idea of human dignity, which is central to the modern human rights framework and demands that states not only punish abusers but also successfully rehabilitate victims.[2] Various international documents, like the United Nations Basic Principles on the Rights of Victims, assert that victims have the right to justice, decent treatment, and proper recompense.[3] The emergence of a restorative justice approach, which prioritizes restitution for victims' losses and the restoration of social ties rather than revenge against the criminal, furthers the shift toward victim-centered justice.[4]

From a human rights standpoint, every crime is viewed as a breach of both the rule of law and the victim's fundamental rights. The rights to security, physical and psychological integrity, property, and human dignity are some of the fundamental rights that the state must defend within a democratic legal framework.[5] A human

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[1] Shambhavi Gour, "Victim-Centric Justice in Criminal Law: A Critical Analysis of Victim Protection, Compensation and Restorative Mechanisms," *International Journal of Advanced Research and Multidisciplinary Trends (IJARMT)* 3, no. 1 (January 2026): 1–17, https://doi.org/10.65578/ijarmt.v3.i1.641.

[2] Ni Putu Rai Yuliartini, Dewa Gede Sudika Mangku, and Lukas Norman Kbarek, "Customary Law and Justice: Protecting the Rights of Women Victims of Sexual Violence in Bali," *Jurnal Hukum Novelty* 15, no. 2 (October 2024): 180–99, https://doi.org/10.26555/jhn.v15i2.28542.

[3] Robyn L. Holder and Albin Dearing, "Human Dignity, Rights and Victim Participation in Criminal Justice," *International Criminology* 4, no. 1 (March 2024): 108–19, https://doi.org/10.1007/s43576-024-00119-3.

[4] Indra Ardiansyah et al., "Taking Restitution Seriously?," *IJCLS (Indonesian Journal of Criminal Law Studies)* 10, no. 1 (May 2025), https://doi.org/10.15294/ijcls.v10i1.19636.

[5] Ni Putu Rai Yuliartini and Kadek Desy Pramita, "Analysis Of Workload, Rest Rights, And The Rights To Enjoy Entertainment In Gender Differences," *Jurnal Komunikasi Hukum (JKH)* 8, no. 1 (October 2022): 469–80, https://doi.org/10.23887/jkh.v8i1.47056.

rights-based approach views victims as individuals with normative claims to the state for adequate protection and restitution. Several victimology studies have found that the criminal justice system's inability to meet the demands of victims can prolong their suffering and undermine the justice system's legitimacy. Internationally, attention to victims' rights has increased since the United Nations adopted numerous principles and guidelines on justice for victims of crime and abuse of authority. These principles underline the state's positive obligation to guarantee victims receive justice and meaningful restitution. Redress encompasses more than monetary recompense; it also includes recognition of pain, psychological rehabilitation, and restoration of the victim's personal dignity.[6]

In Indonesia, criminal law reform through the revision of the KUHAP reflects a fundamental shift in the construction of the criminal justice system, with victims increasingly positioned as legal subjects with status and rights that must be recognized and protected normatively. This transition is intrinsically tied to the evolution of modern criminal law philosophy, which has moved away from the classical, perpetrator-oriented paradigm toward a more balanced approach that considers victims' interests as parties directly harmed by criminal acts.[7] Victims are no longer viewed as simple evidence or witnesses in the judicial process, but as legal entities entitled to protection, participation, access to information, and restitution for their losses.

Strengthening victims' positions in Indonesia's criminal justice system is also linked to the incorporation of human rights principles into national law. The right to an effective remedy is a fundamental concept that requires the state not only to enforce the law against perpetrators, but also to provide avenues for victims to achieve genuine restitution. From this perspective, restitution and compensation

[6] Ni Putu Rai Yuliartini et al., "From Retribution to Restoration: Human Rights-Based Legal Protection for Women Victims of Sexual Violence," *Jurnal Media Hukum* 32, no. 2 (November 2025): 281–300, https://doi.org/10.18196/jmh.v32i2.26214.
[7] Alwan Hadianto, "Urgensi Pembaharuan Kitab Hukum Acara Pidana Dalam Menjawab Tantangan Penegakan Hukum Modern Di Indonesia," *Jurnal USM Law Review* 8, no. 3 (December 2025): 2842–60, https://doi.org/10.26623/julr.v8i3.12820.

are considered fundamental parts of the criminal justice system, working to restore the equilibrium disrupted by criminal acts.[8]

Normatively, the victim's position is strengthened by a variety of laws and regulations that specifically protect victims' rights. The new Criminal Code (KUHP) considers the victim's interests in sentencing, including additional penalties such as a responsibility to recompense for damages. Meanwhile, the new KUHAP expands victim participation in the legal process, encompassing the investigation, prosecution, and trial stages.[9] This reflects an effort to incorporate victims' interests at every stage of the criminal justice system.

Furthermore, specific laws tighten victim protection and recovery restrictions, particularly those governing witness and victim protection. Within this framework, the state, through the Witness and Victim Protection Agency (LPSK), is responsible for ensuring that victims receive proper protection and access to recovery mechanisms, including restitution and compensation. The LPSK's position in this case is both administrative and normative, emphasizing the state's responsibility to protect victims' rights.[10]

Restitution, as an instrument for victim recovery, is generally defined as the perpetrator's obligation to recompense the victim for losses incurred as a direct result of the crime. In modern criminal law, restitution is used not just to hold the perpetrator accountable, but also to concretely restore the victim's status. Regulations governing restitution in the Indonesian legal system tend to broaden the scope of compensable losses, including immaterial losses within specific limits.[11]

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[8] Eny Suastuti et al., "Transformation and Effects of Human Rights Protection on Determining Corruption Suspects as a Pretrial Object under the Indonesian Criminal Justice System," *Lex Scientia Law Review* 8, no. 2 (November 2024): 817–58, https://doi.org/10.15294/lslr.v8i2.14667.

[9] Fahrizal S.Siagian, "Implementation of the Principle of Justice for Crime Victims in the Criminal Procedure Process in Indonesia Based on the Perspective of Natural Law Philosophy," *JUSTICES: Journal of Law* 4, no. 4 (November 2025): 300–311, https://doi.org/10.58355/justices.v4i4.215.

[10] Ratna Herawati, Willy Naresta Hanum, and Neni Nurjanah, "Regulating the Witness and Victim Protection Agency: Managing Safe Houses for Victims in Indonesia," *LITIGASI* 26, no. 1 (April 2025): 138–64, https://doi.org/10.23969/litigasi.v26i1.22510.

[11] I Wayan Budha Yasa, Ni Putu Rai Yuliartini, and Dewa Gede Sudika Mangku, "E-Relawan: Increasing Volunteer Interest and Performance through the Use of e-Volunteer Application Technology in

Meanwhile, compensation is viewed as a form of state responsibility to provide restitution to victims, particularly when the perpetrator cannot fulfill restitution commitments or when there is a strong public interest. From a normative standpoint, compensation reflects the realization that the state has an obligation to protect its citizens from the consequences of illegal activities and to guarantee that victims are not subjected to continued harm as a result of the perpetrator's failure to fulfill their commitments.[12] Strengthening restitution and compensation regulations reflects an effort to integrate restorative justice principles into the criminal justice system. Restorative justice emphasizes rebuilding relationships among perpetrators, victims, and the community, with victim recovery as a fundamental purpose of the justice system. Within this paradigm, restitution and recompense serve as concrete mechanisms for realizing this recovery.[13]

However, restitution and compensation policies still need to be strengthened, particularly by developing more systematic and cohesive norms. This requires unifying multiple laws and regulations governing victims' rights to avoid overlapping or inconsistent application.[14] Harmonizing these regulations is critical to ensuring that victims' rights are effectively applied in practice. Furthermore, improving procedural features of restitution and compensation legislation is an important part of criminal law reform. The mechanisms for submitting, assessing, and executing restitution must be clarified and structured to provide victims with legal clarity when accessing their rights. Similarly, compensation regulations should

Humanitarian Missions in Disaster Conditions in Bali Province," in *Jurnal USM Law Review*, vol. 4, 2022, 030003, https://doi.org/10.1063/5.0104114.

[12] Risha Shindyani Halim, Tofik Yanuar Chandra, and Hedwig Adianto Mau, "Pemenuhan Hak Restitusi Terhadap Korban Tindak Pidana Kelalaian Medis Di Indonesia," *Jurnal Multidisiplin Indonesia* 2, no. 9 (September 2023): 3048–75, https://doi.org/10.58344/jmi.v2i9.580.

[13] Bogi Yuliawan, Hartanto Hartanto, and Teguh Satya Bhakti, "Efektivitas Kebijakan Restitusi Dalam Perlindungan Hak Anak Korban Kejahatan Seksual," *Binamulia Hukum* 14, no. 1 (February 2025): 33–42, https://doi.org/10.37893/jbh.v14i1.1006.

[14] Atikah Rahmi, "Pemenuhan Restitusi Dan Kompensasi Sebagai Bentuk Perlindungan Bagi Korban Kejahatan Seksual Dalam Sistem Hukum Di Indonesia," *DE LEGA LATA: Jurnal Ilmu Hukum* 4, no. 1 (July 2019): 140–59, https://doi.org/10.30596/dll.v4i2.3173.

be designed to reflect the state's responsibility in a proportional and equitable manner.[15]

From an institutional standpoint, the LPSK, as an organization tasked with protecting witnesses and victims, is becoming more strategic in supporting the implementation of restitution and compensation rules. LPSK serves not only as a facilitator for submitting restitution and compensation applications, but also as an institution that guarantees victims' rights are recognized and protected at all levels of the criminal judicial system.[16] Strengthening the institutional capacity of the LPSK is an essential component of efforts to improve victim protection and recovery. Furthermore, theoretically, boosting victims' positions in the criminal justice system corresponds to a shift in the orientation of criminal law's objectives. While in the classical paradigm the fundamental goal of criminal law was vengeance for the culprit, in the current paradigm this goal has been expanded to encompass victim recovery. Within this perspective, restitution and compensation act as bridges between the repressive and restorative functions of criminal law.

Regulations governing victims' rights, including restitution and compensation, have a constitutional character, as the right to protection and recovery is one of the human rights protected by the constitution. As a result, tightening legislation governing victims' rights is not only a legal policy but also part of the state's constitutional commitment to protect individuals. In the framework of legal harmonization, restitution and compensation legislation must be matched with the many international legal instruments accepted by Indonesia, notably those relating to the protection of victims of crime.[17] This includes fundamental principles

[15] Dewa Gede Sudika Mangku, "Pemenuhan Hak Asasi Manusia Kepada Etnis Rohingya Di Myanmar," *Perspektif Hukum*, April 2021, 1–15, https://doi.org/10.30649/ph.v21i1.14.
[16] Budi Asafari and Fauzan Hakim, "Hak Restitusi Sebagai Perlindungan Terhadap Korban Tindak Pidana Pada Lembaga Perlindungan Saksi Dan Korban," *Ilmu Hukum Prima (IHP)* 6, no. 1 (April 2023): 120–29, https://doi.org/10.34012/jihp.v6i1.3227.
[17] Windy Claudia Yunus et al., "Analisis Terhadap Perlindungan Perempuan Korban Kekerasan Seksual Dari Segi Hak Asasi Manusia Dalam Sistem Hukum Positif Indonesia," *ALADALAH: Jurnal Politik, Sosial, Hukum Dan Humaniora* 2, no. 3 (May 2024): 34–62, https://doi.org/10.59246/aladalah.v2i3.855.

governing victims' rights to justice and healing, emphasizing the need for access to effective and non-discriminatory recovery processes. Thus, criminal law reform in Indonesia, which views victims as legal beings with rights that must be protected and fulfilled normatively, is part of the endeavor to build a more equitable and restorative criminal justice system. Within this framework, restitution and compensation serve not only as legal instruments but also as a reflection of the state's commitment to respecting victims' human rights and dignity within the criminal justice system.

Victim recovery includes two main instruments: restitution and compensation. Restitution is commonly defined as the perpetrator's obligation to recompense the victim for damages incurred as a direct result of the crime, whether material or immaterial. Compensation, on the other hand, refers to the state's obligation to provide reparation if the perpetrator cannot fulfill the obligation or in specific cases where the state is liable for a failure to protect. These two instruments recognize that criminal justice is more than punishment; it is also about restoring the balance upset by crime.

Although the normative principles governing restitution and compensation have advanced significantly, their practical execution still faces numerous problems. One major difficulty is the gap between these normative provisions and their actual execution on the ground. In many circumstances, court orders for restitution cannot be adequately executed because the perpetrator lacks financial resources or adequate enforcement procedures are lacking.[18] This raises fundamental questions about the effectiveness of victim protection and the criminal justice system's ability to ensure true restitution.

Furthermore, law enforcement officers' perceptions of the relevance of restitution and compensation as important components of victims' rights remain

[18] Indah Permatasari, Thea Farina, and Nuraliah Ali, "Restitusi Dan Perlindungan Hak Korban Tindak Pidana: Kebijakan, Tantangan Dan Praktiknya Di Pengadilan Negeri Kuala Kapuas," *Syntax Literate ; Jurnal Ilmiah Indonesia* 10, no. 2 (February 2025): 1167–78, https://doi.org/10.36418/syntax-literate.v10i2.55559.

mixed. In practice, the judicial process generally focuses on proving guilt and imposing punishment, with victim reparation as a secondary concern. However, from a substantive justice standpoint, victim reparation is an important factor in determining the quality of justice itself. Without sufficient reparation, punishing the culprit does not adequately address the crime's social and emotional consequences.

This issue is exacerbated when vulnerable groups are involved, such as female sexual abuse victims, children, individuals with impairments, and human trafficking victims. Victims of sexual abuse, for example, suffer not just economic losses but also psychological distress, social stigma, and disrupted social ties, which are difficult to quantify. In such cases, restitution and compensation procedures must account for minor losses while ensuring that recovery is more than just symbolic.[19] Furthermore, the development of restorative justice theory establishes a conceptual underpinning for improving victim healing methods. Restorative justice emphasizes communication, accountability, and rebuilding social ties in response to crime. Within this perspective, restitution is viewed not just as a financial responsibility, but also as a type of moral accountability by the perpetrator to the victim. However, applying a restorative strategy necessitates strict regulation to avoid forcing victims to accept unfair or disproportionate settlements.

According to human rights principles, the state must respect, defend, and fulfill the rights of victims. The need to respect means that the state must not prevent victims from seeking recourse. The commitment to protect requires the state to prevent anyone, including perpetrators, from impeding the exercise of victims' rights. Meanwhile, the commitment to fulfill requires the state to take the required legislative, administrative, and judicial actions to guarantee that victims obtain adequate restitution. As a result, the existence of a state compensation system serves as a safety net when restitution from the perpetrator is not possible.

[19] Rahma Mentari, "Mewujudkan Keadilan: Perlindungan Hukum Bagi Perempuan Korban KDRT Dalam Sistem Peradilan Pidana Indonesia," *SPECTRUM: Journal of Gender and Children Studies* 4, no. 1 (June 2024): 32–45, https://doi.org/10.30984/spectrum.v4i1.1019.

However, structural limits exist in governmental compensation mechanisms, such as budget constraints, cumbersome bureaucratic procedures, and a lack of victim rights outreach. As a result, not all victims who are eligible for compensation have effective access to it. This illustrates that criminal law reform cannot be limited to legislative changes; it must also include institutional capacity improvement and a shift in legal culture.[20] In the framework of a democratic state regulated by the rule of law, the legitimacy of the criminal justice system is critically dependent on its ability to provide justice, both officially and substantively.[21] Restitution and compensation are important signs of the system's ability to recognize and address victims' suffering. Without meaningful compensation, victims may face revictimization, which is the sense of being victimized again as a result of a legal process that is callous or indifferent to their needs.

As a result, research into restitution and compensation as instruments of victim healing is both important and necessary in the context of legal reform aimed at protecting human rights. A human rights-based analysis enables a more thorough normative assessment of national regulations' compliance with international standards, not only in terms of rights recognition, but also in terms of implementation and effectiveness. This approach allows for the systematic identification of numerous normative gaps, regulatory inconsistencies, and structural constraints influencing the implementation of victims' rights. Thus, restitution and compensation are no longer viewed as optional policies, but rather as state legal obligations founded on the principle of safeguarding and realizing human rights.

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[20] Dewa Gede Sudika Mangku et al., "The Position of Indegenous People in the Culture and Tourism Developments: Comparing Indonesia and East Timor Tourism Laws and Policies," *Journal of Indonesian Legal Studies* 7, no. 1 (June 2022): 57–100, https://doi.org/10.15294/jils.v7i1.52407.

[21] Ariyanti Panu, Roy Marthen Moonti, and Ibrahim Ahmad, "Reformasi Sistem Peradilan Pidana Anak Di Indonesia Antara Diversi, Restoratif, Dan Perlindungan Hak Anak," *Politika Progresif : Jurnal Hukum, Politik Dan Humaniora* 2, no. 2 (June 2025): 276–93, https://doi.org/10.62383/progres.v2i2.1885.

Against this background, this study develops a normative analytical framework that integrates four interrelated dimensions, namely substantive criminal law, procedural law, institutional capacity, and state obligations under international human rights principles concerning the right to an effective remedy. Unlike previous studies that primarily assess restitution and compensation from either regulatory or implementation perspectives, this research examines the coherence among these dimensions as a unified legal system for protecting victims' rights. Accordingly, this study analyzes whether the Indonesian legal framework governing restitution and compensation has achieved systemic coherence in legal substance, procedural mechanisms, institutional arrangements, and state responsibility, and evaluates the extent to which this coherence ensures effective victim recovery consistent with international human rights standards.

Methods

This study employs a normative legal research design to examine restitution and compensation mechanisms for victims of sexual violence in Indonesia. The research follows a sequential procedure consisting of four stages: (1) identification of relevant legal issues concerning victim restitution and compensation; (2) collection of legal materials; (3) classification and systematization of legal norms; and (4) analysis and interpretation of legal provisions in relation to human rights standards. The legal materials consist of primary and secondary sources. Primary legal materials include Law No. 39 of 1999 on Human Rights, Law No. 12 of 2022 on Sexual Violence Crimes, the KUHP, the KUHAP, and Law No. 31 of 2014 on Witness and Victim Protection. In addition, this study analyzes relevant international human rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Secondary legal materials consist of peer-reviewed journal articles, academic books, and

reports from international organizations focusing on victim protection, restorative justice, and compensation mechanisms.

The selection of legal materials was conducted purposively based on relevance to three criteria: (i) direct regulation of victim rights and compensation mechanisms; (ii) authoritative human rights standards applicable to state obligations; and (iii) scholarly works that critically discuss implementation gaps in victim reparation systems. The analysis used normative-interpretive legal analysis. Normative analysis examined the coherence and hierarchy of legal norms governing restitution and compensation within the Indonesian legal system. Interpretive analysis assessed how these norms align with human rights principles, particularly the rights to an effective remedy, access to justice, and non-discrimination. Where relevant, the study also identifies inconsistencies between statutory provisions and their practical implications to highlight structural gaps in implementation.

Discussion

Normative Construction of the Victim's Position in the Criminal Justice System

Indonesian criminal law reform through the enactment of Law Number 1 of 2023 concerning the KUHP and the KUHAP reflects a significant normative shift in how victims are constructed within the criminal justice system. Under the previous Criminal Code and the existing Criminal Procedure Code, criminal proceedings were predominantly offender-oriented, emphasizing the determination of criminal liability and the imposition of punishment while positioning victims primarily as witnesses in the evidentiary process. By contrast, the reformed legal framework more broadly recognizes victims as rights-holders by incorporating provisions on restitution, victim participation, and consideration of victims' interests in sentencing. This transition demonstrates an attempt to move beyond a purely

retributive model toward a more balanced criminal justice system that accommodates both offender accountability and victim recovery.[22]

The victim's position in this framework is not framed as a legal subject with independent interests, but rather as part of a procedural process that aids law enforcement. This is reflected in the inadequate normative laws governing victims' rights, both in terms of protection and compensation. Because criminal law is primarily concerned with the relationship between the state and the perpetrator, the interaction between victims and the criminal justice system is not adequately defined within a normative framework.[23] As a result, victims' interests are often fragmented and not consistently addressed throughout the criminal justice system.

This normative reconstruction, however, should not be understood merely as a conceptual transformation. A comparison between the previous and the current regulatory framework demonstrates that although victims now enjoy broader procedural recognition, the reforms have not yet fundamentally altered the structure of criminal justice. The previous legal regime provided only limited mechanisms for victim participation and largely relied on separate legislation concerning witness and victim protection. The current reforms, by contrast, integrate victims' interests more explicitly into substantive criminal law and procedural guarantees. Nevertheless, these reforms remain primarily normative in character, as several implementing mechanisms necessary for ensuring effective victim recovery continue to face institutional and procedural limitations.

This strengthening of normative construction is also associated with the emergence of a victimology approach in criminal law studies, which places the victim at the center of analysis when determining the consequences of criminal acts. This perspective leads to the development of legal norms that are more responsive

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[22] Ni Putu Rai Yuliartini, "Kedudukan Korban Kejahatan Dalam Sistem Peradilan Pidana Di Indonesia Berdasarkan Kitab Undang-Undang Hukum Acara Pidana (Kuhap)," *Jurnal Komunikasi Hukum (JKH)* 1, no. 1 (February 2015), https://doi.org/10.23887/jkh.v1i1.5006.

[23] Gatot Sugiharto, Fithriatus Shalihah, and Annisa Elda Octivia, "Sexual Violence Against Female Labour in the Perspective of Employment Law and Legal Justice," *Substantive Justice International Journal of Law* 7, no. 1 (May 22, 2024): 13, https://doi.org/10.56087/substantivejustice.v7i1.271.

to victims' interests, such as acknowledging the various types of losses suffered, both tangible and immaterial. Thus, victim-related regulations are no longer restricted to procedural concerns, but increasingly include substantive dimensions such as rights restoration and protection.[24]

The incorporation of victims' interests into the reformed Criminal Code constitutes an important normative development because it recognizes restitution as one of the legal consequences of criminal offending and requires courts to consider victims' interests in sentencing. Similarly, the reform of criminal procedure seeks to strengthen victims' access to information and procedural participation throughout the investigation and trial process. Nevertheless, when assessed against international human rights standards, particularly the principle of the right to an effective remedy under Article 2(3) of the ICCPR and the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), these reforms have not yet fully achieved substantive protection. Victim participation remains largely dependent upon procedural discretion, while the effectiveness of restitution continues to be constrained by execution mechanisms and institutional capacity. Consequently, the reforms represent significant normative progress without yet guaranteeing effective realization of victims' rights in practice.

The strengthening of victims' positions is also fundamentally connected to the influence of human rights principles, which are increasingly embedded in the national legal system. The right to protection and compensation is a fundamental right that requires normative safeguards from the state. In this context, the state must not only enforce the law against perpetrators, but also ensure that victims are adequately protected and have access to accessible restitution methods. This idea broadens the scope of state accountability in the criminal justice system, allowing it to serve more than only oppressive purposes. Furthermore, the strengthening of normative construction regarding victims is also reflected in more specific

[24] Fahrizal S.Siagian, "Implementation of the Principle of Justice for Crime Victims in the Criminal Procedure Process in Indonesia Based on the Perspective of Natural Law Philosophy."

regulations through legislation outside the Criminal Code and the Criminal Procedure Code, particularly those governing witness and victim protection. These regulations provide a more detailed legal basis for victims' rights, including mechanisms for physical, psychological, and legal protection, as well as access to restitution and compensation. The presence of these norms demonstrates efforts to build a more structured and integrated victim protection system within the national legal framework. This assessment is consistent with contemporary victim-centered justice theory, which argues that criminal justice should be evaluated not solely by its capacity to punish offenders but also by its ability to recognize victims as autonomous rights-holders whose dignity, participation, and recovery constitute essential components of justice. Likewise, procedural justice theory emphasizes that meaningful participation, transparency, and access to information are indispensable elements of legitimate criminal proceedings. From a rights-based criminal justice perspective, therefore, the effectiveness of victim protection depends not merely on formal legal recognition but on the practical availability of accessible and enforceable remedies capable of restoring victims' rights.

In the procedural dimension, strengthening the victim's position is linked to regulations governing access to the court process. Victims have the right to receive information on the stages of the legal procedure, including developments in the investigation, prosecution, and trial. Access to this information has significant normative consequences for transparency and accountability in the criminal justice system. Furthermore, victim participation in the judicial process is being accommodated by allowing them to express their points of view within the legal bounds.[25]

From a systemic standpoint, this shift in normative construction reflects a shift in the interaction between the state, perpetrators, and victims in the criminal justice

[25] Nazla Husnayain, "Politik Hukum Terhadap Integrasi Keadilan Restoratif Dalam Praktik Penegakan Hukum Di Indonesia," *Jurnal Ilmiah Advokasi* 13, no. 3 (September 2025): 1006–20, https://doi.org/10.36987/jiad.v13i3.7534.

system. The traditionally bilateral relationship between the state and criminals has become more complex, with victims now recognized as independent legal objects. This transformation necessitates changes in a variety of legal areas, including the development of norms, institutional design, and procedural mechanisms to facilitate the enforcement of victims' rights.

Strengthening victims' positions within the criminal justice system is also linked to the need to establish a legal strategy that is more sensitive to the social consequences of criminal acts. In this light, criminal law is viewed not only as a tool for enforcing standards but also as a means of restoring the social equilibrium disrupted by criminal activity. This method puts victims at the center of the court process, making their demands and interests an intrinsic part of legal decisions.

From a normative standpoint, this growth necessitates consistency and coherence in the regulation of victims' rights across several laws and regulations. Synchronization between norms is crucial to avoid conflicts or overlaps that could impact legal certainty. In addition, the formulation of more systematic and structured norms is also needed to ensure that victims' rights can be implemented effectively in criminal justice practices.[26]

Thus, criminal law reform that recognizes victims as legal objects reflects the evolution of the national legal system, which is increasingly accommodating concepts of justice geared toward victim protection and recovery. Normatively, victims are recognized as legal subjects in regulations that grant them particular rights, such as the right to protection, the right to participate in the judicial process, the right to information, and the right to restitution. These rights are not only declarative in nature; they also have legal ramifications that necessitate actual systems within the criminal justice system.

[26] Reza Faizal, Holijah Holijah, and K.A. Bukhari, "The Constitutional Position of the Public Prosecutor's Office in Implementing Restorative Justice: A Constitutional Law Perspective and the Concept of Maslahah in Fiqh Siyasah," *Jurnal Mediasas: Media Ilmu Syari'ah Dan Ahwal Al-Syakhsiyyah* 8, no. 4 (January 2026): 974–1007, https://doi.org/10.58824/mediasas.v8i4.507.

Accordingly, the normative reconstruction of victims' position within Indonesian criminal law represents an important legal development, but it should not be interpreted as the completion of victim-oriented criminal justice reform. Comparative analysis demonstrates that the current reforms have significantly expanded the legal recognition of victims compared with the previous legal framework. Nevertheless, when evaluated through the principles of effective remedy, access to justice, victim participation, and substantive justice developed in international human rights law, important normative and institutional deficiencies remain. These findings support the argument advanced in contemporary victimology literature that meaningful victim protection requires not only legislative recognition but also coherent procedural design, institutional capacity, and effective enforcement mechanisms that translate legal rights into practical justice.

Restitution as an Instrument of Restoration from a Criminal Law and Human Rights Perspective

In the Indonesian criminal law system, restitution is a type of direct accountability from the perpetrator to the victim for damages incurred as a result of the crime, including sexual violence.[27] Conventionally, restitution is predicated on an additional penalty or legal duty imposed by a court decision. This illustrates that restitution is no longer limited to the civil domain but has been integrated into the criminal law system. This integration reflects the development of criminal law's function, which is not only concerned with punishing the perpetrator but also includes victim recovery as part of the goal of just sentencing.

From a human rights standpoint, restitution demonstrates the victim's entitlement to an effective remedy. This idea is consistent with the principles of Law No. 39 of 1999 on Human Rights, which states that everyone has the right to

[27] Endrianto Bayu Setiawan et al., "The Indonesian Criminal Law System's Progression in Sexual Assaults Regulation," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, December 2022, 161–77, https://doi.org/10.24090/volksgeist.v5i2.6690.

protection and recompense for human rights breaches. This entitlement encompasses restitution for both monetary and intangible damages, as well as physical, psychological, and social distress suffered by victims of sexual abuse. Reparation is not simply a compensating mechanism; it also recognizes the victim's dignity and supports substantive justice. Under the CEDAW, nations are required to guarantee that women who have been victims of violence, including sexual violence, have effective access to justice and remedies.[28] This obligation includes providing gender-responsive legal mechanisms, such as reparations, as part of victim protection. Given the characteristics of sexual abuse, which frequently place women in vulnerable positions and face structural impediments to accessing justice, restitution must be implemented with a gender perspective in mind.[29]

Restitution, as a restoration instrument under criminal law and human rights, reflects not only the perpetrator's individual culpability but also the state's commitment to ensure the victim's rights are protected, fulfilled, and respected. Optimizing the restitution mechanism is critical to ensuring that the criminal justice system not only punishes the culprit but also actually restores the victim in a fair, dignified, and long-term manner.

In normative construction, restitution is positioned as a legal consequence of a criminal act that causes losses, both tangible and, to some extent, immaterial. Material losses include property damage, crime-related charges, and other objectively verifiable economic losses. Meanwhile, immaterial losses refer to psychological pain, trauma, or disturbance to the victim's quality of life, and are now being acknowledged as part of the purpose of restitution in some regulatory

[28] Hassan Ismaila Adebowale et al., "Examining Labour Laws Framework in the Protection of Domestic Workers against Violence in Uganda," *Kampala International University Law Journal* 7, no. 2 (December 3, 2025): 158–68, https://doi.org/10.59568/KIULJ-2025-7-2-11.
[29] Lukas Permadi Orlando Beremanda, Hafrida Hafrida, and Elizabeth Siregar, "Prinsip Keadilan Restoratif Dalam Penghentian Penuntutan Melalui Kompensasi Dan Restitusi," *PAMPAS: Journal of Criminal Law* 4, no. 2 (July 2023): 277–87, https://doi.org/10.22437/pampas.v4i2.26483.

regimes. This extension reflects a shift in the legal approach to victim losses, from solely economic to more holistic.[30]

Restitution is distinct from civil lawsuits as it pertains to criminal law. While requests for compensation in civil law are brought separately by the injured party, restitution in criminal law can be integrated into the criminal justice process without separate litigation. This has normative implications for victims' efficiency and accessibility in seeking restitution, as they are not burdened with additional processes outside of the ongoing criminal process. Restitution thus connects criminal and civil law in the context of redress.

The regulation of restitution in the national legal system reveals a connection to the notion of restorative justice. Within this perspective, restitution is viewed not only as a financial duty but also as a manner of acknowledging the perpetrator's responsibility for the consequences of their acts. Restitution relates the perpetrator's accountability to the victim's recovery, adding a substantive dimension to the criminal law enforcement process. This strategy incorporates victim recovery within the criminal justice system's objectives.

Generally, the inclusion of restitution in court decisions has ramifications for the structure of the sentence. Restitution does not stand alone; it can be paired with other forms of punishment, both principal and supplemental. This demonstrates that the prison system is no longer a unified organization, but rather a pluralistic one that serves a variety of purposes, including victim rehabilitation. In this setting, restitution becomes a tool for expanding the range of sanctions available in criminal law.

Furthermore, restitution regulations relate to procedural parts of the criminal judicial system. The methods for applying for restitution, establishing losses, and deciding the amount of compensation are all part of the normative framework that

[30] Omolabake Ogunwande, "Legal Framework on the Protection of Migrant Women in Domestic Work against Exploitation in Nigeria," *Kampala International University Law Journal* 7, no. 2 (December 3, 2025): 169–84, https://doi.org/10.59568/KIULJ-2025-7-2-12.

regulates how victims' rights are executed. Proving losses, for example, requires evidentiary standards that can accommodate the various types of losses experienced by victims, without compromising the principle of legal certainty.[31] In this regard, the law is required to formulate clear criteria regarding the types and amounts of losses that can be used as a basis for granting restitution.

Furthermore, the implementation of restitution as part of a court ruling has normative implications due to the decision's binding and coercive force. Restitution ordered by a court has legal power and is binding on the perpetrator, making its implementation part of the criminal penalty. This underlines that restitution is not voluntary, but rather a legal obligation that the perpetrator must fulfill as part of the punishment for their crime.

In an institutional framework, restitution regulation includes the roles of numerous institutions within the criminal justice system, such as law enforcement officials and victim-protection organizations. These institutions are involved in the process of enabling restitution applications, validating losses, and monitoring the execution of the decision's execution. This illustrates that restitution is more than just a substantive norm; it also requires proper institutional support to be implemented.

Furthermore, fundamentally, restitution has a preventive component in criminal law. The responsibility to recompense for damages can influence human behavior since violators face not only criminal penalties but also financial implications for their actions. Thus, restitution can help to increase the deterrent effect of criminal law, even if its primary goal remains victim recovery.

Regulations relating to restitution highlight the necessity to increase norm consistency and systematicity in the context of future legal developments. This entails unifying the numerous regulations governing restitution and developing

[31] Hendro Widodo et al., "Restitution as an Instrument of Justice for Victims of Domestic Sexual Violence: A Study of Positive and Islamic Law in the Contemporary Era," *MILRev: Metro Islamic Law Review* 4, no. 1 (June 2025): 676–99, https://doi.org/10.32332/milrev.v4i1.10436.

more precise guidelines for substantive and procedural matters. This strengthening is linked to efforts to ensure that restitution can serve as an effective legal tool for offering reparation to victims of criminal acts.

From a modern criminal law perspective, restitution serves more than only compensating for losses. Restitution reflects the restorative justice idea, which emphasizes the necessity of rebuilding the connection between the perpetrator and the victim, as well as concretely restoring the victim's situation. As a result, the scope of restitution is not confined to actual losses, but can also include immaterial losses as long as they can be defined normatively.

The development of the function of restitution corresponds to a shift in the direction of criminal law, which no longer focuses simply on retributive justice but also includes restorative justice as part of the purpose of punishment. Within this perspective, restitution is viewed as more than just a financial obligation, but as a legal tool with ethical and social dimensions that connect the perpetrator's accountability to the victim's healing needs. Restitution acts as a channel for acknowledging the victim's losses and as a tangible expression of the perpetrator's culpability for the repercussions of their conduct.[32]

In normative construction, the recognition of immaterial losses in restitution reflects a shift in how the law perceives the consequences of illegal conduct. Losses are no longer restricted to statistically measurable economic aspects; they also include the psychological, emotional, and social characteristics that victims face. Recognizing immaterial losses necessitates the development of standards that can handle this complexity, including establishing the dimensions, criteria, and limits that can be utilized to give restitution. As a result, the law must adopt a more adaptable approach when developing proof criteria and assessing non-material losses.

[32] Nur Aripkah et al., "The Relevance of the Concept of Cyberfeminism in a Policy Perspective Based on Digital Gender Equity in Indonesia," *Lex Scientia Law Review* 8, no. 2 (November 30, 2024), https://doi.org/10.15294/lslr.v8i2.13751.

Furthermore, in the context of restorative justice, restitution is not an isolated instrument, but rather part of a larger process involving contacts between the perpetrator, the victim, and, to some extent, the community. In this setting, restitution serves both symbolic and substantive roles, as the perpetrator's performance of duties affects not only the victim's healing but also the restoration of social relationships damaged by the crime. This component distinguishes restitution as a legal device that focuses on both outcomes and processes within the context of settling criminal cases.

From a legal system standpoint, broadening the scope of restitution necessitates the convergence of substantive and procedural norms. Substantive norms cover the types of losses that qualify for restitution, whereas procedural norms address the methods for submitting, analyzing, and assessing reparation in the criminal justice system. The integration of these two features is critical for ensuring that normative recognition of victims' rights may be properly implemented in judicial practice.

Furthermore, extending the restitution function has implications for judges' roles in the criminal justice system. Judges are responsible not only for deciding the perpetrator's responsibility and the sort of punishment imposed, but also for determining the amount and type of damages that should be paid to victims as restitution. This necessitates a more complete assessment technique that takes into account a variety of factors concerning the impact of the crime on the victim. In this regard, restitution broadens the extent of judicial authority within the framework of criminal punishment.

From a broader normative perspective, restitution as part of restorative justice strengthens victims' positions within the criminal justice system. By acknowledging many types of loss, including immaterial losses, the law legitimizes victims' experiences in legal proceedings. This illustrates that criminal law serves not only as an instrument for social control against perpetrators, but also as a means of identifying and safeguarding victims.

This trend also highlights the need for more explicit and rigorous regulations governing the extent and limits of restitution, particularly in the case of immaterial losses. This formulation comprises definitions, criteria, and assessment procedures for ensuring that restitution is awarded proportionally and in accordance with the principle of justice. In this sense, the law must strike a balance between flexibility in accommodating different types of loss and the necessity for legal certainty in its application.

The clauses involving restitution in various laws and regulations show efforts to bolster victims' positions in pursuing redress. However, from a normative standpoint, a more systematic restitution mechanism is still required, particularly in terms of processes for filing claims, verifying damages, and carrying out court orders. The clarity of rules in these areas is critical to ensuring legal certainty and effective victim protection.

Compensation as a Manifestation of State Responsibility

Compensation in the criminal justice system symbolizes the state's obligation to compensate victims, especially when the perpetrator cannot fulfill their reparation duties. Normatively, compensation reflects the state's commitment to protect citizens from the consequences of illegal conduct and to ensure that victims do not face the burden of losses alone. This conception places the state not only as a law enforcement officer responsible for imposing sanctions on abusers, but also as a public institution accountable for ensuring that victims' rights are upheld within the criminal justice system.

In modern criminal law, compensation reflects the state's positive obligations in the context of human rights protection. The state is responsible not just for preventing and prosecuting criminal acts, but also for providing victims with easily available restitution options. In this perspective, compensation represents the state's direct involvement in the reparation process, especially when restitution methods are unsuccessful. As a result, compensation differs from restitution in

normative terms, both in terms of the obligation's origin and philosophical underpinning.

Conceptually, compensation is based on the notion that the state's failure to prevent criminal activities or protect its inhabitants from the consequences of crime imposes specific obligations. Within this context, compensation is viewed not just as a form of social assistance but also as a legal right of victims derived from state obligations. As a result, legislation governing compensation necessitates the development of norms that offer certainty about the criteria, processes, and scope of compensation provided to victims.

In the normative construction of national law, compensation is often granted for particular types of crimes that have a major impact on victims, such as gross human rights breaches or crimes that cause significant suffering. These limits reveal that compensation is selective and depends on certain legal and policy issues. This is not the same as restitution, which can be applied for in a variety of offenses as long as there is a provable loss.

Compensation legislation is also strongly tied to institutional features, specifically the role of the agency charged with processing and distributing compensation to victims. In Indonesia, the LPSK is a key component of this structure. The LPSK's role is to verify, appraise, and propose compensation recommendations, which form the basis for the state in enforcing victim rights. This institution's engagement indicates that remuneration is more than just a substantive standard; it also requires proper institutional support.[33]

From a procedural standpoint, compensation requires a clear, structured procedure, beginning with the victim's application and progressing through verification and evaluation to the determination and distribution of compensation. Each stage has normative implications for victims in terms of legal certainty and

[33] Dewa Gede Sudika Mangku and Ni Putu Rai Yuliartini, "Legal Protection Towards Workers With Disabilities In Bali Province," *Administrative and Environmental Law Review* 2, no. 2 (December 2021): 61–70, https://doi.org/10.25041/aelr.v2i2.2428.

accessibility. As a result, creating straightforward, transparent, and accountable procedures is critical in developing legal frameworks for compensation.

Furthermore, from a normative standpoint, compensation refers to the recognition of various types of losses suffered by victims. According to advancements in modern criminal law, the losses that form the foundation for compensation are not confined to tangible losses, but can also include immaterial losses such as psychological anguish and the social consequences of the crime. This recognition reflects a more thorough approach to understanding how criminal activities affect victims.

Within the legal system, compensation and restitution are complementary. These two instruments are not mutually exclusive; rather, they work together to ensure victim healing. Restitution focuses on the perpetrator's accountability, whereas compensation emphasizes the state's duty. This interdependence necessitates coordinated regulation to prevent overlapping or legal gaps in implementation. Furthermore, compensation has a normative dimension that relates to the distributive justice concept. The state redistributes resources through compensation measures to guarantee that victims do not suffer long-term consequences as a result of illegal activity. In this sense, compensation symbolizes the state's responsibility for maintaining social balance and protecting disadvantaged populations.

The development of compensation legislation is also linked to the need to improve the integration of numerous laws and regulations controlling victim protection. Synchronization of norms is critical to ensuring that the right to reparation is consistently available across different criminal settings. Furthermore, strengthening norms entails developing clearer criteria for the sort of crime, the victim category, and the type of loss that can be used to determine compensation.

Within the national legal framework, compensation regulations show a change from an individualistic approach to one that acknowledges the public dimension of criminal behavior. In this individualistic approach, criminal acts are regarded as a

relationship between the perpetrator and the victim that is handled through a personal accountability process, with the perpetrator solely responsible for the victim's recovery. However, as modern criminal law has evolved, criminal acts have come to be viewed as occurrences that not only affect the individual victim but also undermine social order and the public interest. Within this framework, the state is present as an entity responsible for ensuring that the impact of criminal acts does not cause lasting harm to victims.[34]

This shift in orientation reflects the state's expanded role in the criminal justice system. The state is no longer just a law enforcement agency entrusted with identifying, prosecuting, and punishing perpetrators; it is also an actor with a normative role to ensure victim healing. This obligation is founded on the notion of human rights protection, including the rights to security, protection, and an effective remedy. In this setting, compensation becomes an instrument of law that reflects the state's responsibility to ensure that victims obtain restitution, even if the perpetrator's accountability systems fail to function properly.

Normatively, acknowledging the public dimension of criminal conduct has implications for how the law frames the relationship between the state and victims. Victims are no longer viewed solely as private parties who must fight for their rights individually, but rather as legal subjects with claims against the state for the fulfillment of their rights. These claims are supported by legal restrictions that define compensation as a right available to victims under certain conditions. As a result, compensation becomes part of a legal framework that integrates personal interests with public responsibilities.

Compensation differs from restitution in terms of both the source of the duty and the mechanism for carrying it out. Compensation originates from state accountability, whereas restitution stems from the perpetrator's obligations. This

[34] Irsyad Zamhier Tuahuns, "Pendekatan Integral Dalam Kitab Undang Hukum Pidana (KUHP) Dihubungkan Melalui Rekonstruksi Sistem Pemidanaan Berbasis Relasi Sosial," *Bulletin of Law Research*, December 2025, 29–39, https://doi.org/10.65344/bleach.v2i2.156.

distinction creates a key difference in the legal framework for victim reparation: restitution is grounded in human responsibility, whereas compensation is grounded in state responsibility. In this context, restitution reflects the legal relationship between the criminal and the victim, whereas compensation represents the legal relationship between the state and the victim.

In terms of implementation procedures, restitution is typically incorporated into the criminal justice system and established by a court decision binding on the culprit. In contrast, compensation operates through a more administrative-institutional system, with specialized organizations involved in submitting, verifying, and determining compensation. This distinction in methods illustrates that compensation is not based on the perpetrator's ability or willingness, but rather on a state-established system that ensures the fulfillment of victims' rights. Within this paradigm, compensation functions as a normative safety net, ensuring that victims continue to obtain reparation in a variety of circumstances.[35]

The distinctions between restitution and compensation have ramifications for the scope of respective legislation. Restitution has a larger reach because it can be used to a wide range of crimes as long as there is a provable loss. Meanwhile, compensation is typically governed by specific criteria based on the type of crime, the degree of the damage, or the victim's unique circumstances. This selective regulation reflects legal policy considerations for assessing the scope of governmental duty.

From a normative standpoint, the existence of these two instruments necessitates precise and coordinated regulations to avoid overlapping or legal vacuums. This coordination addresses not only the conceptual distinction between restitution and compensation but also the establishment of a functional relationship between the two within a unified legal system. In this regard, rules are required that expressly regulate the interaction between the two instruments, including

[35] Sokhib Naim et al., "Perwujudan Restitutio in Integrum Sebagai Hak Anak Korban Tindak Pidana," *Jurnal USM Law Review* 8, no. 3 (October 2025): 1683–96, https://doi.org/10.26623/julr.v8i3.12668.

fundamental principles that determine when each instrument is employed and how they might be integrated into a long-term healing mechanism.

Determining the relationship between restitution and compensation is critical, especially in terms of priority of completion, transition mechanisms, and the possibility of combining the two. Normatively, restitution, as the perpetrator's obligation, takes precedence in redressing the victim's losses. However, in other cases—such as when the perpetrator is unable to fully fulfill the obligation—regulations are required that allow for state intervention through compensation as a complementary mechanism. To avoid doubt in execution, legal norms must specifically limit the boundaries of the perpetrator's inability, as well as verification methods and procedures for passing partial responsibility to the state.

Furthermore, the potential of combining restitution and compensation necessitates the systematic development of norms. This combination concerns not only the allocation of blame between the culprit and the state, but also ensuring that the victim receives complete restitution. As a result, regulations governing a coordinating mechanism are required to guarantee that compensation is subsidiary or supplementary to the perpetrator's reparation obligation rather than eliminating it. In this approach, both instruments can work together to provide effective victim restitution.

Furthermore, coordinated regulation refers to the synchronization of laws and rules controlling restitution and compensation.[36] In pluralistic legal systems, regulations governing victim redress are frequently dispersed throughout multiple regulations with varying scopes, each with its own normative approach. In this case, norms must be harmonized in order to assure uniformity and legal certainty in their application. This harmonization comprises harmonizing the definition of victims, the sorts of losses that can be recovered, the criteria for granting restitution and

[36] Paul Atagamen Aidonojie et al., "Legal and Ethical Regulation on Childcare Digital Health System in Nigeria and Uganda: Issues and Challenges," *Trunojoyo Law Review* 8, no. 1 (March 2, 2026): 27–58, https://doi.org/10.21107/tlr.v8i1.32980.

compensation, the application procedures, and the institutions' ability to carry them out.[37]

In this dimension, harmonization must also address the consistency of substantive and procedural rules, ensuring that there is no disparity between the acknowledgment of rights and the means for their implementation. Without such alignment, inconsistencies in practice remain possible, decreasing the efficiency of victim protection. As a result, harmonization must focus on creating a legal framework that is both legally and operationally coherent in its application.

In the institutional dimension, coordination between restitution and compensation entails the duties of numerous institutions in the criminal judicial system. Law enforcement personnel, victim protection organizations, and other relevant institutions must all grasp the status and function of each instrument. This shared knowledge is critical to ensuring uniformity in norm interpretation and application, thereby eliminating differences in practice among institutions.

Moreover, institutional coordination must take the form of a structured working mechanism that includes a defined division of tasks, information-exchange processes, and a monitoring system for implementing victim recovery efforts. With such a mechanism, the recovery process does not rely solely on individual institutions' initiatives but operates within an integrated and mutually supportive system. This will ultimately ensure that victims' rights to restitution and compensation are implemented effectively, consistently, and fairly within the framework of the Indonesian criminal justice system.

The Role of the Witness and Victim Protection Agency in National Legal Construction

The LPSK plays a critical role in the Indonesian criminal justice system, particularly in victim protection and healing. Normally, the LPSK is responsible for

[37] Irawan Adi Wijaya and Hari Purwadi, "Pemberian Restitusi Sebagai Perlindungan Hukum Korban Tindak Pidana," *Jurnal Hukum Dan Pembangunan Ekonomi* 6, no. 2 (February 2018), https://doi.org/10.20961/hpe.v6i2.17728.

protecting witnesses and victims and facilitating the implementation of victims' rights, such as restitution and compensation. This mandate positions the LPSK not just as a supportive institution but as an intrinsic part of the criminal justice system's design, focused on victim protection and recovery.[38]

Within the national legal framework, the LPSK's position reflects an understanding that victim protection necessitates a specialized and structured institutional approach. Regulations governing the LPSK show a division of functions within the criminal justice system, with victim protection delegated not only to traditional law enforcement agencies like the police, prosecutors, and courts, but also to independent institutions with specific mandates. This distinction increases the normative dimension of victim protection by introducing a process that is more focused and sensitive to victims' demands.

The LPSK's goal is more than just administrative; it also has a legal dimension that strengthens the application of legislative norms concerning victim protection. In terms of reparation, the LPSK assists victims in filing petitions and ensuring that their rights are respected during the legal procedure. This involvement includes providing help, verifying losses, and enabling contact between victims and law enforcement officers. In this context, the LPSK acts as a normative liaison, bridging the gap between victims' rights recognized by statute and their application in the criminal justice system.

Meanwhile, in terms of compensation, the LPSK serves as an entity that processes and proposes compensation for victims. This function indicates the LPSK's important involvement in the recovery mechanism, which is based on state responsibility. The LPSK's verification and assessment processes are part of the normative framework that determines whether a victim qualifies for compensation. Thus, the LPSK fulfills not only administrative but also quasi-judicial tasks to some

[38] Lies Sulistiani et al., "Urgency of Regulation of Witness and Victim Protection Agency (LPSK) in the Upcoming KUHAP," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 3 (December 2025): 520–44, https://doi.org/10.29303/ius.v13i3.1835.

extent, particularly in determining the eligibility of compensation requests based on legally set limits.

From a normative perspective, the existence of the LPSK demonstrates the institutionalization of victim protection in the national legal system. This institutionalization illustrates that victim protection is no longer seen as an afterthought, but rather as an integral component of the criminal justice system. The LPSK concretely demonstrates the state's commitment to implementing victim protection concepts such as the right to physical and psychological protection, access to information, and recovery through restitution and compensation.

Furthermore, the LPSK exists to improve victims' access to justice. Victims frequently confront a variety of impediments to accessing their rights, which might be structural, procedural, or psychological.[39] The LPSK helps to reduce these barriers by assisting, supporting, and facilitating the legal procedure. In this context, the LPSK serves not just as a norm enforcer, but also as a vehicle for improving victims' access to the criminal judicial system.

From an institutional standpoint, the LPSK's viewpoint underscores the need for good coordination with other institutions in the criminal justice system. This coordination encompasses contacts with the police during the investigation phase, the prosecutor's office during the prosecution phase, and the courts during the examination and sentence stages. Furthermore, coordination is required in the implementation of judgments concerning restitution and compensation. Within the normative framework, inter-institutional cooperation is part of the system architecture, with the goal of ensuring that victims' rights are consistently and sustainably implemented.

However, strengthening the role of the LPSK requires more comprehensive regulatory support, particularly in terms of coordination among law enforcement

[39] Nurini Aprilianda et al., "Re-Conceptualizing Child Victim Rights: A Normative and Comparative Analysis of Victim Impact Statement in Indonesia's Juvenile Justice System," *Jambura Law Review* 7, no. 2 (July 2025): 442–67, https://doi.org/10.33756/jlr.v7i2.30132.

agencies and clarity of authority in implementing victim-rights decisions. Within the existing normative framework, the relationship between the LPSK and the police, prosecutors, and courts has not been fully formulated in an integrated manner, potentially leading to fragmentation in the implementation of victim protection and recovery. Therefore, the formulation of norms that explicitly regulate the functional relationship between institutions is necessary, including binding and standardized coordination mechanisms.[40]

Clarity in norms on power limits, work procedures, and inter-institutional relationships is critical to avoiding overlapping authority and legal vacuums. These regulations must clearly define authority, especially in areas such as loss verification, restitution applications, compensation recommendations, and decision execution. Without this clarity, there is a risk of inconsistency in practice, both at the adjudication and execution stages, which could impede the realization of victims' rights. Thus, legal standards must be created not only as a declarative framework, but also as operational instruments that ensure confidence in implementation.

Additionally, tightening regulations is related to the requirement to ensure that the LPSK's duty is effectively implemented in a variety of criminal contexts. The diverse aspects of criminal acts, particularly those of a specific type, such as grave human rights breaches or crimes with far-reaching consequences for victims, necessitate normative flexibility within a coordinated system framework. As a result, rules must allow the distinction of protection and restitution demands while maintaining the consistency of the legal system as a whole.[41] From the perspective of ius constituendum, expanding the role of the LPSK strengthens the institutional design, allowing for more systematic integration of victim protection and rehabilitation activities. This integration is both structural and substantive, with the

[40] Dewa Gede Sudika Mangku, Ni Putu Rai Yuliartini, and Ni Ketut Sari Adnyani, "Indigenous Peoples' Participation in the Management of Balinese Cultural Tourism," *Legality : Jurnal Ilmiah Hukum* 29, no. 2 (August 2021): 309–19, https://doi.org/10.22219/ljih.v29i2.15928.
[41] Djamaludin Djamaludin and Yanuriasnyah Arrasyid, "Pemenuhan Keadilan Dalam Sistem Hukum Pidana Indonesia Melalui Tugas LPSK," *JIHK* 5, no. 2 (February 2024): 30–44, https://doi.org/10.46924/jihk.v5i2.188.

LPSK serving as a coordinating node in ensuring victims' rights. This involves enhancing the legal framework that lends legitimacy to the LPSK's power, especially factors relating to decision implementation and oversight of victim rights.

In addition, building institutional capacity is an essential component of this strengthening. This capacity includes human resources, administrative systems, and supporting infrastructure that allow the LPSK to perform its functions efficiently. To avoid an imbalance between legal mandates and operational capabilities in a normative setting, capacity building must be backed by rules that allocate authority proportionate to obligations assumed.

Furthermore, establishing coordination mechanisms with other institutions is critical for developing an integrated victim protection system. This coordination must be expressed in the form of explicit standards, such as processes for information exchange, roles at each level of the judicial process, and means for resolving disagreements in interpretation amongst institutions. With established regulations, coordination is no longer merely dependent on administrative practices, but rather has a strong and binding legal foundation.

Thus, the LPSK can serve as a critical pillar in the victim protection system, both normatively and operationally within the context of Indonesia's criminal justice system. This duty places the LPSK not just as a helping institution, but also as one with a strategic role in ensuring that victims' rights are adequately protected and fulfilled. In the long term, this strengthening will contribute to a more just, responsive, and victim-recovery-oriented criminal justice system.

Harmonization and Strengthening of the Legal Construction of Victim Recovery

The Indonesian legal framework governing restitution and compensation is characterized by significant normative fragmentation across several legal instruments, including the Criminal Code (Law No. 1 of 2023), the KUHAP, Law No. 31 of 2014 concerning the Protection of Witnesses and Victims, Government Regulation No. 35 of 2020, and sector-specific legislation such as the Human

Trafficking Law and the Sexual Violence Crime Law. Although these regulations pursue the common objective of protecting victims, they adopt different legal constructions regarding the definition of victims, eligibility requirements, procedural mechanisms, institutional authority, and execution of restitution decisions. As a consequence, victims encounter different legal standards depending on the applicable legal regime, creating inconsistencies that undermine legal certainty and equal access to effective remedies.[42]

Normative disharmony appears in at least four dimensions. First, substantive inconsistencies arise because the Criminal Code recognizes restitution as part of criminal sanctions, whereas Law No. 31 of 2014 treats restitution as a separate victim-protection mechanism administered through the LPSK. These different constructions create uncertainty regarding the legal basis and institutional authority for determining and enforcing restitution.[43]

Second, procedural inconsistencies remain between the Criminal Procedure Code and the Witness and Victim Protection Law. While the Witness and Victim Protection Law provides mechanisms for submitting restitution requests through LPSK, criminal procedural law has not yet established comprehensive procedures governing the examination, adjudication, execution, and enforcement of restitution orders. Consequently, even when courts grant restitution, victims frequently encounter practical obstacles because execution procedures remain unclear.

Third, institutional overlap exists among courts, prosecutors, LPSK, investigators, and correctional authorities concerning responsibility for enforcing restitution decisions. Existing legislation clearly regulates the submission of restitution claims but provides only limited guidance regarding which institution bears primary responsibility for supervising implementation after a final judgment

[42] Adi Kusyandi, "Restitusi Dan Kompensasi Bagi Korban Kejahatan," *Yustitia* 10, no. 1 (April 2024): 49–59, https://doi.org/10.31943/yustitia.v10i1.247.
[43] Ni Putu Rai Yuliartini, Dewa Gede Sudika Mangku, and Ni Made Celin Darayani, "Optimization of the Buleleng Cyber Patrol Task Force in Combating Cyber Pornography in Singaraja City," 2022, 040008, https://doi.org/10.1063/5.0104237.

has been rendered. This institutional ambiguity often results in delayed or ineffective enforcement of victims' rights**.**

Fourth, important legal gaps remain concerning the assessment of immaterial losses. Existing legislation recognizes compensation for psychological suffering and other non-economic harm in certain categories of offences, yet no nationally standardized methodology exists for assessing such losses. Consequently, judicial practice remains inconsistent, creating disparities in compensation awards among comparable cases.

From a normative standpoint, legal harmonization is regarded not only as a technical endeavor to align norms but also as a conceptual process to ensure that all restitution and compensation legislation is part of a unified legal system. This harmonization refers to the necessity to achieve a unity of meaning in the regulation of victims' rights in order to avoid discrepancies in interpretation that could jeopardize norm implementation. In this setting, harmonization serves to bring together disparate norms into a coherent and mutually beneficial system.[44]

Vertical harmonization should not merely ensure consistency between hierarchical legal instruments but also guarantee conformity with Indonesia's constitutional obligation to protect human rights and its international commitments under the ICCPR and the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985). Accordingly, implementing regulations governing restitution should expressly operationalize the principles of effective remedy, victim participation, and access to justice rather than merely repeating statutory provisions

Vertical synchronization is an important tool in legal harmonization, seeking to establish uniformity between laws and regulations through a hierarchy of norms. Within this framework, lower-level regulations must be consistent with higher-level

[44] Trias Saputra and Yudha Adi Nugraha, "Pemenuhan Hak Restitusi: Upaya Pemulihan Korban Tindak Pidana," *KRTHA BHAYANGKARA* 16, no. 1 (April 2024), https://doi.org/10.31599/krtha.v16i1.1190.

regulations in terms of substance and underlying concepts. Vertical synchronization in the context of restitution and compensation refers to the alignment of laws and implementing regulations, as well as compliance with constitutional principles that ensure human rights are protected. This is critical to ensuring that victim restitution legislation is consistent with the fundamental values that underpin the national legal system.[45]

Furthermore, vertical synchronization refers to the conformity of national norms with international legal standards that have been integrated into the Indonesian legal system. Recognizing victims' rights to remedy, including restitution and compensation, is one of the concepts established in international law. Thus, vertical harmonization includes efforts to match national rules with these principles, resulting in congruence between international obligations and their execution in national law.

Horizontal synchronization, on the other hand, prevents conflicts between laws of equal standing. Potential disputes in the area of restitution and compensation can develop as a result of variances in regulations under various victim protection laws. These distinctions may include the characterization of a victim, the criteria for giving restitution or compensation, and the procedural methods employed. Without horizontal synchronization, these discrepancies might lead to legal confusion and implementation challenges, notably for law enforcement officials and victim recovery institutions.[46]

Horizontal synchronization also refers to the requirement to standardize the concepts and vocabulary utilized in diverse laws and regulations. The employment of multiple words for comparable topics might lead to uncertainty when interpreting norms. As a result, terminology harmonization is an essential

[45] Gita Kiki Septia and Suhartini Suhartini, "Kepentingan Restitusi Dalam Sistem Peradilan Pidana Sebagai Sarana Pemulihan Korban Kekerasan Seksual," *Jurnal Syntax Imperatif : Jurnal Ilmu Sosial Dan Pendidikan* 4, no. 6 (February 2024): 916–28, https://doi.org/10.36418/syntax-imperatif.v4i6.334.

[46] Abdul Rahmat et al., "Designing an Online-Based Human Coordination System Learning Application for Middle and High School Levels," 2024, 030006, https://doi.org/10.1063/5.0232636.

component of the synchronization process, which seeks to ensure consistency in the usage of legal terms associated with restitution and compensation.

Moreover, legal harmonization includes the systematic aspect of legislation, namely how standards connected to restitution and compensation are structured in a rational and integrated manner. A sound, systematic approach allows for a clear knowledge of the interrelationships between norms, which aids implementation and enforcement. In this sense, harmonization refers not only to the content of norms, but also to how they are developed and implemented within the legal system.

Legal harmonization also refers to the collaboration of institutions empowered to administer restitution and compensation. Differences in normative regulations can result in disparities in institutional practices, compromising the efficiency of victim reparation. As a result, norm harmonization must be complemented by strengthened inter-institutional coordination mechanisms, which will create harmony between normative norms and their practical execution.

Furthermore, legal harmonization serves to avert future norm clashes. Systematic harmonization reduces the possibility of disharmony by developing more comprehensive and integrated norms. Within this framework, harmonization becomes part of the ongoing process of law formation, which continuously adapts to evolving societal needs and legal dynamics.

Furthermore, improving legal construction necessitates the development of more systematic and comprehensive standards, particularly those governing restitution and compensation. This formulation must provide normative clarity regarding procedural stages, from filing and examination to decision implementation, to avoid ambiguity in implementation. In this context, procedural regulations serve not only as technical guides, but also as tools for ensuring the proper fulfillment of victims' rights at all stages of the criminal justice system.

Furthermore, clarity about institutional authority is critical in this legal framework. To avoid overlapping or power vacuums, institutions must have a clear division of authority, both during adjudication and execution. Norms governing

restitution and compensation must explicitly define the roles of each institution, including coordination and accountability, to create a structured and consistently operational mechanism.

Furthermore, ensuring the application of victims' rights is an essential component of strengthening the legal framework. Legal rules must not only recognize rights, but also ensure the existence of procedures to guarantee their implementation. In this context, binding regulations are required for the implementation of restitution and compensation decisions, as well as measures to enforce compliance with these decisions. As a result, victims' rights are concretely enforceable inside the criminal justice system, rather than simply declaratory.

Future legal evolution must aim to construct an integrated victim redress system within the context of ius constituendum. To avoid fragmentation in regulation and execution, this system must be capable of connecting normative, institutional, and procedural features in a consistent manner. This integration highlights the necessity to create a legislative framework that not only governs the substance of victims' rights but also provides effective and long-term implementation procedures. Thus, the law does not end with the recognition of rights, but also assures that each norm is concretely enforced in criminal justice practice.

In this context, system integration necessitates alignment of substantive norms governing victims' rights, procedural norms governing the mechanisms for enforcing them, and institutional norms determining the actors and authorities involved in their execution. To eliminate gaps between regulation and implementation, these three dimensions must be developed within a mutually supporting systemic framework. An integrated legal design must also account for continuity across the judicial process, from inquiry to enforcement, in order to fully realize victims' rights to restitution and compensation.

Furthermore, building an integrated system[47] necessitates alignment of the various legal instruments controlling restitution and compensation, both substantively and practically. This includes harmonizing norms to provide a common understanding and uniformity of rules, enhancing institutional coordination to ensure integrated implementation, and adopting uniform and standardized procedures to prevent discrepancies in practice. Within this framework, harmonization functions not just as a formal alignment endeavor, but also as a means for developing a unified legal system that responds to victims' healing needs.

Furthermore, an integrated system must be supported by implementation methods that ensure clarity and enforcement. This means that restitution and compensation legislation must be supplemented by mechanisms that ensure decision implementation, such as procedures for execution, oversight, and legal consequences for failure to meet responsibilities. Given these guarantees, victims' rights are more than just declarative; they have normative force and may be effectively enforced in the criminal justice system.[48]

As a result, restitution and compensation are positioned as vital components of a victim-oriented justice process rather than just as additional resources within the criminal justice system. Both represent two independent but complementary elements of legal duty: the perpetrator's culpability and the state's obligation, both of which attempt to compensate the victim for the harm sustained.

More broadly, improving these standards demonstrates a commitment to human rights principles, particularly the right to an effective remedy. This principle requires that every infringement of human rights be recognized, as well as a tangible and accessible reparation method. Therefore, developing an integrated victim

[47] Dewa Gede Sudika Mangku et al., "Online Learning System Design for Citizenship Education Subjects," 2024, 030005, https://doi.org/10.1063/5.0232635.
[48] Nazifah, Dewa Gede Sudika Mangku, and Ni Putu Rai Yuliartini, "Fulfillment of Labor Rights for Persons with Disabilities in Indonesia," *International Journal of Criminology and Sociology* 10 (February 2021): 272–80, https://doi.org/10.6000/1929-4409.2021.10.33.

redress system is part of the effort to ensure that the national legal system can provide substantive, equitable protection and aligns with developments in modern legal norms.[49]

Conclusion

Following up on the preceding normative discussion, the Indonesian legal system's restitution and compensation regulations, particularly in the context of sexual violence recovery, show progress toward strengthening the protection and fulfillment of victims' rights within the criminal justice system. Restitution and compensation are no longer viewed as supplemental tools, but rather as important components of the judicial system that recognize victims of sexual violence as individuals entitled to genuine, dignified, and long-term recovery.

Conceptually, the distinction between restoration and compensation underlines the existence of two sources of legal liability: the perpetrator's duty and the state's obligation. In cases of sexual violence, these two devices serve complementary roles in safeguarding victims' rights, given that the damages suffered are not just tangible but also immaterial and multifaceted. To ensure effective application in criminal justice practice, regulations must be coordinated and uniform.

However, the disparate requirements in numerous laws and regulations necessitate legal harmonization, both vertically and horizontally. This harmonization is critical to ensuring meaningful unity, norm consistency, and avoiding regulatory disputes that could jeopardize the rights of victims of sexual violence. In this context, institutions like the LPSK play an important role in improving victim protection, but they still need stronger regulation, greater capacity, and better inter-agency cooperation.

[49] Ni Putu Rai Yuliartini, "Tinjauan Kriminologis Tindak Pidana Kekerasan Seksual Terhadap Anak Di Kabupaten Buleleng," *Jurnal Komunikasi Hukum (JKH)* 1, no. 1 (February 2015), https://doi.org/10.23887/jkh.v1i1.5006.

Future legal growth must focus on building an integrated, systematic, and thorough system for redressing sexual violence victims within the context of ius constituendum. This system must integrate normative, procedural, and institutional features to ensure the effective implementation of victims' rights. Thus, restitution and compensation can serve as legal mechanisms that not only provide certainty but also achieve victim-centered justice in accordance with human rights principles.

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