



THE ROLE OF THE STATE IN PROVIDING RESTITUTION TO CHILD VICTIMS OF SEXUAL VIOLENCE (CASE STUDY: SALATIGA DISTRICT COURT DECISION NUMBER 67/PID.SUS/2025/PN SLT DATED AUGUST 26, 2025)

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Abstract

The provision of restitution to children as victims of sexual violence constitutes part of the perpetrator's responsibility based on a court decision that has permanent legal force. This aims to protect children's rights to live, grow, develop, and participate optimally in society without psychological pressure. In fact, the fulfillment of children's rights as victims of sexual violence has not been fully realized because, in practice, restitution is often not carried out. This condition is caused by several factors, such as the perpetrator's lack of awareness of their responsibility, the perpetrator's lack of assets, as well as minimal supervision and law enforcement regarding the implementation of restitution. The State should be able to play an active role in providing legal protection and facilitating the fulfillment of restitution rights (compensation for losses) for child victims of sexual violence through official institutions such as LPSK, the establishment of specific regulations, as well as overseeing the execution of court decisions so that victims' rights to recovery are truly realized. This research aims to examine the role of the state in providing restitution to children as victims of sexual violence due to restitution not being paid by the perpetrator. This research uses a normative legal research method with a statutory approach. The results of the research show that public prosecutors' efforts to provide restitution for child victims of sexual violence have not been optimal, particularly regarding the rights of child victims in the judicial process even though the victim refuses restitution. If the perpetrator is unable to pay restitution, the state is obliged to provide compensation to the victim. The role and duties of the state through the government are necessary to fill the gap in responsibility for the recovery of victims of sexual violence. Government Regulation Number 29 of 2025 concerning the Victim Assistance Fund for Criminal Acts of Sexual Violence serves as a reference basis for providing guarantees of material and immaterial support for child victims of sexual violence in the form of state compensation to victims of criminal acts of sexual violence without requiring the victim or the victim's family to request it.

Keywords: State Role, Restitution, Child Victim, Sexual Violence.

INTRODUCTION

A child is defined as an individual under the age of 18 (eighteen), including a fetus in the womb. The concept of child protection is outlined in Article 1, paragraph (2), which states that child protection encompasses all efforts to ensure and safeguard children and their rights enabling them to live, grow, develop, and participate to the fullest extent in accordance with human dignity, while also receiving protection against violence and discrimination.



The expression *ubi societas ibi ius*, introduced by the Roman legal figure Marcus Tullius Cicero, means that “where there is society, there is also law”.¹ Law is inherently always present and alive in every social community as a framework of rules governing interactions among citizens. One of the main functions of law is as a tool of social control (tool of social control), which plays a normative role in social life by establishing definitions of deviant behavior and the types of sanctions that must be applied.²

The high incidence of sexual violence against minors requires the state to focus on imposing the most just sanctions possible. Criminal sanctions applicable to perpetrators of sexual violence against children are stipulated in Law of the Republic of Indonesia No. 17 of 2016 (ratifying Government Regulation in Lieu of Law No. 1 of 2016 regarding the Second Amendment to Law No. 23 of 2002 on Child Protection) and Law No. 1 of 2023 on the Criminal Code (KUHP); these sanctions include imprisonment and fines. Furthermore, Law No. 17 of 2016 provides for an alternative criminal sanction in the form of restitution, aimed at addressing the losses suffered by the child victim as a result of the criminal act.³

Sexual violence can result in physical harm and damage to reproductive organs, and may even adversely affect the victim's psychological well-being. Acts of sexual violence can be classified as violations of human rights. Article 28, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia guarantees that every person has the right to protection of their personal self, family, honor, dignity, and property under their control, as well as the right to a sense of security and protection from the threat of fear regarding the exercise of their fundamental rights. In line with this constitutional mandate, the state is obligated to ensure the security of its citizens, including providing protection against acts of sexual violence.⁴

Sexual crime is a form of violence stemming from issues related to sexuality. Such acts range from harassment and rape including acts of molestation and forced sexual

¹ Nugroho Ahadi, Ali Masyhar Mursyid, and Cahya Wulandari. 2023. “Restitusi Dalam Tindak Pidana Kekerasan Seksual Di Indonesia Ditinjau Dari Perspektif Utilitarianisme,” *Jurnal Esensi Hukum* 5, no. 2. hal : 57.

² Muhammad Renal et al. 2025. “Pemikiran Mochtar Kusumaatmadja Tentang Hukum Sebagai Sarana Pembangunan : Kajian Filsafat Hukum Terhadap Konsep Dinamika Hukum,” *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 4, no. 1. Hal.4.

³ Yusyanti, D. 2020. *Perlindungan Hukum Terhadap Anak Korban Dari Pelaku Tindak Pidana Kekerasan Seksual (Legal Protection Of Children Victims From Criminal Actors Of Sexual Violence)*. Jurnal De Jure, Badan Penelitian Dan Pengembangan Hukum Dan Ham, Kementerian Hukum Dan HAM RI, Jakarta.

⁴ Anwar, A., & Santoso, R. B. 2020. *Perlindungan Hukum terhadap Anak sebagai Korban Kekerasan Seksual*. Jurnal Ilmu Hukum, hal. 42.



intercourse involving coercion, threats, or violence to sodomy. Children are frequently the victims of sexual violence. A child's inherent vulnerability is a primary factor making them targets for crimes that inflict physical, psychological, or sexual suffering consequences of unlawful acts committed by individuals, groups, or irresponsible institutions. Therefore, special protection is crucial for children who are victims of criminal offenses, particularly sexual violence.⁵

Regulations regarding the protection of child victims of crime are set forth, among other instruments, in Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 on Child Protection. Article 1, point 15a of Law No. 35 of 2014 defines violence as any act against a child that results in physical, psychological, or sexual suffering or misery, and/or neglect; this includes threats to commit such acts, coercion, or the unlawful deprivation of liberty. Child protection legislation encompasses various children's rights; notably, Article 4 states that every child has the right to live, grow, develop, and participate appropriately in accordance with human dignity, as well as the right to protection from violence. The rights outlined in Article 4 affirm a child's entitlement to life, development, and legal protection against violence and discrimination.⁶

It is crucial to foster awareness and provide education to perpetrators of sexual violence regarding their responsibility to redress the harm suffered by victims; to enhance oversight and law enforcement concerning the implementation of restitution; and to improve the accessibility and efficiency of the restitution process.⁷ Women and children are particularly vulnerable groups and primary targets for such crimes, as they are highly susceptible to sexual harassment or violence. Sexual harassment or violence constitutes a criminal act involving conduct that harasses, degrades, or humiliates, resulting in psychological or physical suffering. Sexual harassment represents an abuse of male sexual power; it often stems from a social

⁵ Lubis, M. M. 2021. Pemenuhan Hak Restitusi Terhadap Anak Korban Tindak PidanaKejahatan Seksual. Jurnal dan Kemasyarakatan Al-Hikmah.

⁶ Sami, D. Junus, N., & Kamba, S. N. M. 2025. Analisis Hak Anak Dan Istri Pasca Perceraian. JURNAL POLAHI, hal. 30

⁷ Mawarni, E. R. 2020. Upaya Penegakan Hukum dalam Perlindungan Anak sebagai Korban Kekerasan Seksual. Prenada Media Grup. Jurnal Ilmiah Hukum Legality, hal 78.



hierarchy that places men in a superior position to women, allowing the perpetrator to exercise control through that position of power.⁸

A case of sexual violence against children occurred in Salatiga City, Central Java, where an *ustad* (religious teacher) at a local Islamic boarding school was arrested by the Salatiga City Police for committing acts of sexual misconduct against several minors. The defendant was found guilty of sexually assaulting four students at the boarding school where he taught; all four victims were under the age of 12. Court proceedings revealed that the defendant committed sexual violence by groping the victims' genitals, kissing their cheeks and lips, and inserting his penis into their anuses. The specific type of sexual violence involved in this case was the crime of “pencabulan” (obscene acts/sexual misconduct). Such an offense is defined as an act committed by an individual to obtain sexual gratification while simultaneously violating norms of decency. The defendant was charged under the provisions regarding obscene acts as stipulated in Article 82 Paragraph (2) in conjunction with... Article 76E of Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection—as first amended by Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, and most recently amended by Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection (as enacted into Law Number 17 of 2016 concerning the Enactment of the Government Regulation in Lieu of Law regarding the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection) is intended to ensure that children receive justice in securing their rights as victims of a criminal offense.

Based on data up to November 2025, the number of child victims of sexual violence in Central Java Province was recorded at 1,158 cases. The figure for 2025 represents a drastic increase compared to 2024, which saw only 240 cases. The incidence of sexual violence against children in 2025 shows a consistent upward trend when compared to the 1,349 cases in 2024

⁸ Virgistasari, A., & Irawan, A. D. 2022. Pelecehan Seksual Terhadap Korban Ditinjau dari Permendikbud Nomor 30 Tahun 2021. *Media of Law and Sharia*, hal. 107



and the 1,327 cases in 2023. The situation regarding sexual violence against children in Central Java is akin to the tip of an iceberg, as parents and victims often harbor feelings of shame or fear that prevent them from reporting the abuse. Central Java ranks second only to West Java Province in the number of cases involving child victims of sexual violence. A specific instance of this occurred involving an “ustad” (religious teacher) at an Islamic boarding school in Salatiga City who abused his students; the children's fear of the teacher and their lack of critical awareness caused them to be unwilling and afraid to report the incidents to their parents or immediate community. The abuse was eventually uncovered when signs or physical traces of sexual violence were observed on a child's body, prompting the parents to question their origin and subsequently report the matter to the police.

According to Gustav Radbruch as cited by Anas Yusuf regulations must fundamentally encompass the three objectives of law: justice (*Gerechtigkeit*), legal certainty (*Rechtssicherheit*), and utility.⁹ Therefore, the state's role in providing legal protection for child victims of sexual violence is crucial and must be prioritized during the processes of handling cases, ensuring protection, and fulfilling the victims' rights. Legislation on child protection has been enacted, mandating collective oversight through the involvement of the state, government, society, families, and parents in protecting children from sexual violence. Based on the background outlined above, the author addresses the topic of the state's role in providing restitution to child victims of sexual violence.

METHODS

This study is a normative legal research project employing a statutory approach. It utilizes both primary and secondary legal materials, examining various legal concepts specifically the concept of criminal liability alongside regulations pertaining to sexual violence.¹⁰ The statutory approach involves collecting, analyzing, and identifying primary legal materials, namely the legislation relevant to the case under discussion; these regulations serve as the basis for the arguments used to address the issue at hand. The legal materials gathered for this study are

⁹ Yusuf, A.2019. Implementasi Restorative Justice Dalam Penegakan Hukum oleh Polri Demi Mewujudkan Keadilan. Substantif. Usakti

¹⁰ Ariawan, I. G. K. 2019. Metode Penelitian Hukum Normatif.



classified into two categories: primary legal materials and secondary materials.¹¹ The key legal provisions referred to here are statutory regulations, including: Law Number 1 of 2023 concerning the Criminal Code (KUHP); Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection, as first amended by Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection and last amended by Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection (as enacted into Law Number 17 of 2016 concerning the Enactment of the Government Regulation in Lieu of Law regarding the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection); Law of the Republic of Indonesia Number 31 of 2014 concerning the Protection of Witnesses and Victims; Law (UU) Number 12 of 2022 concerning Sexual Violence Crimes (TPKS); Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Criminal Acts; and Government Regulation Number 7 of 2018, as amended by Government Regulation Number 35 of 2020. The statutory approach utilizes Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection, as first amended by Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection and last amended by Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection (as enacted into Law Number 17 of 2016 concerning the Enactment of the Government Regulation in Lieu of Law regarding the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection, under which every child who is a victim of sexual violence may—or has the right to—claim restitution without the need for a formal application.

¹¹ Mahmud, P. M. 2019. *Penelitian Hukum*. Media Pressindo.



DISCUSSION AND RESULT

Sexual violence against a child is defined as any act committed against a child that results in physical, psychological, or sexual suffering or distress, or neglect; this includes threats to commit such acts, coercion, or the unlawful deprivation of liberty. Sexual violence encompasses any sexual act, attempted sexual act, or comment or suggestion regarding sexual behavior whether intentional or otherwise as well as acts involving the violation of a person through forced sexual intercourse. Provisions regarding restitution for child victims of sexual violence are set forth in Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection, as amended first by Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, and finally amended by Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection which was subsequently enacted as Law Number 17 of 2016 concerning the Enactment of the Government Regulation in Lieu of Law regarding the Second Amendment to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection.¹²

According to Arif Gosita, the suffering experienced by victims of sexual violence can be categorized into three phases: a) Prior to the court hearing, the victim endures mental, physical, and social suffering due to the necessity of reporting the incident to the police while in a physically weakened and psychologically distressed state. During the criminal evidence-gathering process, the victim is compelled to recount the painful and traumatic events. Furthermore, the victim feels threatened by the possibility of retaliation from the perpetrator for having reported the incident; b) During the court proceedings, the victim is required to appear in court at their own expense to provide testimony. The victim is forced to repeat the account of their traumatic experience and reconstruct the events they endured. The victim must confront the perpetrator they loathe, as well as the perpetrator's lawyer, who seeks to downplay the offender's culpability. Although the prosecutor represents the victim's interests, this

¹² Nasyuha, A. H. 2020. Sistem Pakar Mendiagnosa Kelainan Orientasi Seksual pada Orang Dewasa Menggunakan Metode Case Based Reasoning (CBR). Device: Journal of Information System, Computer Science and Information Technology, hal. 1.



representation does not always work to the victim's advantage. In certain instances, the victim faces a perpetrator who may be mentally, physically, and socially more powerful than themselves. c) Even after the court proceedings conclude, the victim continues to face numerous hardships most notably the failure to secure compensation or restitution from any party. Victims are left to shoulder their own healthcare costs while remaining haunted by the fear of threats from the perpetrator.¹³

Furthermore, there is a possibility that victims may not be accepted back by their families or communities as they were before, as they are perceived as being "damaged." A victim's mental anguish can be exacerbated if the perpetrator is released or receives a lenient sentence. Provisions for victim protection within Indonesia's criminal justice process reveal that the legal system still lacks clear attention regarding crime victims. Since the advent of modern criminal law, the status of crime victims has often been overlooked, resulting in a failure to adequately protect the rights to which they are entitled.¹⁴

Sexual violence encompasses the commercial use or involvement of children in sexual activities; the enticement, solicitation, or coercion of children into sexual activities; the involvement of children in audiovisual media; and child prostitution. Consequently, restitution serves as a mechanism within society to ensure that child victims of sexual violence receive fair compensation for what the perpetrator has taken from them. In legal terms, restitution constitutes a form of restoration or the return of something that has been lost, seized, or unlawfully obtained. It is a type of sanction or penalty imposed by a court upon a perpetrator of a criminal offense or other legal violation. Restitution is frequently viewed as a means of redressing losses resulting from a criminal act or conduct that causes harm to others.¹⁵

Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection as first amended by Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, and last amended by Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment

¹³ Amin, M., & Nurkartiko, A. 2023. Perlindungan Hukum Perempuan Korban Kekerasan Seksual Yang Mengalami Blaming The Victim Di Tinjau Dari Perspektif Viktimologi. *Unes Law Review*.

¹⁴ Ilyasa, R. M. A. 2022. Kajian Hukum dan Viktimologi Dalam Kasus Kekerasan Seksual Pada Anak di Indonesia. *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal*, hal 25.

¹⁵ Mawarni, E. R. 2020. Upaya Penegakan Hukum dalam Perlindungan Anak sebagai Korban Kekerasan Seksual. *Prenada Media Grup. Jurnal Ilmiah Hukum Legality*, hal 209.



to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection (as enacted into Law Number 17 of 2016) Article 71D states: (1) Every Child who is a victim as referred to in Article 59 paragraph (2) letters b, d, f, h, i, and j has the right to petition the court for restitution, for which the perpetrator of the crime is responsible. Restitution may also take the form of monetary compensation or replacement for property lost or damaged due to the actions of another party. However, restitution is not granted solely to the victim or the aggrieved party. A claim for compensation may be filed by a child survivor of sexual violence specifically by the victim themselves as stipulated in Article 4 Paragraph (2) of Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Criminal Acts; such claims may be submitted by a guardian or custodian of the child victim, or by an individual approved by the guardian, beneficiary, or custodian of the child victim who possesses the requisite legal authority.¹⁶

Article 5, Paragraph (2) of Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Criminal Acts stipulates that a claim for compensation may be submitted to the court at the discretion of the claimant, specifically during the examination or prosecution stage. Furthermore, Paragraph (3) acknowledges that, in addition to the examination and prosecution stages, a claim for compensation may also be submitted through the Witness and Victim Protection Agency (LPSK) in accordance with legal provisions. A judge may order the perpetrator or convicted person to provide compensation for all or part of the losses suffered by the victim as a result of the criminal act. Restitution may also be awarded to a third party holding rights to goods or services that have been lost or seized. This is supported by Article 7A of Law Number 31 of 2014 concerning Child Protection, which states that: (1) Victims of criminal acts are entitled to receive Restitution in the form of: a. Compensation for loss of assets or income; b. Compensation for suffering directly resulting from the criminal act; and/or c. Reimbursement of medical and/or psychological treatment costs.¹⁷

¹⁶ Nurmalasari, N. C., & Waluyo. 2022. Efektivitas Undang-Undang Tindak Pidana Kekerasan Seksual Di Indonesia. Sovereignty, hal 57.

¹⁷ Ibid, hal 59.



Restitution is awarded to victims as a protective measure and to ensure they receive greater attention; this addresses the reality that Indonesia's justice system often focuses disproportionately on offenders, frequently leaving victims' rights unfulfilled. Specifying the form of restitution indirectly clarifies to the sexual violence offender that paying restitution is a mandatory sanction they must accept and carry out. More importantly, victims must undergo various processes to restore their physical and psychological well-being, enabling them to resume the lives they led prior to the crime. Sanctions involving restitution payments are intended to make offenders acknowledge the gravity of their actions. It is hoped that offenders will genuinely regret their wrongdoing not merely because of the severity of the penalty imposed, but because they come to understand the immense difficulty and time required to restore the victim to their former state. Consequently, it is crucial to detail the specific actions an offender must take toward the victim as part of the restitution process.¹⁸

A case in point is an incident of sexual violence against children in Salatiga City, Central Java, involving an “ustad” (religious teacher) at a local Islamic boarding school. He was arrested by the Salatiga City Police for committing lewd acts against several minors. The defendant was found guilty of committing immoral acts against four students at the school where he taught; he was sentenced to 12 years in prison and fined Rp 1,000,000,000 (one billion rupiah), with a subsidiary penalty of three months' imprisonment in default of payment. This verdict by the Salatiga District Court was more lenient than the sentence demanded by the Public Prosecutor from the Salatiga District Attorney's Office. The Public Prosecutor demanded that the defendant, R, be sentenced to 20 (twenty) years of imprisonment and a fine of Rp1,000,000,000.00 (one billion rupiah) subsidiary to 6 (six) months of confinement—as well as an additional penalty of chemical castration for a period of 2 (two) years following the completion of the principal sentence (pursuant to Article 5 of Government Regulation of the Republic of Indonesia Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence Against Children) and an

¹⁸ Gintulangi, N. S., Wantu, F. M., & Mantali, A. R. Y. 2024. DARK NUMBER OF CRIMES : Pentingnya Pendekatan Proaktif Aparat Penegak Hukum dalam Mendorong Pelaporan Korban. JURNAL POLAHI, hal 65.



additional penalty involving the public announcement of the perpetrator's identity (pursuant to Article 21 of Government Regulation of the Republic of Indonesia Number 70 of 2020 concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence Against Children).

During the pre-prosecution stage, the public prosecutor instructed investigators to include a restitution request from the child victim's family; however, the child victim refused restitution, so the Witness and Victim Protection Agency (LPSK) did not proceed with the request. The law ought to mandate that perpetrators pay restitution (compensation provided to the victim by the perpetrator of a criminal act) without requiring a formal request from the victim. Article 31, paragraph (1) of Law No. 12 of 2022 stipulates the obligation of law enforcement officials to inform victims of sexual violence about their rights; specifically, it mandates that investigators, public prosecutors, and judges provide information regarding the right to restitution to both the victim and the LPSK. A similar provision is found in Article 9 of Government Regulation No. 43 of 2017 concerning the Implementation of Restitution for Child Victims of Criminal Acts, which states that during the investigation stage, investigators must inform the victim regarding the child victim's right to obtain restitution and the procedure for filing such a claim. In reality, however, the victim's rights have not yet been fulfilled. Fundamentally, a sound investigation does not focus solely on legal aspects but also considers justice for all parties involved.

To this end, the author conducted interviews with investigators and prosecutors regarding the efforts made by law enforcement officials to inform the child victim's family about restitution in the sexual violence case in Salatiga City. Based on an interview conducted by the author with Gineung, SH an investigator from the Criminal Investigation Unit of the Salatiga City Police regarding a case involving a child, the investigator stated: "During the investigation stage, we informed the victim's family that the victim has the right to claim restitution; it is an investigator's obligation to communicate the rights available to the victim. However, the decision of whether or not to file a claim for restitution rests with the victim's family. To date, investigators have never compelled the filing of restitution claims, as there remain several obstacles regarding the implementation of restitution itself. One such obstacle



is that the application process is perceived as difficult and overly convoluted, and the time-consuming nature of the procedure often makes victims reluctant to pursue restitution.

In addition to the investigation stage, a request for restitution may also be submitted during the prosecution stage. At this stage, the public prosecutor is required to inform the victim's family about the child victim's right to restitution and the application procedures, whether before or during the trial proceedings. Regarding the prosecution stage, the handling prosecutor Ms. Sari, SH, MH, of the Salatiga District Attorney's Office stated that while a child victim can personally apply for restitution, the prosecutor also has the authority to submit such a request to the Witness and Victim Protection Agency (LPSK). However, a practical challenge arises because, during the case handling process, the prosecutor typically only meets the victim during the court hearing. Consequently, the prosecutor conveys information regarding the victim's right to restitution through the victim's legal counsel (if one has been retained); yet, if the victim's family refuses restitution from the outset, the prosecutor is unable to take further action. Furthermore, the prosecutor assesses the suspect's financial capacity to pay restitution to the victim; this assessment is one of the factors contributing to the failure to fulfill the victim's rights.

Referring to a specific case of sexual violence against a child specifically the crime of molestation of a minor Ms. Sari, SH, MH, the prosecutor from the Salatiga District Attorney's Office, highlighted another obstacle preventing the fulfillment of the victim's right to restitution. She explained that the fulfillment of restitution rights depends on the perpetrator's ability to pay. The prosecutor communicates the need to provide restitution to the victim through the perpetrator's lawyer and inquires about the perpetrator's financial capacity to meet this obligation. However, in this instance, the suspect stated an inability to pay the restitution, resulting in the victim's rights being left unfulfilled, while the suspect received only a prison sentence and a fine in accordance with applicable laws.

The case involving the sexual abuse of a child victim by an “ustad” (religious teacher) at an Islamic boarding school in Salatiga demonstrates a lack of enforcement action by law enforcement officials to secure the victim's right to restitution, as mandated by law. Fundamentally, legal protection for a child victim of sexual intercourse (sexual abuse) must not cease merely upon the conclusion of the court verdict; rather, it must continue until the child's well being is truly assured and they are able to live and develop healthily receiving the



care and conditions to which a child is entitled. This aligns with the objective of child protection legislation, which seeks to provide protection to victims, particularly children who have suffered sexual violence.

Article 33 of Law Number 12 of 2022 concerning Sexual Violence stipulates the enforcement measures that law enforcement officials must take to ensure the victim's rights are fulfilled. The Law states that if restitution is not paid to the victim or if the liable party fails to make the payment within 30 days of receiving a copy of the court verdict or order, the victim or their heirs must notify the court. The court will then issue a written warning to the perpetrator or the party obligated to pay restitution, requiring them to immediately fulfill their obligation. If the perpetrator fails to pay the restitution, the judge will order the prosecutor to auction off the restitution security (collateral), provided that payment has not been made within 30 days following a court verdict that has attained permanent legal force. Furthermore, Article 33 paragraph (7) of Law Number 12 of 2022 concerning Sexual Violence explains that if the convicted person's seized assets are insufficient to cover the restitution amount, the convicted person shall be sentenced to a substitute term of imprisonment, not exceeding the maximum penalty of the principal sentence imposed. Article 35 of Law Number 12 of 2022 concerning Sexual Violence states that if the convicted person's seized assets are insufficient to cover the restitution amount, the State shall provide compensation to the victim for the shortfall, in accordance with the court's verdict. This compensation is paid through the Victim Assistance Fund, which may be sourced from philanthropy, the public, individuals, corporate social and environmental responsibility initiatives, and other legitimate, non-binding sources including the state budget in accordance with existing regulations.¹⁹

The law clearly stipulates that if a perpetrator is unable to provide restitution to a victim of sexual violence, the state must fulfill the victim's right to restitution; comprehensively meeting the victim's rights through state-provided compensation can accelerate their psychological and emotional recovery, thereby achieving an ideal fulfillment of the rights of sexual violence victims.²⁰ Furthermore, firm and effective law enforcement against perpetrators is essential to ensure justice for victims, as legal regulations must fundamentally

¹⁹ Salam, F., Badu, L.W., & Jufryanto, P. 2023. Perlindungan Hukum Bagi Anak Korban Tindak Pidana Kejahatan Hubungan Seksual. *Estudiante Law Journal*. hal 29.

²⁰ Nursahidah, E. 2019. Perlindungan Anak terhadap Tindak Kekerasan Seksual. *Jurnal Ilmiah Hukum*, hal 3.



encompass three key elements and objectives in their application: justice, legal certainty, and utility. Judicial institutions, law enforcement agencies, and the community play a crucial role in enhancing the effectiveness of restitution implementation. Accessibility and efficiency in the restitution process can also be improved by strengthening the institutions responsible for its execution, such as the Directorate General of Corrections and the Ministry of Law and Human Rights.²¹

Children's legal rights and obligations are specifically governed by the laws and regulations of each country. Under the law, a child has the right to receive adequate protection, care, and education from the parents or guardians responsible for their well-being. Parents or guardians bear the responsibility of meeting the child's physical, mental, and emotional needs while providing proper guidance and direction.²² If parents or guardians are unable or unwilling to fulfill these responsibilities, the government may take action to protect the child's interests and rights. Law Number 35 of 2014 concerning Child Protection, Article 1 paragraph 15, defines Special Protection as a form of protection received by a child in specific situations and conditions to guarantee a sense of security against threats endangering their person and life during their growth and development; thus, children must be afforded special protection to ensure they feel safe and secure. The provisions within the Criminal Code and Law Number 35 of 2014 aim to provide legal protection for victims of sexual violence, particularly minors. Furthermore, acts of sexual violence may also entail additional sanctions in the form of compensation for moral and material losses suffered by the victim.²³

Regarding the provision of restitution to children who are victims of sexual violence, such children have the right to receive restitution and access legal avenues that align with their rights. Legal measures for child victims of sexual violence are governed by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection (the Child Protection Law).²⁴ Article 67 of the Child Protection Law affirms that victims of sexual

²¹ Iskandar, A. R. 2021. Tanggung Jawab Negara terhadap Anak sebagai Korban Kekerasan Seksual di Indonesia. *Jurnal Hukum Dan Politik*, hal 41.

²² Supriyanto, D. 2020. Upaya Hukum dalam Perlindungan Anak sebagai Korban Kekerasan Seksual. *Jurnal Keadilan Dan Hukum*. hal 143.

²³ Wahyudi, A. 2020. Peran Kepolisian dalam Penanganan Kasus Kekerasan Seksual terhadap Anak. *Jurnal Pembangunan Hukum Indonesia*, hal 116.

²⁴ Hartini, T., & Hastuti, E. 2018. Implementasi Undang-Undang Perlindungan Anak dalam Penanganan Kekerasan Seksual terhadap Anak. *Jurnal Hukum Respublika*, hal 109.



violence have the right to access medical, psychosocial, educational, and legal services. Article 68 further mandates that investigators and law enforcement officials must protect the victim's identity, maintain confidentiality, and provide protection and assistance to the victim throughout the legal process. Additionally, Article 72 of the Child Protection Law stipulates that perpetrators of sexual violence against children are subject to severe criminal sanctions: imprisonment for a minimum of 5 years and a maximum of 15 years, along with a maximum fine of 5 billion rupiah. Furthermore, perpetrators may face additional sanctions, such as the revocation of political rights, public disclosure of their identity, and the requirement to restore the victim's rights.²⁵

A request for restitution on behalf of a child victim of sexual violence is submitted by the victim's side, as stipulated in Article 4, Paragraph (2) of Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Criminal Acts; such requests may be filed by the child victim's parents or guardians, the child victim's heirs, or a person authorized via a special power of attorney by the parents, heirs, or guardians. Article 5, Paragraph (2) of the same regulation clarifies that a restitution request may be submitted to the court prior to the court's verdict specifically during the investigation or prosecution stages. Furthermore, Paragraph (3) explains that, in addition to the investigation or prosecution stages, a restitution request may also be submitted through the Witness and Victim Protection Agency (LPSK) in accordance with statutory regulations. A judge may order the perpetrator or convicted person to compensate for all or part of the losses suffered by the victim as a result of the criminal act. Legal protections for child victims of sexual violence are governed by Law Number 35 of 2014 concerning Child Protection, which affirms that victims of sexual violence have the right to access medical, psychosocial, educational, and legal services. Additionally, perpetrators of sexual violence against children are subject to severe criminal sanctions.²⁶

Court proceedings for cases of sexual violence against children must be conducted in private and closed to the public. The victim's identity must not be disclosed to the public or the

²⁵ Nurisman, E. 2022. Risalah Tantangan Penegakan Hukum Tindak Pidana Kekerasan Seksual Pasca Lahirnya Undang-Undang Nomor 12 Tahun 2022 Jurnal Pembangunan Hukum Indonesia, hal 170.

²⁶ Eka Yudha Saputra. 2022. Ingin Jadi Justice Collaborator, Bharada E Minta Perlindungan Hukum ke LPSK. Tempo.Co. <https://nasional.tempo.co/read/1620454/ingin-jadi-justice-collaboratorbharada-e-minta-perlindungan-hukum-ke-lpsk>



mass media. The court is also required to provide free legal aid to victims of sexual violence who cannot afford attorney fees. Victims must be informed of their rights and obligations during the proceedings and provided with protection against intimidation and threats from the defendant or other parties.²⁷

Violence experienced by children can take the form of physical abuse, mistreatment, neglect, or sexual abuse. Such violence can cause significant trauma to the child, affecting their self-confidence, self-esteem, and ability to form healthy social relationships later in life. The Witness and Victim Protection Agency (LPSK) and public prosecutors should continuously strive to ensure that child victims of sexual violence receive restitution commensurate with the harm they have suffered. In a case involving sexual violence committed by an Islamic boarding school teacher in Salatiga City, the LPSK remained passive; it merely waited for a restitution request from the victim's family rather than taking the initiative to advocate for compensation payments to the victim.²⁸ Under Article 7A paragraph (1) of Law No. 31 of 2014 concerning Witness and Victim Protection, every victim has the right to receive restitution paid by the perpetrator during the case proceedings. Although the Public Prosecutor from the Salatiga District Attorney's Office sought the maximum penalty for the defendant demonstrating a serious commitment to enforcing the law against perpetrators of sexual violence against children the judge handed down a sentence lighter than the prosecution's demand and did not order restitution. The Salatiga District Attorney's Office had sought the maximum penalty to create a deterrent effect and safeguard the future of children in Salatiga City.

In the author's view, the failure of the perpetrator to pay restitution results in the rights of the sexual violence victim being disregarded; this is precisely where the state must step in to provide legal protection for child victims when the perpetrator fails to provide restitution. Restitution represents a form of victim-sensitive justice, as well as a shift away from a judicial system oriented solely toward punishing the offender.

On June 18, 2025, President Indonesia Prabowo Subianto enacted Government Regulation Number 29 of 2025 concerning the Assistance Fund for Victims of Sexual Violence

²⁷ Widodo, S. B. 2020. Perlindungan Anak sebagai Korban Kekerasan Seksual melalui Pidana Perspektif Hukum Islam. Jurnal Keadilan.

²⁸ Ismantoro Dwi Yuwono, S. H. 2021. Penerapan hukum Dalam kasus kekerasan Seksual terhadap Anak.



Crimes. However, the matter does not end there; the introduction of this regulation marks the beginning of a new chapter in the long journey toward full recovery for victims. Imposing prison sentences on perpetrators is insufficient to fully restore victims, who must still struggle to regain their physical, mental, spiritual, and social well-being. Consequently, material resources become an urgent necessity for victims, as medical and mental rehabilitation require financial support; thus, the victim's right to restitution is a matter of urgency that should not be delayed.

Restitution is defined as compensation for damages covering both material and non-material losses suffered by the victim or their heirs charged to the perpetrator or a third party based on a court ruling or judgment that has attained permanent legal force. A problem arises, however, when the perpetrator lacks the financial means to pay the restitution ordered by the court. Even if the victim or their family declines restitution, law enforcement officials should still include it in the prosecution's demands and the judge's verdict.

Given this impasse regarding restitution, state intervention through the government is essential to fill the gap in responsibility for the recovery of sexual violence victims. The enactment of Government Regulation Number 29 of 2025 serves as a framework that, at the very least, guarantees the provision of material support to victims. This Assistance Fund constitutes state compensation for victims of sexual violence crimes provided without the need for a formal request from the victim or their family with funding sourced from philanthropy, the public, individuals, corporate social and environmental responsibility programs, other legitimate and non-binding sources, and the state budget, in accordance with applicable laws and regulations. Based on their nature, these DBK funds can be categorized into two types of financing: first, as compensation for the shortfall in restitution owed to the victim; and second, as funding for victim recovery. The term "restitution shortfall" refers to a deficit or an inability to pay compensation arising because the perpetrator or a third party lacks the financial means or assets to pay the restitution.²⁹

A significant challenge lies in the fact that available funds or budgets may not guarantee coverage for all victims; if the budget proves insufficient, payments could be delayed

²⁹ Iskandar, A. R. 2021. Tanggung Jawab Negara terhadap Anak sebagai Korban Kekerasan Seksual di Indonesia. Jurnal Hukum Dan Politik, hal 43.



until the end of the following fiscal year. This situation exacerbates the victims' plight, as they are forced to bear a double burden due to protracted handling processes. Therefore, to strengthen the reach of the Victim Compensation Fund (DBK) amidst limited or uncertain budgetary conditions, it is essential to optimize restitution paid by perpetrators. This can be achieved by inventorying and seizing the perpetrator's assets subject to district court approval once they are named a suspect, thereby mitigating the risk of perpetrators attempting to shift their liability onto the state.³⁰

However, ensuring the fulfillment of restitution by perpetrators hinges largely on the perspectives held by law enforcement officials. A victim-centered perspective among law enforcement is crucial to ensuring that victims gain access to restitution and that such restitution is formally included in court rulings or orders. Conversely, law enforcement approaches rooted in negative stigma or victim-blaming can lead to the neglect of a victim's right to restitution. While a legal basis for DBK disbursement exists, it does not resolve every issue; other challenges include the need to reinforce a human rights and victim centric perspective among law enforcement officials, as well as the need to simplify the DBK application process managed by the Witness and Victim Protection Agency (LPSK).³¹

To examine potential maladministration across the service stages of various law enforcement agencies and the LPSK, one must look back to the initial phase of handling sexual violence cases at the police level. Law enforcement practices that are predominantly masculine in nature tend to be discriminatory toward victims particularly women; a lack of sensitivity, combined with unfair and gender-biased labeling of women, reinforces harmful stereotypes such as the assumption that the act was consensual. These stereotypes can result in law enforcement failing to take seriously their duty to protect and facilitate the recovery of victims, including the failure of investigators to inform victims of their right to restitution. From this, the potential for maladministration ranging from the neglect of legal obligations and procedural irregularities to discrimination becomes apparent.

In addition to investigators, Article 31 of Law Number 12 of 2022 concerning the Crime of Sexual Violence (TPKS Law) imposes an obligation on public prosecutors and judges

³⁰ Ibid, hal 44.

³¹ Ibid, hal 45.



to inform victims of their right to restitution. Consequently, failure to communicate this right whether due to negligence or intentional omission constitutes an act of maladministration. Normatively, the TPKS Law stipulates qualifications for investigators, public prosecutors, and judges; notably, they must possess integrity and competence in handling cases through a human rights and victim-centered perspective (see Articles 21 and 22). When viewed through the lens of the public service regime, a failure to adopt a victim-centered perspective during case handling indicates maladministration in the form of incompetence specifically, a service provider delivering services that do not align with required competencies.³²

Furthermore, ensuring that sound legal substance is effectively implemented requires a strong commitment. This commitment can be demonstrated through the establishment of technical implementation guidelines that facilitate easy and rapid access to services. High expectations are placed on the Witness and Victim Protection Agency (LPSK), the institution designated to manage the Victim Assistance Fund (DBK). From a public service perspective, however, there is a regulatory gap regarding service time standards for the Recovery Fund; Government Regulation (PP) 29/2025 only stipulates a maximum 30-day timeframe for the disbursement of recovery funds following the issuance of an LPSK Decision. It does not, however, specify the timeframe for the service process required to obtain the LPSK Decision itself, counting from the moment the application is received from the victim, their family, or their legal representative.

Therefore, the LPSK needs to prepare written guidelines detailing the technical implementation of Victim Assistance Fund disbursement. These guidelines will serve as both a reference and a benchmark for assessing whether the service process adheres to established standards or deviates from the prescribed service protocols. Consequently, although DBK services can be considered a new type of service falling under the Ombudsman's oversight following the regulation of DBK via Government Regulation (PP) 29/2025 the Ombudsman of the Republic of Indonesia already possesses a mechanism to handle complaints requiring rapid resolution and a streamlined process. Therefore, it is expected that once DBK services are fully operational, victims will utilize the Ombudsman's complaint channels should

³² Faldi, H. 2023. *Kajian Viktimologi Terhadap Anak Sebagai Korban Tindak Pidana Perkosaan* Volume II. No.4. Jurnal Ilmu Hukum Legal Opinion.



there be any indication of maladministration during the service process. Furthermore, given that the mechanism for granting DBK as compensation for an underpaid restitution amount requires the restitution to be stipulated in a court ruling or order, it is crucial to monitor the restitution aspect from the very beginning of the legal proceedings, starting with case handling at the police level.

Therefore, if investigators fail to inform victims of their right to restitution thereby hindering their ability to understand and obtain restitution from the perpetrator victims may immediately file a complaint with the Ombudsman regarding this matter. Similarly, any alleged acts of discrimination against victims or those accompanying them should be reported to the Ombudsman without delay. Ultimately, synergy among all parties is essential to ensure the comprehensive fulfillment of rights for victims of sexual violence; beyond the rights to proper handling and protection, the victim's right to recovery cannot be overlooked. Through this DBK mechanism, we hope that the expedited recovery of victims becomes a reality rather than a mere aspiration, upholding the adage "*justitiae non est neganda, non differenda*"(justice must not be denied or delayed)

CONCLUSION

The fulfillment of restitution in sexual violence cases is grounded in the requirement that victims' rights be met in accordance with the law, which mandates that victims receive restitution from the perpetrator. However, regarding cases of sexual violence against minors in Indonesia specifically in Salatiga City the fulfillment of victims' restitution rights has not been effectively realized. This is due to the absence of restitution applications filed by victims and a lack of proactive measures by law enforcement to pursue restitution even when victims or their families do not formally request it. Victims are entitled to restitution as compensation for the harm they have suffered, and law enforcement is obligated to pursue restitution for sexual violence victims; this aims to ensure justice and assist in the psychological and emotional recovery of victims, as well as the healing of their trauma. Thus, restitution serves to restore the rights of child victims of sexual violence, even though their psychological and mental health may not fully return to their pre-abuse state. Restitution payments from the perpetrator to the victim are regulated under Article 71D of Law Number 35 of 2014, which amends Law Number 23 of 2002 concerning Child Protection. Such payment is an obligation incumbent upon the



perpetrator; furthermore, Article 7A of Law Number 31 of 2014 stipulates that if the perpetrator is unable to pay restitution, the state is obligated to provide compensation to the victim. This is where state intervention through government regulation is essential to address the gap in responsibility regarding the recovery of sexual violence victims. Government Regulation Number 29 of 2025 concerning the Assistance Fund for Victims of Sexual Violence Crimes serves as the legal basis for guaranteeing material and non-material support for child victims of sexual violence. The Victim Assistance Fund (DBK) constitutes state compensation for victims of sexual violence crimes. The state ought to be able to provide compensation to victims without requiring the victims or their families to request or apply for restitution



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