

The Implementation of Restitution for Victims of Sexual Assault Against Children in Palangka Raya City

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Abstract. *The case of sexual intercourse against children is a serious crime that causes physical, psychological, and social impacts on the victim, so that the fulfillment of the right to restitution is a crucial element in legal protection for children, because it plays a role in the victim's recovery effort to return their condition as close as possible to the state before the crime occurred. This study aims to analyze the implementation of restitution for child victims of sexual intercourse in the jurisdiction of the Palangka Raya District Attorney's Office and examine the role and efforts of prosecutors in optimizing the implementation of restitution, including the factors that hinder it. The research method used is empirical legal research with a sociological juridical approach, which is carried out through a literature study of laws and court decisions, as well as interviews with relevant law enforcement officials, then analyzed qualitatively. The results of the study indicate that although restitution has been regulated normatively in various laws and regulations, its implementation has not been optimal due to the limited economic capacity of the perpetrator, the low understanding of victims and their families regarding the right to restitution, and the less than optimal coordination between prosecutors, law enforcement officials, and the Witness and Victim Protection Agency. This study concludes that optimizing restitution requires strengthening regulations, institutional readiness, and strong synergy between prosecutors, investigators, judges, and the LPSK so that protection can be realized effectively.*

Keywords: *Child; Protection; Restitution; Sexual; Victim.*

1. Introduction

Essentially, every human is born with inherent rights and duties that are to be exercised and respected within both society and the state. Children, as legal subjects, also possess rights that must be respected, protected, and fulfilled. Children's rights fall within the scope of human rights, so their fulfillment is a shared responsibility that must be guaranteed by parents, families, communities, the government, and the state. (Harefa K, 2024). Legal protection for children is part of the rights of every citizen guaranteed by the state, with the aim of providing

a sense of security, tranquility, prosperity, and peace from various threats. Legal protection is understood as a state guarantee that legal subjects, including children, obtain the resources and recognition necessary to maintain their survival in a fair and protected manner (Erdianti, 2020). Therefore, protection for child victims of sexual intercourse is a concrete manifestation of the implementation of the principles of human rights protection and the rule of law. This phenomenon does not arise simply but is influenced by various interrelated factors. A less conducive environment, low levels of education, and the availability of opportunities for perpetrators often trigger the crime. In practice, opportunity is the main entry point for this crime. For example, in cases of sexual intercourse with minors, perpetrators easily carry out their actions when there are gaps, both within the family environment and outside the family. Children, who are still innocent and do not yet have the ability to distinguish between permissible and unacceptable behavior, tend to follow the orders of adults without resistance.

In Article 59 of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, it is explained that the Government, Regional Governments, and other State Institutions have the obligation and responsibility to provide special protection to children, which includes:

- a. Children in conflict with the law.
- b. Children who are exploited economically and/or sexually.
- c. Children who are victims of pornography.
- d. Child victims of kidnapping, sale and/or trafficking.
- e. Children who are victims of physical and/or psychological violence.
- f. Child victims of sexual crimes.

This situation demonstrates that children are in a highly vulnerable position. This vulnerability is further exacerbated by the weakness of the child protection system at various levels, including the family, community, and law enforcement. The state bears the responsibility to ensure special protection for children as an integral part of human rights. In this context, handling should not solely be directed at punishing perpetrators, but must also ensure optimal recovery and protection of victims' rights, including the right to restitution. Although the legal basis for restitution has been comprehensively regulated, its implementation in practice still encounters various obstacles. These obstacles include limited understanding of the restitution mechanism among law enforcement officials, low victim participation in claiming their rights, relatively complex restitution determination procedures, and perpetrators' limited financial capacity to fulfill payment obligations, given that most perpetrators come from disadvantaged economic backgrounds. As a result, even though the right to restitution is stipulated in court decisions, victims often do not receive the compensation they deserve, and there is no clear mechanism to guarantee restitution payments if the perpetrator is unable to afford it.

This gap indicates that victims' rights to financial and psychological recovery have not been fully fulfilled. The principle of restitution is fundamental in ensuring protection for victims of crime, while also preventing the neglect of victims' rights, which should legally be fulfilled and guaranteed by the state (Dela et al., 2024). In the practice of providing compensation or restitution, fundamental weaknesses remain in the legal framework regulating the protection of children as victims of crime. A victim can be defined as an individual who experiences suffering or loss, either directly or indirectly, as a result of a particular act or event (Gultom, 2014). Legislation does not explicitly and comprehensively guarantee the fulfillment of child victims' rights to compensation. Furthermore, there are no clear regulations regarding the obligations of law enforcement officials, including the police, the Witness and Victim Protection Agency (LPSK), investigators, or public prosecutors, to actively provide information to victims or their families regarding their right to restitution. This situation has implications for the neglect of victims' rights and undermines the principle of legal protection that should be provided by the state (Manao L, 2024).

Compensation is a crucial element in the process of restoring victims' conditions to their original state, although not all losses can be fully recovered. National criminal law enforcement, both those regulated in the Criminal Code and the Criminal Procedure Code, is generally carried out based on clearly defined criminal law provisions. However, its implementation tends to focus more on formal and procedural aspects, so that the status and interests of victims often receive less attention. As a result, legal protection for crime victims is still treated as a routine regularity in criminal justice practice. (Triono A & Saputra D, 2024). This is of interest to the author to further examine the implementation of the fulfillment of the right to restitution in society as a form of implementing legal protection for child victims of sexual intercourse. The provision of restitution is actually an important instrument in realizing the restoration of victims' rights, especially children, as regulated in the Child Protection Law and its implementing regulations. However, in practice, there are still various factors that cause the right to restitution to be ineffectively implemented or even not received by children as victims of crime. These factors include the economic conditions of the perpetrator, the limited understanding of the victim and family regarding the restitution mechanism, and weak coordination between law enforcement officers and the LPSK.

As a concrete example, it can be seen in Decision Number 296/Pid.Sus/2024/PN Plk, where the defendant Rusdianur alias Rusdi bin Lahman has been legally and convincingly proven guilty of committing a crime "by deliberately carrying out deception, a series of lies, or persuading a child to have sexual intercourse with him or with another person". The victim in this case is a child with the initials NS who was 14 years and 1 month old at the time of the incident. In this decision, the judges declared that the defendant was proven guilty of committing the crime of sexual intercourse with a child as stipulated in Article 81 Paragraph (2) of Law No. 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law No. 1 of 2016 concerning the Second Amendment to Law No. 23 of 2002 concerning Child Protection. For his actions, the defendant was sentenced to nine (9) years in prison, minus the detention period already served, and a fine of IDR 15,000,000.00 (fifteen million rupiah) with the provision that

if the fine is not paid, it will be replaced with a prison sentence of (3) three months. In addition, The judge further ruled that the defendant is required to pay restitution in the amount of IDR 109,483,000.00 (one hundred nine million four hundred and eighty-three thousand rupiah) which will be distributed proportionally to the other 2 (two) perpetrators, namely Anak Sarwani Abdan Alias Iwan Bin M. Rujali and Defendant Darto Sianipar Alias Darto Anak Dari Salmon Regen Sianipar.

This case demonstrates that even though the judge has determined the amount of restitution to be paid by the perpetrator, its implementation often proves ineffective in practice due to the perpetrator's limited financial capacity to fulfill the obligation. This situation highlights the necessity for a thorough examination of the effectiveness of restitution implementation within the Indonesian criminal justice system, particularly in the context of legal protection for child victims of sexual intercourse. To date, law enforcement efforts in cases of sexual intercourse with children have tended to focus on imposing criminal sanctions on the perpetrator. However, the rights of victims, particularly regarding recovery, are often neglected, especially the right to restitution. Limited guarantees of protection for witnesses and victims were one of the main factors that prompted the establishment of Law No. 31 of 2014 as an amendment to Law No. 13 of 2006 concerning Witness and Victim Protection (Heryanto et al., 2020). Therefore, the role of law enforcement officials, particularly prosecutors, is essential in optimizing the implementation of restitution. Prosecutors are expected not only to pursue criminal charges against offenders but also to actively advocate for the fulfillment of victims' rights, especially the right to restitution. This optimization includes how prosecutors submit restitution requests, ensure the restitution value is commensurate with the victim's losses, and supervise its implementation.

Based on the description above, a legal issue can be identified in the form of a discrepancy between the legal norms regarding restitution for child victims of sexual intercourse in Palangka Raya City and the reality of its implementation. This raises questions about how restitution is implemented for victims of sexual intercourse with children and how prosecutors at the Palangka Raya District Attorney's Office are optimizing restitution for victims of sexual intercourse with children in Palangka Raya City.

2. Research Methods

The type of research used in this study is empirical legal research, namely research that examines the law not merely as written normative provisions, but also as real practices that develop and are applied in community life. The approach method used is a sociological juridical approach, which aims to see the conformity between legal provisions regarding restitution for child victims of sexual intercourse with the reality of its implementation in the jurisdiction of Palangka Raya City. The research employs a descriptive-analytical approach as its specification, namely systematically describing the implementation of restitution while analyzing the problems and obstacles that occur in practice.

Interviews and documentation review were employed as the techniques for data collection in this study. Interviews were used to obtain primary data sourced from law enforcement officials, particularly prosecutors, and other relevant parties regarding the implementation of restitution, obstacles encountered, and efforts made to fulfill the right to restitution for child victims of sexual intercourse. Documentation studies were used to obtain secondary data in the form of laws and regulations, court decisions, and additional formal documents concerning the research object. The data analysis method used was qualitative analysis, namely by systematically processing and interpreting the obtained data and then analyzing it based on legal theories and applicable statutory provisions.

3. Results and Discussion

3.1. Implementation of Restitution for Victims of Sexual Acts with Children

Restitution is financial compensation that a perpetrator must provide to a victim or their heirs for losses suffered based on a legally binding court decision (Sabri et al., 2023). Restitution remains in place and is regulated by law even if filed by the victim, as restitution is not essentially voluntary assistance, but rather a legal right of the victim and an obligation of the perpetrator guaranteed by the state. There are several legal and conceptual reasons why the restitution mechanism requires a victim's filing:

- 1) Restitution stems from the principle of victim protection and recovery. The state recognizes that victims experience concrete losses, whether material, psychological, or social, that can only be accurately identified by the victims themselves. Therefore, the law provides victims with the opportunity to apply for restitution so that the amount and type of losses requested truly reflect the actual circumstances they experienced.
- 2) The victim's obligation to file a claim is related to the principles of due process of law and legal certainty. Judges cannot immediately impose restitution without a clear request and calculation basis, as restitution concerns the victim's civil rights and the perpetrator's financial obligations. The victim's claim serves as the formal basis for the judge to legally assess, examine, and determine restitution.
- 3) Restitution is not a crime, but rather a restitution mechanism. Because it is neither a principal nor an additional penalty, restitution is not automatically imposed like a prison sentence or a fine. Therefore, the Indonesian legal system considers restitution a right that can be claimed, not a sanction imposed by a judge.
- 4) The restitution application mechanism is intended to prevent disproportionate or speculative compensation awards. With a victim's application supported by evidence and an assessment by the LPSK, the court can ensure that the restitution awarded is based on actual losses, not assumptions.

However, victims should not be burdened with actively pursuing their own rights. Therefore, the law provides space for prosecutors and the Witness and Victim Protection Agency (LPSK)

to assist or represent victims in filing for restitution. The fact that restitution must be filed by the victim actually exposes a weakness in the system: it has not fully shifted from a perpetrator-centered paradigm to a victim-centered paradigm. This is the reason restitution persists even though the mechanism requires a victim-centered application: restitution is a legally recognized right of victims, but it is not yet fully guaranteed automatically by the criminal justice system.

Child protection in the criminal law system is a crucial aspect because children are the next generation who need guaranteed welfare and a decent future. (Widowati, 2024). Violence against children is a crucial issue and a serious challenge today. Violence against children can occur in various contexts of life, including within the family, social community, and educational settings such as schools. (Nisa & Mulyasari, 2023).

Traumatic events can have profound and lasting impacts on children, in some cases leaving psychological scars that are difficult or impossible to fully recover from. Experiences in a child's environment significantly influence their personality development and psychological well-being. A conducive, safe, and fear-free environment will help shape a child's character in a normal and healthy manner, considering that child development is influenced by biological, psychological, spiritual, and social aspects (Magindali et al., 2022). Children need guidance and protection to ensure balanced and harmonious physical, mental, and social growth (Simatupang & Faisal, 2018). Therefore, both the physical and social environments play a crucial role in supporting a child's growth and development. The ideal environment for a child is one that guarantees their protection, where child protection is defined as all efforts to guarantee and protect children's rights to live, grow, develop, and participate optimally in accordance with their human dignity, and to be protected from all forms of violence and discrimination (Hanifah et al., 2019).

Based on empirical findings obtained through field research, it is known that in 2024, there were 13 cases of child sexual abuse committed by adults, while in 2025, the number decreased to 3 cases. In practice, only a small proportion of victims or their families apply for restitution, while the majority choose not to sue or submit a written statement at the beginning of the investigation. Restitution applications in Palangka Raya City are still relatively rare. This is because the process of calculating the amount of losses suffered by victims must go through the LPSK, which is centralized in Jakarta (LPSK RI). Restitution is calculated not by placing a price on the victim's suffering, but by calculating the recovery costs required rationally and professionally as a result of the crime. The LPSK's calculations are based on medical, psychological, and social assessments, based on the principles of cause-and-effect relationships, reasonable costs, and expert opinions, so that non-material losses can be objectively translated into rupiah. The application process can be done online through communication media such as WhatsApp or Zoom, but limited access and public understanding often present obstacles.

As a result, most victims choose not to apply for restitution because they consider the process to be complicated and time-consuming. However, there are also several cases where the

victim has submitted a restitution request, but the defendant is unable to pay the restitution amount determined based on the LPSK's calculations. In such situations, the victim is first given a legal understanding that if the defendant cannot fulfill the restitution obligation as stipulated, then its implementation can be diverted according to the judge's decision. Based on applicable provisions, the judge can impose a substitute sentence in the form of imprisonment as a consequence of the defendant's inability to pay the restitution (Eka Putra Zakran et al., 2025).

This situation results in the victim, taking into account the defendant's financial situation, ultimately having to accept the transfer of the form of restitution as determined by the court. Based on the results of interviews conducted by the author with the Prosecutor at the Palangka Raya District Attorney's Office, it was explained that the application for restitution should not be made in the middle of or after the trial process has begun. This is because a restitution application submitted after the trial is underway will complicate the process of proving and calculating the losses to be borne by the defendant, considering that the LPSK requires time to verify and assess the extent of the victim's losses. Therefore, if the victim wishes to apply for restitution, the application should be submitted before the trial process begins.

This step aims to ensure that victims gain a sufficient understanding of the mechanisms and legal consequences of restitution, including the possibility that the perpetrator is unable to pay compensation as determined by the court. Therefore, victims are expected to understand that if the perpetrator is unable to fulfill their restitution obligation, the alternative can be changed to imprisonment in accordance with the judge's decision. This understanding is important to prevent excessive expectations regarding the fulfillment of restitution in the form of money, especially when the perpetrator's economic situation makes it impossible to fulfill this obligation.

The author takes one example of a criminal case of sexual intercourse with a child handled by the Palangka Raya District Attorney's Office, where in this case the victim has filed a request for restitution. Based on Decision Number 296/Pid.Sus/2024/PN Plk, Rusdianur alias Rusdi bin Lahman was proven guilty of committing an act, namely "intentionally persuading a child to have sexual intercourse with him", as regulated and threatened with criminal penalties in Article 81 paragraph (2) of the Republic of Indonesia Law No. 17 of 2016 concerning the Determination of Government Regulation in Lieu of Law No. 1 of 2016 concerning Amendments to Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection into Law. In Decision Number 296/Pid.Sus/2024/PN Plk, the panel of judges sentenced the defendant Rusdianur alias Rusdi bin Lahman to 6 (six) years in prison and a fine of IDR 15,000,000.00 (fifteen million rupiah), and imposed an obligation to pay restitution on the child victim with the initials NS, who was represented by his biological mother with the initials S.

As a result of her actions, the victim experienced psychological distress in the form of feelings of hopelessness for the future, self-blame, and self-hatred, as stated in the Victim's

Psychological Examination Results. The victim's family then filed a request for restitution as compensation for lost wealth or income, including transportation and consumption costs during the legal process, as well as lost income. In addition, the victim also filed for compensation for suffering directly related to the crime of sexual violence, namely the cost of caring for the victim's child's pregnancy. Based on the provisions of Article 30 of Law No. 12 of 2022 concerning Crimes of Sexual Violence, victims are granted the right to claim restitution from the perpetrator as a form of accountability for the losses incurred as a result of the crime. Thus, the provision of restitution is an important instrument in fulfilling victims' rights as well as a form of justice.

LPSK has conducted an examination, in-depth information, and assessment of the losses suffered by the victim based on the evidence and documents submitted, by determining the total loss of Rp109,483,000.00 (one hundred nine million four hundred and eighty-three thousand rupiah). The restitution value was determined based on the LPSK assessment and divided proportionally among the three defendants, namely Rusdianur alias Rusdi bin Lahman, Sarwani Abdan alias Iwan bin M. Rujali, and Darto Sianipar alias Darto, son of Salmon Regen Sianipar, with each charged with restitution of Rp37,000,000.00 (thirty-seven million rupiah), which if not paid can be replaced with imprisonment for 3 (three) months.

The Panel of Judges ordered the Defendant Rusdianur alias Rusdi bin Lahman to pay restitution to the victim's child with the initials NS through his biological mother with the initials S., in the amount of IDR 37,000,000.00 (thirty-seven million rupiah). If the restitution is not paid by the defendant, it will be replaced with a prison sentence of 3 (three) months. If the defendant is factually proven to not have the economic ability to fulfill the obligation to pay restitution in full, the judge has the authority to impose a relatively light substitute sentence, namely 3 (three) months, as a manifestation of the balance between the principle of justice for the victim and the objective condition of the defendant.

The determination of a 3 (three) month substitute sentence for restitution is decided based on legal rules, social factors, and the idea of fairness in punishment. The principle of proportionality means the punishment should match the crime, keeping a fair balance between the interests of the offender, the victim, and society. This principle is meant to ensure true justice, so that court decisions are not just about punishment but also about fairness for everyone involved (Fatoni et al., 2025). In practice, judges often use the same approach as with criminal fines in the Criminal Code (KUHP), if someone cannot pay a fine, it can be replaced with imprisonment.

In rendering a verdict, Judges are expected to give primary consideration to the principle of restorative justice, considering that the judicial process is not solely oriented toward punishing the perpetrator, but also toward restoring and fulfilling the victim's rights fairly and proportionally. Therefore, judges must not hesitate in imposing sanctions. These sanctions serve not only as a response to the crime but also to correct and prevent further crime (Shaquila et al., 2023).

It is important to understand that restitution is not a principal penalty, but rather a civil obligation arising in the criminal process as a form of restoration of the rights of victims resulting from criminal acts. Therefore, the substitute penalty of restitution is not intended to increase the sentence against the defendant, but rather is a legal consequence of non-compliance in carrying out the obligation of restitution as stipulated in the court's decision. Therefore, the determination of a substitute penalty of restitution for 3 (three) months reflects the judge's efforts to balance the principles of legal certainty, justice, and benefit, while preserving the role of restitution as a mechanism for victim recovery without ignoring the proportionality of the sentence to the defendant's economic capacity.

3.2. Efforts of Prosecutors at the Palangka Raya District Attorney's Office in Optimizing Restitution for Victims of Sexual Acts with Children in Palangka Raya City

A crime is a prohibited act, and violation of this prohibition is punishable by criminal penalties and is considered unlawful. Interviews conducted by the author with prosecutors at the Palangka Raya District Attorney's Office revealed that prosecutors' efforts to optimize the implementation of restitution rights are carried out through a coordinated, persuasive approach, and based on legal awareness between law enforcement officers (APH) and victims.

First, during the pre-prosecution stage, prosecutors attempt to coordinate with investigators upon receipt of the Notice of Commencement of Investigation (SPDP) for cases involving child victims. This coordination aims to ensure that, from the outset of the investigation, investigators can provide the victim and their family with an understanding of the meaning of restitution, its benefits, and the consequences if the perpetrator fails to fulfill this right in the future. This step represents a form of preventive legal protection for child victims. Second, if the victim or their family is interested in applying for restitution, prosecutors will contact the LPSK to follow up on the complaint or request. This reflects institutional collaboration in safeguarding the fulfillment of victims' rights as mandated under Law No. 31 of 2014 on Witness and Victim Protection.

The perpetrator's restitution depends on the time the victim submits the restitution request. Restitution requests submitted before a court decision is rendered will be examined and decided during the criminal justice process, leaving the perpetrator obligated to pay restitution in accordance with the judge's decision. Conversely, if a restitution request is filed after a court decision is rendered, the perpetrator's restitution payment will be based on the court's decision (Shaqila et al., 2023).

In sexual intercourse cases, particularly those involving children, victims often experience confusion in determining the appropriate mechanism for filing restitution claims. This confusion is generally caused by the lack of a clear restitution filing procedure and a lack of understanding by victims and their families. Therefore, in handling sexual intercourse cases, law enforcement officials are not only obliged to focus on punishing the perpetrators but also must ensure that the victims' rights, including the right to restitution, are fulfilled. Law

enforcement officials have a strategic role in providing information, assistance, and facilitation to victims so that their right to restitution can be realized effectively.

Furthermore, fulfilling the right to restitution depends not only on the role of law enforcement officials but also requires the involvement of all stakeholders and public support. A victim-oriented approach must be the foundation for handling sexual intercourse cases, given the serious impacts they cause. The right to restitution for victims of sexual intercourse has a broad scope, including reimbursement for medical and psychological treatment costs, rehabilitation costs, and legal assistance during the trial process. Thus, restitution is expected to be a comprehensive instrument of recovery for victims, while also reflecting the state's commitment to providing equitable legal protection for victims of sexual intercourse (Dela et al., 2024).

However, in practice, there are structural and cultural obstacles, with some law enforcement officials reluctant to process restitution applications because they consider the process complicated and require intensive inter-agency coordination. This "reluctance because it's complicated" attitude hinders the successful enforcement of restitution. On the other hand, there are also situations where the victim's family displays a passive or resigned attitude towards the restitution process, so that even though prosecutors have attempted to provide understanding, implementation remains hampered. To anticipate this, prosecutors typically require the victim or their family to draft a written statement rejecting restitution, along with a note stating that any changes in their attitude after the case has been tried are the victim's own responsibility.

4. Conclusion

The implementation of restitution as a right of victims of criminal acts, especially children subjected to sexual offenses within the jurisdiction of the Palangka Raya District Attorney's Office, has not been running optimally. Although restitution is normatively understood as the offender's duty to compensate for the victim's losses and has been provided for in various legal provisions, its position outside the category of principal or additional penalties results in weaker enforceability within the criminal justice system. In practice, restitution is still often positioned as additional recovery or merely moral compensation, rather than as a legal right that must be fulfilled by the victim, so that its fulfillment is highly dependent on the victim's initiative and the subjective considerations of law enforcement officials. This situation is further compounded by the absence of regulations outlining a comprehensive mechanism for executing restitution, weak coordination between law enforcement officials and the LPSK, low understanding and participation of victims, and the perpetrator's limited economic capacity, which ultimately results in restitution often being replaced by imprisonment without providing real recovery for the victim. In fact, restitution should be positioned as an instrument to fulfill the rights of victims and not as part of the perpetrator's punishment, according to the Institute for Criminal Justice Reform (ICJR), so that its optimization requires a paradigm shift in law enforcement officers, strengthening regulations, institutional readiness, and strong synergy

between prosecutors, investigators, judges, and LPSK so that protection can be realized effectively.

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