

The Urgency of Expanding Victim Assistance Funds for Child Victims of Crime

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Abstract. *A child who is a victim of a criminal offense needs both material and immaterial recovery. Unfortunately, to date, both restitution and compensation have not been able to provide material reparation to child victims of crime. Both mechanisms are considered to have weaknesses that hinder the fulfillment of material rights for victims in order to restore their condition. The implementation of victim assistance funds as a mechanism that functions if the confiscated assets of the convicted person are not sufficient to fulfill the value of restitution. Currently, victim assistance funds can only be applied to victims of sexual violence crimes. However, currently the victim assistance fund cannot be utilized by all children who are victims of any criminal offense. Therefore, this research will discuss in depth the urgency of expanding victim assistance funds for child victims of criminal acts.*

Keywords: Assistance; Fund; Child; Victims.

1. Introduction

In order to realize the transformation of the legal system in Indonesia, the implementation of restorative justice is seen as an optimism for the improvement of Indonesian criminal law enforcement. The definition of restorative justice according to Bagir Manan is an idea in determining a way out to strengthen a fairer and more balanced punishment system (Wiyono, 2016). He also stated that with restorative justice, there will be an alternative to criminal courts with a combined method to find a solution and return to the pattern of good relations in society with the method of the perpetrator on the one hand and the victim and the community on the other as one unit (Prayitno, 2012). Restorative justice aims to repair damaged relationships in society due to a criminal offense. Restorative justice also changes the perspective of criminal law from one that previously considered crime as a form of violation of rules and resistance to government, to

individual conflicts that harm victims and the interests of the general public. The implementation of restorative justice in the Indonesian legal system will bring together victims, perpetrators and the pluralistic society in a just way.

In line with the transformation of the legal system in Indonesia, restorative justice must also be implemented in the juvenile criminal justice system. Children who will contribute as the next generation of the nation must be protected by the state. As of the SIMFONI-PPA record in 2024, child victims of violence reached 19,628 children. The violence referred to in these records consists of various types of violence such as violence in the form of psychological, physical, sexual, child exploitation, child trafficking, and child neglect. Seeing this data, the state has an obligation to pay attention to children who are victims of criminal acts to get their rights in the context of recovery. Therefore, a breakthrough step is needed by the state as an implementation of restorative justice in fulfilling the rights of child victims.

Article 71D of Law No. 35 of 2014 on the Amendment to Law No. 23 of 2002 on Child Protection regulates the existence of norms regarding provisions that guarantee the right of child victims of criminal acts to obtain restitution. Restitution itself can be interpreted as the provision of compensation that must be paid by the perpetrator to the victim or his heir, based on a court decision that has permanent legal force, for material and / or immaterial losses. The existence of restitution is a manifestation of a criminal justice system that functions as a recovery effort that utilizes material value in the form of money or physical to reparate losses (Ananta, 2016).

Unfortunately, the fulfillment of the right to restitution by the perpetrators of criminal acts is often not fulfilled. In practice, no matter how large the value of restitution requested by the victim and determined in the judge's verdict, in fact the right to restitution will be very difficult to obtain by the victim. Not only in child protection crimes, other crimes, including human trafficking crimes and sexual-based violence are often not paid by the perpetrators of criminal acts. This argument is corroborated by the LPSK report in 2023 where the total amount of restitution determined in the judge's decision was IDR 30,987,089,611.50, while the total amount of restitution that could be paid by the perpetrator of the crime was only IDR 799,190,220.00. That means from the total amount of restitution determined in the judge's decision only about 2.57% can be paid by the perpetrator. By referring to the data above, it can be concluded that the ability of the perpetrators of criminal acts to fulfill the obligations of restitution decisions is considered very weak so that the victims of criminal acts do not get any material compensation.

The emergence of Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence (hereinafter abbreviated as the TPKS Law) provides a new breakthrough in terms of fulfilling the right to restitution for victims, namely the Victim Trust Fund (Abdillah & Setyorini, 2025). Interestingly, this law does not only regulate penalties

for perpetrators of sexual violence, but also regulates victim assistance funds as an effort to fulfill the rights of victims of sexual violence. This can be seen in Article 35 of the TPKS Law which regulates the provisions of victim assistance funds. The victim assistance fund is a form of compensation from the state to victims of sexual violence. Indeed, the victim assistance fund acts as an alternative if the property of the prisoner that has been confiscated cannot cover the cost of restitution. Compensation in this case is different from the compensation regulated in Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection. Compensation in the regulation can be interpreted as compensation provided by the state because the perpetrator is unable to provide full compensation for which he is responsible to the victim or his family. However, the use of compensation is only possible for victims of serious human rights violations and victims of terrorism as stated in Article 7 of Law No. 31 of 2014. It can be interpreted that other than serious crimes against human rights and terrorism it is not possible to get compensation. With the emergence of victim assistance fund norms in the TPKS Law, it can be interpreted that the state provides renewal in terms of material fulfillment of victims' rights. Later victim assistance funds can be obtained from philanthropy, communities, individuals, corporate social and environmental responsibility, and other legal and non-binding sources and the state budget in accordance with statutory provisions.

The victim assistance fund provisions in the TPKS Law cannot necessarily be applied to children for all criminal offenses. This is because the TPKS Law only specifically regulates criminal offenses related to sexual violence. We know that children are not only potential victims of sexual violence, but there are many other criminal offenses that can ensnare children. Therefore, it is necessary to deepen the expansion of the norm regulation of victim assistance funds for child subjects, so that children as victims of any criminal offense are allowed to utilize victim assistance funds.

Seeing the above, the author will try to review the expansion of victim assistance funds for children who are victims of criminal acts. It is hoped that with this research, readers will know the benefits and importance of implementing victim assistance funds that can provide material recovery to children who are victims of criminal acts. Later this research will also discuss in more depth the regulations related to the implementation of victim assistance funds for children based on positive law and the urgency of victim assistance fund formulation policies in future child protection laws.

2. Research Methods

In this research, the author uses the normative juridical method. The definition of normative juridical research is a research that examines various approaches such as legal theory approaches, legal concepts, and also examines laws and regulations related to research. Specifically, the purpose of using normative juridical methods

in this research is to find out how the application of victim assistance funds can be a legal transformation in order to realize restorative justice which until now has not been regulated in the child protection law. Later in this research, the author will examine several laws and regulations relating to child protection and victim assistance funds and the author will also try to use supporting literature to complete this research. Furthermore, in using this juridical method, the author will evaluate and compare matters relating to the provisions of child protection and victim assistance funds so that they can be input for policy makers.

3. Results and Discussion

3.1. The Application of Victim Assistance Funds Specifically for Children as Victims Under Current Positive Law

Talking about children, we are actually seeing a picture of the state of a country in the future. Children are an important part of a country's development process, because in the future they are the ones who continue the baton of leadership. This means that if a country ignores the existence of children, it is the same as the country will experience a number of problems in the future. Therefore, through government programs that specifically regulate the growth and development of children both in the context of child growth, child protection, child empowerment, and fulfillment of other children's needs, it is solely done to create a superior young generation.

By definition, a child is someone who is not yet 18 (eighteen) years old, including children still in the womb. Then in Article 28B paragraph 2 of the 1945 Constitution, it is stated that every child has the right to survival, growth, and development, and is entitled to protection from violence and discrimination. Child protection itself means the state's efforts to ensure and protect children so that they obtain their rights so that they can live, grow, develop, and participate optimally in accordance with the dignity of humanity, and receive protection from violence and discrimination. Seeing these regulations, special attention is needed by the state in providing certainty for children to avoid the threat of discrimination and acts of violence.

Talking about criminal law and children, there are two very different elements that require caution by the state in combining the two elements. In criminal law, a child in conflict with the law is a person in conflict with the law, a child who is a victim of a criminal offense, and a child who is a witness to a criminal offense. From these three categories, it can be seen that there are two different positions, namely children as perpetrators of criminal acts or children in conflict with the law and children who are victims or witnesses of a criminal act. However, specifically through this research, the author will discuss more about children who are victims of criminal acts who can fulfill their rights in the context of recovery due to criminal acts. A child who is a victim of a criminal offense is a child who suffers physical,

mental, and/or economic loss caused by a criminal offense. Therefore, the state is obliged to be present to children who are victims of criminal acts to seek recovery.

If you look at the International Regulations, namely the 1989 Convention on the Rights of the Child (United Nations Convention on the Rights of the Child) which is also the background for the formation of child protection laws in Indonesia (Firli, 2022), Article 39 states that children who are harmed, neglected, or abused or are victims of exploitation, armed conflict, or imprisonment are entitled to special care to restore their condition. Looking at these provisions, in seeing children who are victims of criminal acts, the international community agrees that there are special actions taken by a country so that the child can obtain their rights.

Regarding the efforts given by the state to children who are victims of criminal acts, these efforts are not sufficient only through general protection efforts but there are efforts to provide special protection to children. Special protection provided to the state is a form of protection received by children in certain situations and conditions. Furthermore, in Article 59 of Law Number 35 of 2014 concerning Child Protection, there are 15 conditions under which children can obtain special protection. Of these 15 conditions, there are at least 9 conditions where children may become victims of criminal acts. Then in article 59A of the law, there are 4 efforts made by the state in providing special protection, namely :

- a) rapid treatment, including physical, psychological, and social treatment and/or rehabilitation, as well as prevention of disease and other health problems;
- b) psychosocial assistance during treatment until recovery;
- c) provision of social assistance for children from poor families; and
- d) provision of protection and assistance in every judicial process.

Not only in the child protection law, in Article 2 of Presidential Regulation 75 of 2020 concerning the Implementation of the Rights of Child Victims and Child Witnesses Jo. Article 90 Paragraph 1 of Law No. 12 of 2011 concerning the Child Criminal Justice System states that children who are victims of criminal acts have the right to get:

- a) Medical rehabilitation and social rehabilitation efforts, both in institutions and outside institutions;
- b) Safety guarantees, both physical, mental and social; and
- c) Ease of obtaining information about the progress of the case.

Later in the implementation of institutions that carry out protection efforts for child victims are the Witness and Victim Protection Agency and also other institutions in accordance with statutory provisions.

Not only specifically regulated in the laws and regulations that the author has previously described, the rights of children who are victims of criminal acts in general are also regulated in Article 5 of Law No.1 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim

Protection. The rights regulated in this article are general rights for all victims of criminal acts so that they can also be received by children who are victims of criminal acts.

Looking at some of these laws and regulations, it can be said that there are special efforts given by the state to child victims. However, the efforts provided by the state to children who are victims of criminal acts still focus on immaterial recovery efforts. Immaterial recovery is a direct action provided by state institutions to children who are victims of criminal acts. This means that these efforts are efforts directly provided by the state to child victims so that the state no longer provides financial support. This recovery focuses more on achieving the goal of restoring children who are victims of criminal acts by using the presence of state institutions.

While the state is obliged to provide special immaterial protection to child victims, the author feels that these efforts have not been able to answer exactly how they can recover their situation in terms of economic and material losses as a result of the criminal act. The material loss suffered by a child victim of a criminal offense can be seen from the amount of money that the victim has to spend for an act that he/she did not expect. For example, when a child becomes a victim of a criminal offense, he/she has to spend a lot of money in taking care of all the legal processes that he/she has to go through, both directly and indirectly. Not to mention the immaterial efforts provided by the state to victims often experience delays. This is due to various reasons such as complicated bureaucracy, limited budget in a state institution, geographical obstacles, and other obstacles that cause immaterial special protection not to be implemented effectively. Therefore, material special protection efforts should not be neglected by the state considering the great benefits obtained by children who are victims of criminal acts.

The fulfillment of the right to material losses experienced by children who are victims of criminal acts is often forgotten in the juvenile criminal justice system. When talking about the rights of victims of criminal acts, there are at least two methods that can be carried out by the state to victims of criminal acts after the occurrence of criminal acts. The first method is the recognition of the state by law enforcement officials regarding the position of the victim in the law enforcement process and the presence of the state in ensuring that the perpetrator carries out his responsibility in providing compensation. Then the second method is when the state can take a role if the perpetrator is unable to be materially responsible to the victim. These two methods also remind us of how a criminal law system must address the material recovery of victims after a criminal offense. Materially means that there is a compensation mechanism provided by the perpetrator and the state to victims of criminal acts so that they get their rights in the context of recovery from criminal acts. The existence of material recovery for victims, especially children who are victims of criminal acts, is also in line with the spirit of restorative justice which emphasizes the restoration of relationships between victims, perpetrators, and society. Therefore, it is expected that the state will play

an active role and make a breakthrough in fulfilling the right to material losses experienced by children who are victims of criminal acts.

Currently, there is a provision for victim assistance funds that has been regulated in Article 35 of Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence to answer the form of active role that can be carried out by the state in fulfilling the right to material losses experienced by victims. The contents of Article 35 are:

- a) In the event that the confiscated assets of the convicted person do not cover the cost of Restitution as referred to in Article 33 paragraph (7), the state shall compensate the amount of Restitution underpaid to the Victim in accordance with the court decision.
- b) Compensation as referred to in paragraph (1) shall be paid through the Victim Assistance Fund.
- c) The Victim Assistance Fund as referred to in paragraph (2) may be obtained from philanthropy, communities, individuals, corporate social and environmental responsibility, and other legal and non-binding sources and the state budget in accordance with the provisions of laws and regulations.
- d) Provisions regarding the source, allocation, and utilization of the Victim Assistance Fund as referred to in paragraph (2) shall be regulated by Government Regulation.

The victim assistance fund itself can be interpreted as compensation for the amount of restitution value that the state provides to the victim due to the confiscated assets of the convicted person not being sufficient to cover the restitution costs. The sources of victim assistance funds can be obtained from philanthropy, communities, individuals, corporate social and environmental responsibility, and other legal and non-binding sources and the state budget in accordance with the provisions of laws and regulations. The presence of victim assistance funds is solely to resolve the deadlock that has occurred due to the inability of criminal offenders to fulfill the amount of restitution value. The victim assistance fund functions almost the same as compensation where the state will compensate the victim because the confiscated assets of the convict cannot meet the amount of restitution. However, in the victim assistance fund there is an expansion of funding, which does not only focus on the state budget but can be obtained from philanthropy, communities, individuals, corporate social and environmental responsibility, and other legal and non-binding sources and the state budget in accordance with statutory provisions. Currently, the implementation of victim assistance funds can only be utilized by victims of sexual violence. This is because the provision of victim assistance funds is not regulated in a general law so that it can be utilized by all victims of crime.

Seeing the benefits presented by the provisions of victim assistance funds, children who are victims of any criminal offense should be able to take advantage of this. Unfortunately, this is currently not applicable. The absence of specific regulations in child protection laws or other laws is the reason why not all child

victims can enjoy/utilize victim assistance funds. Victim assistance funds should also be applied to children as victims of criminal acts as a whole so that they can overcome the consequences of these criminal acts which will potentially damage children physically and psychologically for children as victims of criminal acts. Therefore, it can be concluded that only children who are victims of sexual violence are allowed to receive victim assistance funds as in Article 35 of the TPKS Law.

3.2. Policy Urgency of Victim Assistance Fund Formulation in the Child Protection law in the Future

Especially for children as victims of criminal acts, currently the juvenile criminal law system should no longer only be concerned with how to punish the perpetrators, but also be able to fulfill the rights of children as victims for the losses they suffer. This is important because when a child victim does not get his/her rights both materially and immaterially, it is possible to have physical, psychological, social impacts, thus inhibiting his/her growth and development in the future. Therefore, through the restitution mechanism, children who are victims of criminal acts can obtain their rights materially to restore their condition.

Currently, the implementing regulation on restitution itself is regulated in Government Regulation No. 7/2018 on Providing Compensation, Restitution, and Assistance to Witnesses and Victims. Article 19 Paragraph 1 states that victims of criminal acts are entitled to restitution. However, regarding what criminal offenses can be requested for restitution, this Government Regulation does not provide clear limitations. Then in Article 2 of the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2022 concerning Procedures for Settling Requests and Providing Restitution and Compensation to Victims of Crime, it is stated that requests for restitution can be requested in cases of crimes of Gross Human Rights Violations, Terrorism, Trafficking in Persons, Racial and Ethnic Discrimination, Ethnic-related crimes, Crimes Related to Children, as well as other crimes determined by the LPSK Decree. Specifically, the point on other criminal offenses determined by the LPSK Decision is a decision made by the LPSK which contains a description of the calculation of losses and the amount of Restitution and/or Compensation value for the application submitted by the Applicant in accordance with the provisions of laws and regulations.

If we look at these two regulations, the state actually does not provide restrictions related to what criminal offenses can be filed. Victims of criminal acts can submit it to LPSK for all criminal acts that have been regulated both in general, namely in the Criminal Code and specifically in the criminal provisions in a law. Therefore, it is possible for victims of any criminal offense to apply for the amount of restitution as long as there is a decision that has been made by the LPSK.

However, in practice, it was found that there was a failure to maximize the restitution mechanism so that it often could not produce results for victims. The

existence of restitution cannot guarantee that the victim will get the amount of restitution in accordance with the court decision. This is due to the lack of willingness of the perpetrator to pay and the assets of the perpetrator are not sufficient to pay the restitution value. For example, as stated in the introduction of this study, in 2023, only 2.57% of the restitution value determined in the judge's decision could be paid by the perpetrator. Then in 2024, there was a total amount of losses of IDR 473,804,695,123 that had been calculated by LPSK. The data consists of 90.7% or around IDR 427,332,938,315 from money laundering crimes and the remaining 9.3% or around IDR 43,952,090,828 consisting of crimes of sexual violence against children, trafficking in persons, sexual violence, serious maltreatment, and other criminal acts. The irony is that from around IDR 43,952,090,828 which is the value of restitution that is not a money laundering crime, only around IDR 1,035,026,213 or around 2.35% can be paid by the perpetrators of criminal acts. The value consisted of IDR 968,055,000 for human trafficking, IDR 62,646,360 for sexual violence, and IDR 4,324,853 for serious maltreatment. Meanwhile, for child sexual abuse and other crimes, none of the perpetrators paid it. Therefore, if it relies solely on restitution, the presence of criminal law in restoring victims of criminal acts is deemed unable to function.

In addition, there is a threat of substitute punishment in the crimes of trafficking in persons, terrorism, and sexual violence if the defendant's assets cannot be sufficient as stipulated in Article 8 Paragraph 13 of Perma Number 1 of 2022 and Article 33 Paragraph 7 of Law No. 12 of 2022. However, the author considers that the threat of additional punishment cannot necessarily move the defendant to pay the value of restitution due to the defendant's financial incapacity. Therefore, it can be concluded that if only relying on restitution alone, then there is no certainty of material recovery for victims of criminal acts.

In addition to restitution, there is compensation as a mechanism related to material recovery for victims of criminal acts. Compensation can be interpreted as compensation provided by the state because the perpetrator is unable to provide full compensation that is his responsibility to the victim or his family. Currently, compensation is only limited to two criminal offenses, namely gross human rights violations and terrorism as stipulated in Article 7 of Law No.1 of 2014. Later, after a court decision that has obtained permanent legal force, LPSK is authorized to carry out compensation payments. However, specifically for terrorism crimes, the compensation does not depend on the court decision that declares a person guilty of his/her actions, but as long as there are victims of terrorism crimes, the state will provide the compensation. The compensation provided by the state to the victims is motivated by the fact that the state is responsible for the criminal offense so that the state provides material compensation to the victims through state finances.

Unfortunately, this compensation is only limited to two specific criminal offenses, namely gross human rights violations and terrorism. Not to mention that the

source of compensation funding only relies on the State Budget (APBN) which is charged to the IPSK budget section. The author believes that compensation funding that only uses the state budget cannot maximally restore the condition of victims of criminal acts. Moreover, as we all know, the management of the state budget is often prone to conflicts of interest due to the strong political process within it. As for the compensation that has been regulated to date, the author argues that the mechanism has not been able to become a definitive solution to answer how a victim of criminal acts outside of terrorism and gross human rights violations can recover their situation. Therefore, both restitution and compensation, each of which has its own weaknesses, create obstacles for victims of criminal acts to be able to materially restore their condition.

Referring to the discussion above, the state has a big problem fulfilling the rights of children who are victims of criminal acts to be able to materially restore their condition. If we look at criminal offenses that have the potential to make children victims, we will find many violent crimes that befall children (Destianti, 2024). As the author has mentioned in the introduction, it appears that the amount of violence experienced by children in Indonesia is not small. Even if we look deeper, in 2024 there was an increase in the number of cases of violence against children by 1,453 cases from 2023. This shows that Indonesia can no longer focus only on preventive measures but is obliged to make breakthroughs in the recovery of children as victims of criminal acts. If not handled seriously, it will cause serious physical injuries and physical and mental health problems for children as victims in the future. Therefore, the government must be present in taking a breakthrough step to save Indonesia's young generation from the consequences of a criminal act.

The enactment of the victim assistance fund provision in the TPKS Law can answer these problems so that there is a criminal justice system that can answer how to materially restore children who are victims. The author sees that there are many benefits obtained by a child victim when he/she can utilize the victim assistance fund mechanism. Currently, it is possible for child victims to utilize this mechanism, but it is limited to sexual violence crimes only. This is because the mechanism is regulated in the TPKS Law so that only adults and children who are victims of sexual violence can utilize the victim assistance fund mechanism. Although today there are many cases of sexual violence against children, not all children are only victims of sexual violence. Children may also be victims of other crimes of violence such as physical, psychological, exploitation, human trafficking, and child neglect. The absence of provisions for victim assistance funds that can serve as a basis for children who are victims of criminal acts other than sexual violence to utilize this mechanism.

In addition, the author also sees the specificity that the state provides when talking about children and criminal law. We recognize the privileges for children who are perpetrators of criminal acts such as the application of diversion, not sentenced

to death or life imprisonment, not publishing their identity, and other specificities that are not obtained by adult perpetrators. Not to mention if we look at how the state provides specificity for perpetrators of crimes against children, especially in sexual violence regulated in the Child Protection Law, namely castration and actions in the form of chemical castration, installation of electronic detection devices, and rehabilitation for perpetrators of sexual violence against children. This action is considered as courage in implementing preventive measures that the state provides in order to avoid children from sexual predators. Considering the many special measures taken by the government for children, both perpetrators and victims, the idea of implementing a victim assistance fund for all children who are victims of criminal acts is not a far-fetched idea. Therefore, courage is needed so that the state can expand the utilization of victim assistance funds to all child victims of criminal acts.

Seeing the explanation above, it seems not excessive if the provisions of victim assistance funds that have been applied to the TPKS Law can also be extended to the Child Protection Law. The Child Protection Law, which was last passed in 2016, is also considered outdated so that it needs to be updated to answer the various developments that exist today. The state can also add provisions for victim assistance funds for children as victims who are not limited to certain criminal offenses so that they can reach all types of violent crimes. Then if you look at the implementation of victim assistance funds in several countries that prioritize violent crimes over property crimes, then it is only natural that the expansion can be considered. Now is the time for the state to provide a breakthrough for the implementation of victim assistance funds so that it can be applied to all children who are victims of criminal acts.

The enactment of the victim assistance fund provision in the TPKS Law is seen as a solution to the problem of the current criminal justice system which is considered to only position victims as a tool to be able to reveal a criminal event. Testimonies from victims of criminal acts are seen as only helping law enforcement officials to process the perpetrators of criminal acts. However, the public often considers that the criminal justice system forgets the needs and interests of the victims of crime themselves. The state is considered negligent towards the fulfillment of victims' rights to restore their condition. This phenomenon is contrary to the spirit of restorative justice, which is currently the reform of the criminal law system.

Bazemore and Colleen in *Restorative Justice and the Future of Diversion and Informal Social Control* explain that normatively restorative justice focuses on three things, namely the principle of repair, the principle of state participation as a policy implementer, and the principle of transformation in the roles and relationships of society and government (Arief, 2007). Through the three principles mentioned by Bazemore and Colleen, the presence of the state to create restorative justice will be realized in the active role of the government in

collaboration with the community in maintaining order and building peace. The state is required to be involved in ensuring the recovery of crime victims through a restorative justice approach. Then Wesley Cragg, a legal expert, argues that currently there has been a shift in the purpose of punishment towards restorative justice due to the imperfection of retributive justice which is oriented towards retaliation. Retribution as the purpose of criminal law is considered obsolete because it is unable to restore the impact of losses for victims of criminal acts. Therefore, by implementing a victim assistance fund mechanism in the criminal justice system, restorative justice can be realized in the community, especially for victims of crime to be able to restore their condition, especially materially.

Conceptually, the existence of victim assistance funds does not mean that it can negate the law for criminal offenders. Instead, victim assistance funds can be utilized when the amount of restitution has been decided by the judge in the verdict. That is why the existence of victim assistance funds in the context of restorative justice has a function to create certainty of recovery for victims of criminal acts. Therefore, in line with the explanation above, the author argues that the birth of the victim assistance fund provision shows a paradigm shift in the criminal justice system in Indonesia, namely from a retributive approach to a restorative approach that prioritizes the recovery of victims of crime in order to fulfill a sense of justice.

In implementing victim assistance funds for every child victim, the state does not need to be pessimistic in facing various challenges. Although there is an expansion of funding sources that do not only rely on the state budget, this does not necessarily bring certainty of funding that can sustain the implementation of victim assistance funds. However, as long as there is real accountability and transparency from a state institution appointed to run and manage the victim assistance fund, then the sense of trust of the Indonesian people will move each individual to actively participate in supporting this program. Accountability and transparency can be seen from the existence of regular reporting, professional managers so that they are free from conflicts of interest, and strict supervision by internal and external parties. This is important considering the frequent acts of corruption that occur in government agencies, resulting in weak public trust in the government. Therefore, with the existence of a source of funding for victim assistance funds outside of state finances, there is an obligation for the state to build and maintain a sense of public trust.

Until now, the state has not realized the mandate of Article 35 Paragraph 4 of Law No. 12 of 2022 which requires a Government Regulation containing provisions for victim assistance funds. This has caused obstacles in the implementation of the victim assistance fund provisions. However, there is a need for criticism and input by the Indonesian people towards the implementation of this victim assistance fund so that there are improvements in order to maximize the existing potential. The author hopes that ideas related to the expansion of victim assistance fund

provisions for children who are victims of criminal acts can be studied in depth so that later it will produce real benefits in order to protect the next generation of the nation.

4. Conclusion

Talking about children, we are actually looking at a picture of the state of a country in the future. Therefore, a specificity is needed to protect children, especially if they are victims of criminal acts. Immaterially through Article 59A of Law No.5 of 2014 and Article 2 of Presidential Regulation 75 of 2020 Jo. Article 90 Paragraph 1 of Law No. 12 of 2011 illustrates the special measures that the state provides to child victims. However, if it only relies on immaterial recovery, then it is deemed insufficient to restore the condition of the child victim. The fulfillment of the right to material losses experienced by children who are victims of criminal acts is often forgotten in the criminal justice system. It is hoped that the state will play an active role and make a breakthrough in fulfilling the right to material losses experienced by children who are victims of criminal acts. In 2022, the provision of victim assistance funds was born as a fulfillment of the right to material losses experienced by victims. Unfortunately, this mechanism can only be utilized in a limited manner, namely only for victims of sexual violence. Seeing this, the victim assistance fund mechanism should be applied to all children who are victims of any criminal offense. Currently, if a child victim wants to obtain their material rights, the available mechanisms are restitution and compensation. However, in the implementation of both restitution and compensation, there are weaknesses in these mechanisms that often cannot produce results for victims. The weaknesses in these mechanisms can be seen from the restitution that only relies on the assets of the perpetrators of criminal acts and the provision of compensation that is only limited to two specific criminal acts, namely gross human rights violations and terrorism crimes. The author also sees the specificity that the state provides when talking about the criminal justice system. Not to mention if we look at how the state provides specificity for perpetrators of crimes against children, especially in sexual violence regulated in the Child Protection Law, namely castration and actions in the form of chemical castration, installation of electronic detection devices, and rehabilitation for perpetrators of sexual violence against children. Therefore, it is not excessive if the provisions of victim assistance funds that have been implemented in the TPKS Law can also be extended to the Child Protection Law so that they can reach all children who are victims of any criminal offense. The presence of a victim assistance fund mechanism in the juvenile criminal justice system can also realize restorative justice in the community, especially for children who are victims of criminal acts to be able to materially restore their condition.

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