

Restoring Victims of Wrongful Arrest: Automatic Compensation through a Parallel Justice Approach

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Abstract. *This study aims to analyze the weaknesses of the existing compensation mechanism for victims of wrongful arrest in the criminal justice system and to propose a reform model based on the principle of Parallel Justice (PJ). Although Indonesian law, particularly the Criminal Procedure Code and Government Regulation No. 92/2015, already provides a legal basis for compensation, the mechanism remains petition-based and dependent on victims' initiative through pre-trial proceedings. Such a passive system creates structural injustice and fails to guarantee effective recovery for victims of state error. The research method used in this study is normative legal research, employing statutory, conceptual, and comparative approaches. The statutory approach is applied to examine the positive law in Indonesia regarding compensation. The conceptual approach is used to analyze and reformulate the theory of compensation by incorporating the PJ framework developed by Susan Herman, which emphasizes proactive victim restoration. The comparative approach reviews practices in other jurisdictions such as Germany, the Netherlands, Italy, and the United States to identify models of automatic compensation that can be adapted into the Indonesian context. The novelty in this research is the application of the Parallel Justice concept—originally designed for crime victims in general—to the context of wrongful arrest caused by state authorities. This adaptation provides a new paradigm in Indonesian criminal procedure by positioning victims of wrongful arrest not merely as claimants but as individuals entitled to automatic state responsibility. Based on the research, it is concluded that adopting the PJ approach can create a more responsive, victim-oriented, and automatic compensation system. Such reform would strengthen the protection of human rights, enhance public trust in the legal system, and ensure that victims of wrongful arrest are restored fairly, quickly, and comprehensively.*

Keywords: *Compensation; Criminal; Justice; Procedure.*

1. Introduction

Digital transformation has brought significant changes to global trade activities, including in Indonesia. This digital transformation has drastically changed the way people conduct transactions, especially through e-commerce platforms. According to a report by Google and Temasek (2022), Indonesia's digital economy is worth USD 77 billion in 2022 and is projected to increase to USD 130 billion by 2025 (Limanseto, 2023). This phenomenon shows that e-commerce has become an integral part of Indonesians' daily lives in buying and selling goods and services. Charles Clarke states that "What society expects is a legal system that can correctly convict the guilty, and acquit the innocent, on the basis of what they did or did not do." (Michael Naughton, 2022) This statement reflects the essence of ideal procedural justice. In practice, however, the criminal justice system often fails to live up to these expectations, as reflected in the concept of miscarriage of justice - the occurrence of serious errors in the legal process that result in innocent people being sentenced. One example is the Noel Jones case in the UK, where investigative errors such as false confessions, pressure to obtain statements, and erroneous evidence were the underlying causes of wrongful convictions. (Sam Poyser and Rebecca Milne, 2021)

A similar phenomenon is also happening in Indonesia. The case of Kusyanto, a snail seeker, is a clear illustration of the system's failure to protect citizens. He was falsely arrested and subjected to torture by the authorities to force him to confess to stealing a diesel pump without evidence. Although eventually released, Kusyanto has experienced intimidation and degrading treatment. (ICJR, 2025) Cases like this show the vulnerability of citizens' rights and the weakness of the system to protect citizens from potential victims of wrongful arrest.

Within the positive legal framework, Law of the Republic of Indonesia Number 8 of 1981 on Criminal Procedure (KUHAP) has regulated the right to compensation for victims of wrongful arrest. Article 1 point 22 of KUHAP defines "compensation as the right to obtain compensation because a person was arrested, detained, prosecuted, or tried without a valid legal basis or because of an error in person or application of the law." The mechanism to claim this right is regulated through pre-trial under Article 95 paragraph (2) of KUHAP. (Erwin Susilo, 2020) However, this mechanism is considered less effective because it is passive, i.e. it can only be submitted through a request by the aggrieved party. (Rocky Marbun, 2021) In fact, General Elucidation number 3 letter d of KUHAP explicitly states that the state is "obliged" to provide compensation to victims of wrongful arrest from the investigation stage, and negligent law enforcement officers must be held accountable.

Based on the explanation above, there are contradictions in the arrangements in the Criminal Procedure Code, and also the potential for injustice, so in this context the Parallel Justice (PJ) approach introduced by Susan Herman becomes relevant to address these gaps. PJ addresses the needs of victims and

emphasizes that the state and society have an active responsibility to help victims recover - physically, emotionally and financially - without having to wait for the perpetrator to be found or punished. (Susan Herman, 2010) Although PJ is primarily designed for victims of crimes committed by civilians, rather than errors of law enforcement action, its principles can be adapted for victims of wrongful arrest by state apparatus.

The theoretical basis of this research refers to several criminal justice theories that emphasize the balance between efficiency, due process, and victim protection. Herbert L. Packer's *crime control model* and *due process model* provide the initial framework, highlighting the tension between the need for effective crime eradication and the protection of individual rights. John Griffiths' *family model* then offers a relational perspective that views the state's role as nurturing rather than merely punitive. Furthermore, Kent Roach's victim-oriented models expand the debate by placing victims at the center, distinguishing between punitive and non-punitive approaches. The research finally adopts Susan Herman's concept of *Parallel Justice (PJ)* as the primary theoretical foundation. PJ argues that justice for victims must run parallel to justice for perpetrators, ensuring recognition, recovery, and compensation without depending on the prosecution of offenders.

2. Research Methods

The research method used normative legal research with statutory, conceptual, and comparative legal approaches. (Peter Mahmud Marzuki, 2008) The statutory approach was used to examine the legal norms that regulate compensation for victims of wrongful arrest as stipulated in the KUHAP and its implementing regulations. The conceptual approach was used to analyze and reformulate the concept of compensation for victims of wrongful arrest based on the PJ principle introduced by Susan Herman. Meanwhile, a comparative law approach was used to analyze the practice of providing compensation for victims of wrongful arrest in various countries such as Germany, the Netherlands, Italy, and several states in the United States, in order to find a model that is relevant and applicable to the context of the Indonesian criminal justice system. Data was obtained through a literature study of legal documents, scientific literature, international reports, as well as best practices from several countries, then analyzed qualitatively to formulate a model of compensation arrangements that are integrated in the Indonesian criminal justice system.

3. Result and Discussion

3.1. The Conception of Parallel Justice in Criminal Justice System

In the theoretical discourse on the criminal justice system, the conceptual approach offered by Herbert L. Packer is an important starting point for understanding the value tensions inherent in law enforcement practices. Packer proposes two conflicting models of the criminal justice system: the crime control

model, which emphasizes efficiency in eradicating crime in order to maintain social order; and the due process model, which prioritizes the protection of individual rights as well as strict principles of procedural justice. (Jianhong Liu, 2024) However, this dichotomy, although highly influential, does not adequately capture the complexity of the relationship between offenders, victims and the state in the context of contemporary criminal justice systems.

As a criticism of this model, John Griffiths introduced the family model, an approach based on the view that the criminal justice system should not be reduced to a "battlefield" between the state and the defendant. In this model, the state is positioned as a parental figure who has the responsibility to nurture deviant family members, not merely punish them. This approach emphasizes the value of reconciliation and rehabilitation, rather than mere punishment. (Robert Osamor, 2022)

Responding to these dynamics, Kent Roach expands the discourse by integrating the victim's perspective into the structural debate of the criminal justice system. He offers two models based on victims' rights, namely the punitive model, which emphasizes that justice is realized through punishment that reflects the suffering of victims, and the non-punitive model, which emphasizes restorative approaches based on recovery and prevention, but still makes the victim's voice a central element. (Paul G Cassell, 2023) In doing so, Roach shifts the focus from the state-perpetrator relationship to recognizing the victim's experience as an integral part of the criminal justice system.

In this realm, Susan Herman's thinking presents a conceptual contribution that is very different from the previous one, through the concept of *Parallel Justice* (PJ). Susan Herman criticizes the conventional criminal justice system that has historically marginalized victims, rendering them as mere witnesses or evidence. She proposes a criminal justice system that runs parallel, with the primary goal of addressing victims' recovery needs. (Derek R. Brookes, 2023) In his view, victims have the right to holistic justice. (Simon Green, 2013) This means that justice for victims must be provided separately and in parallel with the legal process against the perpetrator. The criminal justice system has been too focused on punishing perpetrators, while victims are often neglected. (Christian Pfeiffer, 2014) According to Susan Herman, the criminal justice system would be much more trusted by the public if justice for victims did not depend on whether the perpetrator was arrested or punished. Justice for victims involves recognizing and addressing the harm they have suffered. They need not only adequate social services to rebuild their lives, but also public spaces that openly acknowledge their suffering. (Susan Herman et al., 2001) At the National Center for Victims of Crime, this idea is known as PJ- which is a criminal justice system approach that runs alongside the legal process against the perpetrator, without replacing each other.

In her presentation at the Mount Mansfield Room, Susan Herman asked a fundamental question: How should we fulfill our obligations to victims of crime? For her, this is not just a matter of empathy, but is part of the essence of justice itself. She emphasized that victims are entitled to recognition of their suffering, tangible support for recovery, and a meaningful place in a system that has been perpetrator-oriented. PJ is not a substitute for the legal process against the perpetrator, but rather a coexisting criminal justice system that actively restores the rights, dignity and life of the victim. Susan Herman proposes three important steps in fulfilling justice for victims:

1. Recognize that the victim has been harmed,
2. Provide protection so that the victim does not become a victim again, and
3. Helping victims rebuild their lives through psychological, social and ongoing assistance.

PJ provides access to justice for victims, even if they do not report the crime or if the perpetrator is not brought to justice. It aims to keep victims safe, provide redress regardless of the type of crime, and encourage cooperation between the government and the community in supporting victims. (David Rogers and Kerry Naughton, 2011) The fundamental principles contained in PJ include:(Susan Herman and Michelle Webster, 2005)

1. Victim safety is a top priority - Law enforcement is responsible for ensuring the safety and comfort of victims.
2. Immediate and responsive assistance - Victims should receive immediate emotional, material and practical support.
3. Opportunity to be heard - Victims are given a safe space to empathetically express their experiences and needs.
4. Integrated service coordination - A case manager is in place to efficiently organize and link services across agencies.
5. Community engagement - Public education and social participation are needed to make victim recovery a shared responsibility.

This concept has been tested by the *National Center for Victims of Crime* in the United States, namely the *Redlands Police Department* in California, a victim services agency in Vermont, and the *Community Safety Center* at Winston-Salem State University in North Carolina. In these three areas, cross-sector teams of prosecutors, police, social workers, and policymakers developed strategies to prioritize victim recovery. This approach is considered more humane and the potential to create an equitable criminal justice system.

In PJ, the state as a capable representative is actively responsible for restoring the loss and suffering of victims. The state also has adequate resources and capacity to help victims with their problems. Susan Herman also emphasized that all victims deserve the same treatment, regardless of the type of crime they

experience. Whether victims of fraud, theft, or physical violence, all have the right to proper justice. In Susan Herman's view, justice should not be conditional on the involvement of the perpetrator. All elements of society—from law enforcement officials, educators, to neighbors—can and should contribute to the recovery process of victims.

Furthermore, in a critical review of restorative justice, Herman highlights that the approach still relies on the recognition and participation of the perpetrator. This becomes a weak point when perpetrators are not found or refuse to take responsibility. In this context, PJ emerges as a more radical and inclusive approach, encouraging the state to act unconditionally in meeting the needs of victims. (Miloš Deset and Eva Szabová, 2020) This concept gains relevance in discussions on *non-prosecution* policies, as suggested by Zulkifl M. Zargar. He sees PJ as a response to structural failures in involving victims in decision-making, especially when prosecutors decide not to prosecute without consulting victims. In such situations, Susan Herman's approach underscores the importance of alternative justice pathways that remain pro-victim. (Zulkifl M. Zargar, 2020) In doing so, PJ broadens the spectrum of the criminal justice system from merely retributive and procedural justice to one that is oriented towards restoring human dignity. This approach challenges the basic assumptions of the perpetrator-centric criminal justice system and offers a new paradigm where victims are recognized, and actively restored by the state.

3.2. Compensation Arrangements in the Indonesian Criminal Justice System

Prior to the Criminal Procedure Code, the provision on compensation for "a person who is arrested, detained, prosecuted, or tried without legal basis or by mistake," was already regulated in the judicial power law. This provision first appeared in Law No. 19/1964, Article 6, which states that victims of wrongful procedures are entitled to compensation and rehabilitation, and officials who act arbitrarily may be punished and/or held liable. This provision was later clarified in Law No. 14 of 1970, and maintained in Law No. 4 of 2004 and Law No. 48 of 2009 through Article 9, with consistent wording that victims have the right to claim compensation and rehabilitation, and offending officials can be punished. All of these regulations mandate that the procedure for prosecuting compensation must be regulated in a separate law, and this mandate has only been realized through the KUHAP.

Prior to the enactment of KUHAP, criminal procedure law in Indonesia still relied on the *Het Herziene Inlandsch Reglement* (HIR), or the Revised Indonesian Reglement (Stbl. 1941 No. 44). This law is in limited effect based on Article 6 paragraph (1) of Emergency Law Number 1 of 1951, which aims to unify the two colonial criminal justice systems: "one for natives (*landraad*) and one for Europeans (*raad van justitie*)."(Fina Marbun, 2021) However, despite this attempted unification, the HIR and R.I.B. do not guarantee the protection of human rights. There was no provision for legal aid in hearings, and more

importantly, no recognition of the right to compensation for individuals who were victims of unlawful legal proceedings.

Therefore, KUHAP is present as a codification and unification system of criminal procedure law based on Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD 1945). In General Elucidation number 3 letter d, it is emphasized that "to a person who is arrested, detained, prosecuted or tried without a reason based on law and or because of an error regarding his person or the law applied shall be given compensation and rehabilitation from the level of investigation." Erring officials are even "prosecuted, penalized and/or subject to administrative penalties." (Erwin Susilo, 2023)

The Criminal Procedure Code provides a normative definition of compensation in Article 1 point 22, which is "the right to compensation in the amount of money due to arrest, detention, prosecution, or trial without legal basis or due to error in person or law applied." (M Rudi Hartono and Ryan Aditama, 2022) The process of applying for this right is done through the pretrial institution as referred to in Article 1 point 10, which is "the authority of the district court to examine the validity of law enforcement actions and requests for compensation or rehabilitation."

KUHAP provides the widest possible space for victims of wrongful arrest to claim compensation. Article 30 states that if detention exceeds the legal time limit as stipulated in Articles 24-29, the suspect or accused has the right to claim compensation. Similarly, Article 68 reaffirms the right of the suspect or accused to claim compensation and rehabilitation as set out in Article 95 onwards.

Article 77 gives the district court the authority to decide on compensation and rehabilitation, especially if the case is terminated at the investigation or prosecution level. The request mechanism is regulated in Article 81, which is through submission to the head of the district court accompanied by clear reasons. If the court determines that the arrest or detention is unlawful, then according to Article 82 paragraph (3), "the decision shall include the amount of compensation and rehabilitation awarded."

The systematic regulation of compensation is contained in Chapter XII of the Criminal Procedure Code. Article 95 states that "a suspect, defendant, or convict has the right to claim compensation for legal actions without basis or due to errors, including detention, prosecution, or other actions such as unlawful searches and seizures." (I Made Wisnu Wijaya Kusuma, et.al., 2020) In fact, "detention longer than the sentence imposed" is also categorized as detention without a valid reason. This claim can be filed directly or through the heirs, and the hearing process follows pre-trial procedures. Interestingly, Article 95 paragraph (4) provides that, as far as possible, the judge handling the compensation claim is the judge who previously examined the underlying criminal case.

The decision on the request for compensation must be set out in the form of a "determination" as stipulated in Article 96, which includes all legal considerations as the basis for granting compensation. Meanwhile, Article 101 stipulates that if the KUHAP does not stipulate certain matters regarding the procedure for the prosecution of compensation, the provisions of civil procedural law may be applied. (Erwin Susilo, 2024) In full, the basis for applying for compensation can be reviewed through the following table:

Table 1 Basis for claiming compensation

Reason for Compensation	Filing Party	Article
Arrest, detention, prosecution or trial without legal basis or due to error	Suspects, defendants, convicts, or their heirs	Article 95 paragraph (1) KUHAP
Unlawful arrest or detention or the legal termination of an investigation or prosecution.	Suspects or interested third parties	Article 81 and Article 82 paragraph (3) letter c of KUHAP
Criminal cases are not brought to court	Suspects or their heirs	Article 95 paragraph (2) KUHAP
Detention is invalid because it exceeds the deadline	Suspect or accused	Article 30 of the Criminal Procedure Code
Other unauthorized actions such as searches or seizures	Suspects or their heirs	Article 95 paragraph (1) and its explanation

Source: Researcher Elaboration.

Although there are various legal bases on which a request for compensation can be made as detailed in the table above, the main focus in this study is on the losses suffered by suspects, defendants or convicts due to wrongful arrest. In this context, wrongful arrest is not only defined as the act of wrongful arrest, but also includes detention, and conviction that unlawfully restricts a person's freedom. The core of the problem lies in the restriction of individual freedom without an adequate legal basis, which in a rule of law system should have an effective and proportional remedy.

In addition to being regulated in the Criminal Procedure Code, the issue of compensation is also contained in Government Regulation No. 92 of 2015, which is the second amendment to Government Regulation No. 27 of 1983 concerning the implementation of the Criminal Procedure Code, with the previous amendment in 2010. This amendment aims to adjust the rules of compensation with the development of law and the demands of a society that wants more justice.

Article 7 of Government Regulation No. 92/2015 emerged as a response to the need for legal certainty and protection of victims' rights in the criminal justice system. The government realized that the previous regulation on compensation was not fair enough, especially for victims who lost their rights due to wrongful legal actions, such as wrongful arrest or unreasonable detention. Article 7

paragraph (1) stipulates that compensation claims can only be filed within a maximum of three months after receiving a copy of a court decision that has permanent legal force. As for cases that are stopped at the investigation or prosecution level, the filing time is calculated three months after the notification of the pretrial decision is received. Article 11 states that "the minister who organizes government affairs in the field of finance" is the party authorized to provide compensation. In addition, one important change is the new provision in Article 9, which sets the nominal amount of compensation more proportionally based on the level of impact experienced by the victim, ranging from ordinary losses, serious injuries, permanent disability, to death. The following is a breakdown of the amount of compensation as stipulated in the regulation:

Table 2. Amount of compensation based on Government Regulation No. 92 of 2015

Loss Category	Amount of compensation	Legal Basis
Loss due to arrest, detention, prosecution, or termination of case	A minimum of Rp500,000.00 and a maximum of Rp100,000,000.00	Article 9 paragraph (1) of Government Regulation Number 92 Year 2015
Loss resulting in serious injury or permanent disability	A minimum of Rp25,000,000.00 and a maximum of Rp300,000,000.00	Article 9 paragraph (2) of Government Regulation Number 92 Year 2015
Loss resulting in death	At least Rp50,000,000.00 and at most Rp600,000,000.00	Article 9 paragraph (3) of Government Regulation No. 92/2015

Source: Researcher Elaboration

With the presence of rules on compensation in the Criminal Procedure Code and Government Regulation No. 92 of 2015, the state shows its seriousness in protecting people who are harmed in criminal justice that is carried out wrongly. There is a pretrial application mechanism, time limit for submission, and determination of compensation. These are all positive steps towards building a criminal justice system that respects human rights. It is also in line with the spirit of legal reform that upholds the protection of individuals from arbitrary action. Even so, there are still challenges in implementing them, as there must be a prior request for this mechanism to work, so there is a need for legal reform of this system.

3.3. An Integrated Compensation Arrangement Model in the Criminal Justice System by Adopting the Principle of *Parallel Justice*

The focus in the model is on individuals who have been subjected to "arrest or detention", whether at the stage of investigation, prosecution, trial, legal remedy, or serving a sentence. Although there are two objects, namely arrest and detention, for ease of reference the term "wrongful arrest" is used to refer only to those who have actually experienced detention or arrest. This is important because it is directly related to the right to freedom inherent in every human being.

The right to personal liberty is a fundamental right that applies universally regardless of one's nationality or background. History records that the protection of this right has been recognized since the 13th century through the *Magna Carta* of 1215 which curbed the power of the king to be subject to the law and prohibited arbitrary detention without a valid legal basis. (Samuel Ulric Betts, 2023) This principle was later developed and adopted in various international human rights instruments. These include Article 9 of the *Universal Declaration of Human Rights*, which affirms that no one shall be subject to arbitrary arrest or detention, and Article 9 of the *International Covenant on Civil and Political Rights* (ICCPR), which normatively reinforces this protection. Similar guarantees are also set out in Article 5 of the *European Convention on Human Rights* and the *Charter of Fundamental Rights of the European Union*, as well as documents such as *The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*.

The ICCPR itself has been ratified by Indonesia through Law No. 12 of 2005. Article 9 paragraphs (1) to (5) detail that everyone has the right to liberty and security of person, shall not be arbitrarily arrested or detained, and shall not be deprived of liberty without lawful basis. In addition, a person who is arrested must be informed of the reasons for their arrest, immediately brought before a court, and has the right to be tested for the legality of their detention as well as the right to compensation in the event of unlawful detention. In particular, Article 9 paragraph (5) recognizes the right of victims of wrongful arrest to obtain compensation. A guarantee of this right is also found in national law, namely Article 34 of Law No. 39/1999 on Human Rights which states that "No one shall be subject to arbitrary arrest, detention, coercion, exclusion, exile or exile."

In the Indonesian constitution, although not explicitly mentioned, the right to freedom from arbitrary detention is reflected in Article 28G paragraph (1) of the 1945 Constitution which states that "Everyone has the right to protection of self, family, honor, dignity, and property under his control, and has the right to security and protection from threats of fear to do or not to do something that is a human right." In addition, Article 28I paragraph (1) affirms that "the right not to be tortured, the right to personal recognition before the law, and the right not to be prosecuted on the basis of retroactive laws are human rights that cannot be reduced under any circumstances."

In relation to the right to liberty, the state is not justified in arresting or detaining a person without a clear reason. As asserted by Joseph Tzu-Shuo Liu, every individual must be treated as a human being with dignity and rights, not just an object that can be locked up in the name of state security. (Joseph Tzu Shuo Liu, 2021) In the context of Indonesian law, the constitution explicitly places the protection of human rights as the responsibility of the state. Article 28I paragraph (4) of the 1945 Constitution states that "the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state,

especially the government". In practice, "everyone is obliged to respect the human rights of others" (Article 28J paragraph [1]), and freedoms can be restricted. However, such restrictions can only be imposed by "law and solely to ensure respect for the rights of others and in the interests of morals, religious values, security, and order in a democratic society" (Article 28J paragraph [2]).

Based on the above explanation, normatively, both in the international legal framework and in Indonesia's national legal system, there is a firm legal basis to guarantee the freedom of every person from arbitrary arrest and detention. This guarantee serves as a safeguard against human rights violations, and is an important foundation in fighting for the rights of victims of wrongful arrest.

As already explained, in Indonesia, the right to compensation for unlawful arrest or detention is regulated in the form of a law, KUHP. However, some countries place this guarantee directly in their constitutions, demonstrating how this principle is an integral part of their legal systems. For example, Article 121 of the Spanish Constitution affirms that *"Damages caused by judicial errors as well as those arising from irregularities in the administration of justice, shall be subject to compensation by the State, in accordance with the law"*. (Juan Carlos Ortiz-Pradillo) In Peru, Article 139(7) of the Peruvian Constitution states that *"Compensation, in the manner prescribed by law, for miscarriages of justice in criminal trials and arbitrary arrests, with prejudice to any liability that may be determined"*. Meanwhile, Article 5 point LXXV of the Brazilian Constitution states that *"the State shall compensate a convict for judicial error, as well as a person who remains imprisoned for a period longer than the one established by the sentence."* These constitutional rights of various countries show that the state bears full responsibility for the protection of individual rights and providing compensation for those who are victims of wrongful arrest.

Based on the explanation above, the provision of compensation for victims of wrongful arrest is very important as a form of recovery and state responsibility for committing judicial errors. In this condition, the victim of wrongful arrest can be a suspect, meaning that the case has not been submitted to the court, in this context, a suspect who has been arrested or detained at the investigation or prosecution stage is entitled to compensation if the case is terminated, and he has been released. For the defendant, this means that he has not yet served the sentence but, the verdict is not a conviction. In this context he was acquitted as per Article 191 paragraph (1) of the Criminal Procedure Code "If the court is of the opinion that from the results of the examination in court, the guilt of the defendant for the act charged against him is not proven legally and convincingly," then the defendant is acquitted, (Maman Budiman, 2020) is released from all legal charges, Article 191 paragraph (2) of the Criminal Procedure Code "If the court is of the opinion that the act charged against the defendant is proven, but the act does not constitute a crime, then the defendant is released from all legal charges." (Erwin Susilo, 2020) Then when he is already

convicted, meaning that he has served a decision that has been legally binding, but there is a judicial review decision that acquits or releases the convict.

Although Indonesia has regulated the mechanism for providing compensation, its implementation is still passive, as it can only be done on the basis of a request from an aggrieved individual. There is no direct obligation for the state to proactively provide compensation. In this case, the principle of PJ can be an option to overhaul the approach that has been administrative to be more oriented towards victim recovery.

Individuals who were previously suspects, defendants, or convicts, but whose cases were later terminated or acquitted, should be positioned as "victims" of the criminal justice system's mistakes. When the offender changes his status to victim, he meets the prerequisites of being restored to his rights as a human being through the PJ approach, because PJ emphasizes the importance of equal attention to victims restore their lives, provide security, reduce trauma, and restore control over their lives.(E Mossman, 2012) The state must acknowledge the harm suffered by victims, provide recovery assistance, and ensure safety and social support. (Steffen Wiebke, 2014) One form of recovery that the state can provide is "compensation" for victims of wrongful arrest.

Through the PJ approach, victims of wrongful arrest should not be faced with complicated bureaucracy. The state needs to take responsibility immediately in providing compensation. This is in line with the theory of state responsibility. (George Maliha et al., 2021) Under this liability, the state cannot abdicate its responsibility for violations of the right to individual liberty.(Charlotte Bunch, 1990)

The provision of compensation in the PJ perspective must include two things: it is done directly (automatically) and accompanied by an active role from the state. Therefore, every letter of termination of investigation or prosecution, as well as every court decision that has permanent legal force and does not contain punishment, must explicitly include the amount of compensation given to the victim. This compensation is not intended to enrich the victim, but rather to symbolize the state's responsibility for the losses incurred. The amount is adjusted to the state's financial capacity.

To realize this, changes to two legal instruments in Indonesia are required:

1. The Criminal Procedure Code must be revised to stipulate that in every case termination letter (both by investigators and prosecutors), as well as in every acquittal or release from the court that has permanent legal force, the amount of compensation must be included.
2. Government Regulation No. 92/2015 needs to be improved to contain more detailed provisions regarding the amount of daily compensation for unlawful arrest or detention. This is important so that law enforcement officials have technical guidance in calculating and determining the amount of compensation proportionally.

In comparison, practices in European countries show variations in the amount of daily compensation: (Lidia González and Madrid' Pérez-Llorca, 2025)

- a. Germany: €25/day for moral damages
- b. Austria: €20-€50/day, depending on case conditions
- c. Netherlands: €80-€105/day, depending on detention location
- d. Italy: €230/day, with a total limit of €516,546.90

In comparison, the United States also awards a minimum of \$50,000 per year of unlawful detention. Some states provide even more, such as Washington, DC (\$200,000), Texas (\$80,000), and Nevada (\$100,000 per year for more than 20 years of detention). (Innocence Project, 2022)

This concept limits the scope to cases that are terminated by the investigator/prosecutor or acquitted/released, as this is the objective basis that the detention or arrest is unlawful. In other cases, such as when the case is still ongoing, further proof needs to be conducted - for example through pre-trial for suspects or defendants through other legal remedies (appeal, cassation, or judicial review) for defendants and convicts through judicial review.

It is important to note that the disbursement of compensation funds still requires an active role from the victim, even though the amount of compensation has been determined in a letter or court decision. Therefore, it is necessary to establish a special institution that handles compensation for victims of wrongful arrest in a concrete manner, so that its implementation does not rely on ordinary administrative mechanisms. By adopting these principles and adapting them to the Indonesian context, the state can build a model of compensation that is quick, effective and equitable. Compensation should be seen as not just a matter of money, but rather a reflection of the state's seriousness in acknowledging and correcting wrongs and restoring the dignity of citizens harmed by an erroneous criminal justice system.

4. Conclusion

The results of this study show that although KUHAP and Government Regulation No. 92/2015 have regulated compensation for victims of wrongful arrest, the existing mechanism remains passive and petition-based, which creates structural injustice and limits access to recovery. By adopting Susan Herman's *Parallel Justice* concept, the research proposes a proactive and automatic compensation model in which the state is obliged to provide restitution directly in every decision of case termination, acquittal, or release without requiring victims to file separate requests. This model strengthens the protection of human rights and restores public trust in law enforcement. However, the weakness of this research lies in its normative design, which relies on legal text, doctrines, and comparative studies without empirical testing of implementation challenges at the institutional and budgetary levels. Therefore, further research is suggested to

combine normative analysis with empirical field studies, particularly exploring institutional readiness, financial feasibility, and victims' experiences, so that the proposed model of automatic compensation through the Parallel Justice approach can be implemented effectively in the Indonesian criminal justice system.

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