

Effectiveness of Protection of the Rights of Child Victims of Sexual Crimes Through Restitution in Criminal Decisions (Study of Decision Number 1/Pid.Sus/2024/Pn Msh)

Gde Yudha Sukmatara¹⁾ & Gunarto²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: Gdeyudhasukmatara.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: gunarto@unissula.ac.id

Abstract. *This study examines the application of restitution for child victims of sexual crimes in Decision Number 1/Pid.Sus/2024/PN Msh, identifies obstacles and factors causing ineffectiveness, and formulates improvements to enhance the effectiveness of child rights protection through restitution in Indonesia. The research method used is normative-qualitative with a decision study approach, interviews, and legal literature. The results show that although the defendant was sentenced to imprisonment and a fine, the verdict has not effectively accommodated restitution for the victim. The main obstacles include unclear legal mechanisms, limited resources and coordination of law enforcement officers, psychological trauma of victims, family economic dependence, and minimal participation of children in the legal process. To improve the effectiveness of restitution, the study recommends the development of technical guidelines for restitution, the establishment of restitution units in the prosecutor's office and courts, increased budgets for victim recovery, proactive training of law enforcement officers, strengthening legal and psychological assistance for victims, and the use of a digital-based monitoring system. The implementation of these recommendations is expected to strengthen the protection of the rights of child victims of sexual crimes and uphold restorative justice comprehensively.*

Keywords: *Effectiveness; Legal; Protection; Restitution; Victims.*

1. Introduction

The Unitary State of the Republic of Indonesia, as formulated in the 1945 Constitution of the Republic of Indonesia (UUD 1945), is a state based on law that has a constitutional obligation to guarantee the protection of the human rights of all its citizens without exception, including children as the nation's future

generation. Protection of children as creatures vulnerable to various forms of violence and rights violations is explicitly regulated in the 1945 Constitution, especially in Article 28B paragraph (2) which states that every child has the right to protection from violence and discrimination.¹

Child protection also stems from Pancasila, the foundation of the state. The second principle, Just and Civilized Humanity, emphasizes respect for the dignity of every individual, including children. The fifth principle, Social Justice for All Indonesians, calls for the equitable distribution of justice, especially for vulnerable groups such as child victims of sexual violence.² These values concretely remind us that the state is responsible for ensuring the protection of children's rights in a fair and humane manner.

Indonesia has ratified the Convention on the Rights of the Child (CRC) through Presidential Decree Number 36 of 1990, which requires the state to take all legislative, administrative, social, and educational steps to protect children from all forms of violence, abuse, or mistreatment.³ Legal research indicates that the ratification of the CRC has triggered the strengthening of national regulations, such as the Child Protection Law and child protection policies, as part of Indonesia's compliance with international mandates. The principle of the best interests of the child serves as a primary guideline in all policies and decisions concerning children, as demonstrated in the juvenile criminal justice system.⁴

From a human rights perspective, the state plays a role as a party with duties: an entity that must fulfill, protect, and respect children's rights. In national legal studies, the implementation of this principle is justified as the state's responsibility to ensure full reparation for child victims, including through fair and effective restitution.⁵ Normatively, child protection is regulated in Law Number 23 of 2002 concerning Child Protection which has been amended by Law Number 35 of 2014. Article 1 number 2 of the Law explains child protection as all activities to ensure and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and worth. This article emphasizes the shared responsibility to protect children from circumstances that can harm their future, whether physically, mentally, or socially. Restitution as an

¹The 1945 Constitution of the Republic of Indonesia, Article 28B paragraph (2).

² Anjari W, "Protection of Children in Trouble with the Law from the Perspective of Pancasila Integrative Criminalization," *Judicial Journal* 13, no. 3 (2012): 351–72.

³ Zandy Wulan Ayu Widhi Prameswari, "Ratification of the Convention on the Rights of the Child in the Legal System in Indonesia," *Yuridika* 32, no. 1 (2017): 167, <https://doi.org/10.20473/ydk.v32i1.4842>.

⁴ Fauzi Anshari Sibarani et al., "Implementation of the Best Interest of Child Principle to Children Who Commit Crimes Against Morality (Study at the North Sumatra Regional Police)," *Constitutional Bulletin* 3, no. 1 (2022): 29–50.

⁵ Fatihul Ikhsan, "Legal Review of Child Protection According to the United Nations Convention on the Rights of the Child 1989 and Its Implementation in Indonesia," no. 07 (2025).

effort to restore victims is a real manifestation of the implementation of this mandate, because it aims to restore the rights and dignity of children who are victims of crime through a just legal process.

Several laws and regulations governing Restitution are Law Number 26 of 2000 concerning Human Rights Courts, Law Number 15 of 2003 concerning Terrorist Crimes, Law Number 13 of 2006 in conjunction with Law Number 31 of 2014 concerning the Witness and Victim Protection Agency (LPSK), Law Number 21 of 2007 concerning Human Trafficking, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection and last amended by Law Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection and Law Number 11 of 2012 concerning the Child Criminal Justice System, Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence.

In line with this, data from the Witness and Victim Protection Agency (LPSK) shows that in 2023, the agency recorded 671 child victims receiving restitution protection, although implementation faced numerous obstacles. Data processing in 2023 also showed an increase in restitution facilitation requests compared to 2022, both submitted directly by victims and on the recommendation of law enforcement officials. This increase was particularly evident in restitution requests for child victims of sexual violence in Indonesia.⁶

The legislation that has been issued regarding the provision of compensation or restitution to children who are victims of crime is Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Crime which was promulgated on October 16, 2017, as an implementation of the mandate of Article 71 D paragraph 2 of the Child Protection Law, which is expected to realize justice and legal benefits as well as legal certainty for child victims of crime to demand their rights in court.⁷

As in Decision Number 1/Pid.Sus/2024/PN Msh, it is a concrete example of the weak effectiveness of protecting the rights of child victims of sexual crimes through restitution. That the Defendant RR in the period from 2019 to 2023, or at least during the time from 2019 to 2023 or at least at some time in 2019 and 2023, or at least in a place that is still included in the jurisdiction of the Masohi District Court, has committed an act of "intentionally committing violence or threats of violence forcing a child to have sexual intercourse with him or another person"

⁶<https://www.lpsk.go.id/api/storage/2024-05-29T08:23:50.138Z---laptah-2023-lpsk-1.pdf>, accessed on August 10, 2025.

⁷ Miszuarty, "Implementation of Restitution for Children Who Are Victims of Crime as a Form of Criminal Law Reform Based on Government Regulation Number 43 of 2017," *Soumatara Law Review* 2, no. 1 (2019), <https://media.neliti.com/media/publications/284750-pelaksanaan-restitution-bagi-anak-yang-men-cbd818e1.pdf>.

against Child Victim AR aged 16 (sixteen). In this case, although the perpetrator was sentenced to imprisonment, the verdict did not adequately accommodate the victim's right to obtain restitution according to Article 71D of the Child Protection Law. The problems that arise include the judge only considering the criminal aspect and not the victim's recovery, there is no clear determination of the amount of damages in the verdict, and there is no outlined execution mechanism so that the victim's rights become a legal illusion.

Based on the background that has been described, it is an attraction for the author to study this matter more deeply by conducting research, to find out the application of restitution for child victims of sexual crimes in Decision Number 1/Pid.Sus/2024/PN Msh, obstacles and factors causing the ineffectiveness of providing restitution for child victims of sexual crimes, as well as efforts and recommendations for improvement to increase the effectiveness of protecting the rights of child victims of sexual crimes through restitution in Indonesia in the future.

2. Research Methods

This study uses a juridical-normative method with a descriptive-analytical nature to examine the effectiveness of the protection of the rights of child victims of sexual crimes through restitution in Decision Number 1/Pid.Sus/2024/PN Msh. The approaches used include a legislative approach by examining provisions related to child protection and victim restitution, a case approach by analyzing the judge's legal considerations in the decision, and a conceptual approach using the theory of victim protection and restorative justice. The sources of legal materials consist of primary, secondary, and tertiary legal materials collected through literature studies, then analyzed qualitatively with grammatical, systematic, and teleological interpretations to produce argumentative and accountable conclusions.

3. Results and Discussion

3.1. Implementation of Restitution for Child Victims of Sexual Crimes in Decision Number 1/Pid.Sus/2024/PN Msh

Every child has the right to survive, grow, and develop, and to participate in aspects of protection from violence and discrimination as well as civil rights and freedoms. Although Law Number 39 of 1999 concerning Human Rights itself has included children's rights, the implementation of the obligations and responsibilities of parents, families, communities, governments, and the state to provide protection for children, in reality children still need a law on child

protection as a legal basis for every implementation of these obligations and responsibilities.⁸

Existing legal facts, such as Decision Number 1/Pid.Sus/2024/PN Msh, serve as a concrete example of the weak effectiveness of protecting the rights of child victims of sexual crimes through restitution. The judge handed down the following verdict to the child perpetrator of the crime of sexual intercourse:

- 1) Declaring that the Defendant Ronald Ralahalu alias Onal mentioned above, has been legally and convincingly proven guilty of committing the crime of "Committing violence and threats of violence, forcing a child to have sexual intercourse with him continuously and including ongoing acts".
- 2) Therefore, to sentence the Defendant to 20 (twenty) years imprisonment and a fine of IDR 60,000,000 (sixty million rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 1 (one) month;
- 3) Determine that the period of arrest and detention that has been served by the Defendant is deducted in full from the sentence imposed;
- 4) Determine that the Defendant remains in detention;
- 5) Charge the Defendant with paying court costs in the amount of IDR 2,000.- (two thousand rupiah);

In the case described above, the author analyzes that its implementation does not reflect justice for the victim. Although the defendant was sentenced to imprisonment in Decision Number 1/Pid.Sus/2024/PN Msh, the protection of the victim's rights through restitution has not been optimally accommodated. The verdict does not provide a clear determination of the amount of damages, leaving the victim uncertain about the compensation they should receive. Furthermore, the panel of judges emphasized the criminal aspects, such as imprisonment and fines, rather than the victim's recovery, which is the primary goal of restitution. Assistance for victims only covers compensation for property damage; for non-material losses, victims need to file a civil lawsuit.⁹

As a result, victims' rights become a legal illusion because, although formally stated in the verdict, the mechanism for implementing restitution is not outlined. This indicates a gap between legal norms and their implementation in court. In fact, Article 71D of Law Number 35 of 2014 concerning Child Protection stipulates that child victims have the right to receive restitution, both in the form of material and immaterial compensation, including medical expenses, psychological rehabilitation, and compensation for the trauma they experienced. This problem

⁸ N Arifudin, "Protection of Human Rights for Correctional Institution Students in East Kalimantan (Study in Correctional Institutions and State Detention Centers)," *Legal Treatise* 6, no. 2 (2010).

⁹ Putri Theodora Syah, *Efforts to Protect Crime Victims* (Jakarta: UI Press, 2006), p. 7.

reflects the challenges in enforcing restitution law in Indonesia. Although the legal provisions are clear, implementation in the courts is often limited to criminalizing the perpetrator without ensuring the victim's recovery. Therefore, the existence of restitution in this verdict still needs to be strengthened by determining a specific amount, a clear execution mechanism, and monitoring its implementation to ensure that the rights of child victims are truly fulfilled.

In other words, the child victim's right to restitution is a legal right that must be fulfilled by the perpetrator or the state through the courts. This means that if the defendant fails to pay, the court should ensure there is an enforcement mechanism, such as a fine or imprisonment, to ensure the victim's rights are met. Therefore, in the context of Decision Number 1/Pid.Sus/2024/PN Msh, the child victim AR's right to restitution should be realized in a concrete and measurable manner, not merely stated formally in the verdict, especially since it is not included in the verdict in this case.

It can be concluded that the application of restitution to child victims of crime is not being met at all in practice. The author's analysis of the above case shows that:

1) There is no order for restitution in the verdict

Although the Child Protection Law (Article 71D) requires restitution for child victims, the verdict does not specify the amount of damages or the type of restitution (e.g., medical treatment, psychological rehabilitation, trauma compensation). Therefore, legally, the victim's right to restitution is not enforced.

2) The prosecutor did not file for restitution.

The prosecutor's role is crucial in filing for restitution in court. If the prosecutor does not demand or include a request for restitution, the judge will usually not automatically issue a restitution order. This creates a gap in practice where victims are still harmed even though the law guarantees their rights.

In fact, the request for restitution in Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence is regulated in Articles 30-37. Victims of sexual violence are entitled to restitution and recovery services in the form of compensation for lost wealth or income, compensation for losses incurred due to suffering directly related to the crime of sexual violence, reimbursement of medical or psychological care costs, and compensation for other losses. Investigators, Public Prosecutors, and Judges are required to inform victims and the LPSK of their right to restitution. If the perpetrator is a child, restitution is granted by the parent or guardian, and the procedure for submitting restitution is carried out in accordance with statutory provisions.¹⁰

¹⁰ Benget Hasudungan Simatupang et al., "Rights to Restitution for Children Who Are Victims of TPKS," *University of Bengkulu Law Journal* 8, no. 1 (2023): 68–78.

From the above case, if the author relates it to Soerjono Soekanto's theory of legal effectiveness, which is determined by several factors: legal clarity and certainty, the attitude of law enforcement officers, social conditions in the community, law enforcement facilities and infrastructure, and public compliance, the case of decision Number 1/Pid.Sus/2024/PN can still be analyzed as follows:

1) Legal Clarity and Certainty

The Child Protection Law, specifically Article 71D of Law No. 35 of 2014, affirms the right of child victims to receive restitution. Normatively, the law is clear. However, in practice, verdicts do not stipulate restitution for victims. This demonstrates a gap between legal norms and implementation in court, thus preventing legal certainty for victims.

2) Attitude of Law Enforcement Officers

The public prosecutor did not file a demand for restitution during the trial, and the judge did not automatically order restitution. The attitude of law enforcement officials is crucial to the effectiveness of the law. In this case, a less proactive approach to the victim's rights resulted in the failure to fulfill restitution, thus rendering the law ineffective.

3) Social and Cultural Conditions of Society

Social and cultural factors can influence awareness and compliance with the law. Child victims who are victims of their biological parents face social pressure and fear, preventing them from asserting their rights. This situation impacts the effectiveness of restitution as a form of legal protection, as victims cannot independently access their legal rights.

4) Law Enforcement Facilities and Infrastructure

The restitution mechanism in court requires clear procedures and facilities, including legal assistance, determining the amount of damages, and executing the verdict. In this case, there was no enforcement mechanism or guidelines for the amount of restitution, thus rendering the legal means to achieve restitution for the victim unavailable.

5) Public Compliance with the Law

This factor relates to the awareness of children's legal rights among victims and the wider community. Lack of knowledge about restitution and children's rights can lead to passivity, resulting in restitution not being sought. This again demonstrates that legal effectiveness is determined not only by norms, but also by implementation and awareness among legal actors and the public.

Based on this theoretical analysis, this case demonstrates that despite clear legal norms, factors such as the attitudes of law enforcement officials, infrastructure, and social conditions prevent restitution for child victims from being implemented. In other words, the law, which should optimally protect child victims, has not been effective in practice.

Meanwhile, if the author relates it to child protection theory, in Decision Number 1/Pid.Sus/2024/PN Msh, although the defendant was sentenced to prison for sexual violence against a 16-year-old child victim, AR, the child's right to restitution has not been fulfilled. The victim's right to recovery, including treatment, psychological rehabilitation, and trauma compensation, is not clearly accommodated. This indicates the suboptimal implementation of child protection principles, such as the child's best interests, the responsibility of law enforcement, and the child's right to participation. Thus, although the criminal aspect is fulfilled, restitution as a form of recovery for child victims has not been effective, creating a gap between legal norms and actual protection for children.

Similarly, if the author relates it to the theory of victims' rights as stipulated in Decision Number 1/Pid.Sus/2024/PN Msh, defendant RR was sentenced to 20 years in prison and a fine of Rp 60,000,000, which fulfills the right to criminal justice. However, victim AR's right to restitution, including compensation for medical treatment, psychological rehabilitation, and trauma, is not clearly accommodated. Thus, although the criminal aspect is fulfilled, restitution as a fulfillment of victims' rights has not been implemented effectively, demonstrating the gap between legal norms and actual protection for victims.

3.2. Obstacles and Factors Causing Ineffectiveness in Providing Restitution for Child Victims of Sexual Crimes

The legal rights of victims of crime, including children, are realized in the form of financial compensation, medical treatment, psychological rehabilitation, or other forms of restitution. Article 71D of Law Number 35 of 2014 concerning Child Protection affirms the obligation of courts and law enforcement officials to ensure that child victims receive restitution.

However, in reality, court decisions often do not optimize restitution. A concrete example can be seen in Decision Number 1/Pid.Sus/2024/PN Msh, where the victim AR did not receive restitution even though the defendant was sentenced to 20 years in prison and fined Rp 60,000,000. According to Soerjono Soekanto, the theory of legal effectiveness relates to the extent to which a group can achieve its stated goals. A law can be considered successful if it has good legal consequences, where the law achieves its goals by guiding or changing human behavior to be lawful.¹¹ Reasons for the ineffectiveness of restitution. This ineffectiveness is due

¹¹ Soerjono Soekanto, *Effectiveness of Law and Application of Sanctions* (Bandung: Ramadja Karya, 1988), p. 80.

to the obstacles in providing restitution to child victims of sexual crimes in this case, namely:

1) Legal and Procedural Obstacles

Although the Child Protection Law clearly regulates restitution, there are no operational guidelines for judges or prosecutors to determine the amount of compensation and the enforcement mechanism. Decision Number 1/Pid.Sus/2024/PN Msh only imposed a prison sentence and a fine without specifying the amount of restitution or the payment procedure. This is despite Article 71D of the Child Protection Law clearly stating that "In the event that a child becomes a victim of a crime, the court is obliged to order restitution commensurate with the losses suffered by the child."

Often, the focus is solely on imposing prison sentences, while restitution is neglected due to the lack of clear standards or procedures. Furthermore, the restitution process is often hampered by lengthy legal mechanisms, such as requiring victims or their families to submit written requests. The court must also assess physical, psychological, and social losses, requiring psychological and medical expertise. The execution process involves coordination between the court, the prosecutor's office, and support agencies. These bureaucratic factors reduce the effectiveness of restitution, resulting in victims not receiving the compensation they deserve.

2) Structural Barriers and Complicated Execution

Structural and administrative barriers are among the main factors contributing to the ineffectiveness of restitution for child victims of sexual crimes. One significant obstacle is limited resources, both in terms of personnel and budget. Currently, many prosecutors' offices and courts lack dedicated restitution units, often neglecting victims' rights. Furthermore, budgets for psychological and medical rehabilitation for victims are also limited, preventing victims from receiving adequate restitution.

3) Structural and Administrative Barriers

In addition to limited resources, coordination between law enforcement agencies is also a significant obstacle. Prosecutors, judges, and victim advocacy organizations do not always communicate adequately to determine the appropriate amount of restitution for victims. Furthermore, the lack of a mechanism for monitoring or supervising the implementation of restitution after a verdict often means that the rights of child victims are not fulfilled according to law. This demonstrates that although legal norms guarantee the right to restitution, structural and administrative barriers hamper its implementation in the field.

4) Social and Psychological Factors

Social and psychological factors also play a significant role in the ineffectiveness of restitution. Child victims of sexual crimes often experience severe psychological trauma. In AR's case, because the perpetrator was her biological father, the victim faced immense emotional stress, fear, and depression. This trauma prevented the victim from independently pursuing restitution. Furthermore, the victim's family's economic dependence on the perpetrator or their community often hinders their ability to pursue restitution. Social pressure and fear of stigma also add to the burden on victims.

Furthermore, there are two factors that hinder restitution for child victims. First, internal factors include the lack of coercive regulations if the perpetrator fails to pay restitution, burdensome administrative requirements for submitting a restitution application, and the absence of regulations guaranteeing prompt restitution payment by the perpetrator. Second, external factors include victims' lack of legal awareness and a continued focus on punishing the perpetrator.¹²

A review of the legal literature reveals several factors contributing to the ineffectiveness of restitution for child victims of sexual crimes. According to the author, these factors can be categorized into several interrelated and mutually reinforcing aspects, namely:

- 1) From a legal perspective, the ineffectiveness of restitution is partly due to unclear guidelines and enforcement mechanisms. While the Child Protection Law does regulate victims' rights to restitution, it lacks detailed guidance for law enforcement regarding the procedures for determining the amount of damages, the type of compensation, and how to enforce restitution decisions. This gap often leads judges and prosecutors to fail to specify restitution in their decisions or to specify the enforcement mechanism, leaving victims' rights merely a legal formality.

- 2) From an administrative perspective, lengthy bureaucracy, limited human resources, and a limited budget are real obstacles. The absence of a dedicated unit for restitution in the courts or prosecutor's office slows down the process of determining and implementing restitution, or even neglects it. Budgets for medical and psychological rehabilitation are also limited, often preventing victims from receiving adequate restitution. Interviews with victims' advocates revealed that families are often confused about how to manage their restitution rights due to minimal support from law enforcement.

¹² Andini Salma Hapsari and Riska Andi Fitriono, "Obstacles to Providing Restitution for Child Victims of Sexual Abuse in Decision Number 133/Pid.Sus/2023/PN. Skt," *Jembatan Hukum: Studi Ilmu Hukum, Sosial Dan Administrasi Negeri* 1, no. 3 (2024): 101–13, <https://doi.org/10.62383/jembatan.v1i3.430>.

3) Social and psychological aspects also influence the effectiveness of restitution. Child victims of sexual crimes face severe psychological trauma, especially if the perpetrator is someone close to them, such as a biological parent. The victim's family's economic dependence on the perpetrator or their community, social pressure, and the stigma attached to victims make them reluctant or unable to seek restitution. Limited victim participation in the legal process further exacerbates this situation, as children cannot independently file for or defend their right to restitution.

4) Law enforcement aspects show that prosecutors and judges are often not proactive in demanding or determining restitution. Although criminal aspects have been implemented through the imposition of prison sentences and fines, victims' rights to restitution through restitution are not always prioritized. The unpreparedness of law enforcement officials to oversee restitution, both in the determination and execution, is a significant factor in the difficulty of realizing victims' rights.

Overall, the combination of these four aspects—legal, administrative, socio-psychological, and law enforcement—creates systemic barriers that often make restitution for child victims of sexual crimes ineffective. Although restitution is normatively stipulated as a mandatory right, the reality on the ground shows that this right is often not realized, leaving victim protection and recovery far from ideal.

3.4. Efforts and Recommendations for Improvement to Increase the Effectiveness of the Protection of the Rights of Child Victims of Sexual Crimes Through Restitution in Indonesia in the Future

Children are legal entities whose rights must be protected. One of the rights of children who experience criminal acts is to receive restitution. As stipulated in Law No. 12 of 2022 concerning Sexual Violence, restitution is a compensation payment imposed on the perpetrator or a third party based on a legally binding court decision or verdict for material and/or immaterial losses suffered by the victim or their heirs.¹³ However, in reality, the implementation of restitution in Indonesia is often symbolic and has not yet proven effective in preventing recurrence of violence. This is also the case with Decision Number 1/Pid.Sus/2024/PN Msh. Compared with other countries, for example, in European countries, restitution systems are often more integrated into the judicial process, with clear mechanisms to ensure that victims receive timely and fair compensation. In many

¹³<https://www.wccjombang.org/2024/03/implementasi-restitution-bagi-anak-yang.html>, accessed on August 16, 2025.

countries, the law provides victims with stronger rights to file restitution claims, and there are dedicated institutions dedicated to addressing this issue.¹⁴

The United States has a more structured restitution system through federal laws like the Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018. This law establishes clear procedures for courts to determine restitution amounts for victims of child pornography crimes. Additionally, programs like the Victim Compensation Program at the state level provide financial compensation and rehabilitation services to victims of sexual crimes, including children.¹⁵

New Zealand has adopted a restorative justice approach through initiatives like Project Restore, which provides opportunities for victims and perpetrators to meet in a safe and managed setting. This approach emphasizes repairing relationships and accountability for perpetrators, while also providing victims with more opportunities to participate in the justice process. While not appropriate for every situation, this model provides a more responsive option to victims' needs.¹⁶

In Indonesia, restitution for child victims of sexual crimes is regulated in Law No. 31 of 2014 concerning Protection of Witnesses and Victims and Government Regulation No. 43 of 2017 concerning the Implementation of Restitution for Child Victims of Crime. However, its implementation still faces various obstacles, such as a lack of technical guidelines, limited resources, and low participation of law enforcement officers in demanding restitution. As a result, many victims' restitution rights are not optimally realized. Therefore, an improvement effort is needed in order to increase the effectiveness of restitution for child victims of sexual crimes must be carried out comprehensively in order to guarantee the rights of victims of crimes experienced in the future, if linked to the theory of legal effectiveness according to Soerjono Soekanto, namely:

1) Legal Aspect Improvement

Clear guidelines regarding restitution are needed, both in law and implementing regulations. Currently, Article 71D of the Child Protection Law mandates restitution, but there are no detailed guidelines regarding the calculation mechanism, the types of losses covered, and the execution procedures. The creation of derivative regulations or technical guidelines by the Attorney General's

¹⁴ Bogi Yuliawan, Hartanto Hartanto, and Teguh Satya Bhakti, "The Effectiveness of Restitution Policy in Protecting the Rights of Child Victims of Sexual Crimes," *Binamulia Hukum* 14, no. 1 (2025): 33–42, <https://doi.org/10.37893/jbh.v14i1.1006>.

¹⁵ https://en.wikipedia.org/wiki/Amy%2C_Vicky%2C_and_Andy_Child_Pornography_Victim_Assistance_Act_of_2018?utm_source=, accessed on August 16, 2025.

¹⁶ https://www.theguardian.com/australia-news/ng-interactive/2025/feb/07/without-punishment-can-a-different-kind-of-justice-offer-something-more-to-sexual-assault-survivors-ntwnfb?utm_source=, accessed on August 16, 2025.

Office and the Supreme Court would assist judges and prosecutors in consistently demanding and executing restitution.

2) Improvements in Law Enforcement Aspects

One important effort is to increase the proactivity of law enforcement officials, particularly prosecutors, judges, and police, in upholding victims' rights. Intensive training is needed to equip law enforcement officials with the skills to comprehensively assess victims' physical, psychological, and social losses, as well as communication strategies that are sensitive to the emotional well-being of children and their families.

3) Improvement of Facilities and Amenities Aspects

In addition to strengthening the capacity of legal officials, improving infrastructure and facilities is also a crucial factor. Limited funding for psychological rehabilitation, medical treatment, and social reintegration is a major obstacle to the recovery of child victims.

4) Improvement of Victim and Community Participation Aspects

Increasing victim and community involvement is also crucial. Child victims have the right to be heard and involved in the legal process, appropriate to their age and level of intelligence. Civil society organizations and child protection agencies can serve as legal and psychological support, ensuring that victims' right to participate in restitution claims is upheld.

Based on the author's analysis of court decisions, the application of restitution, and relevant legal literature, several strategic recommendations can strengthen the protection of the rights of child victims through restitution. First, the development of technical guidelines for restitution by the judiciary and the prosecutor's office is a fundamental step. These guidelines are necessary to provide a clear reference for procedures, the calculation of victims' losses, and the mechanism for implementing restitution, enabling law enforcement to uphold victims' rights consistently and measurably.

Second, a restitution unit needs to be established in every prosecutor's office and court to ensure effective restitution implementation. This unit will oversee the entire process, from the prosecutor's request for restitution to the implementation of the decision in the field, and will serve as a coordination center between law enforcement, victims, and supporting institutions.

Third, the government must increase the dedicated budget for victim recovery, including mental rehabilitation, medical care, and social reintegration. This budget allocation will support the physical and mental recovery of victims and help their families cope with the social and economic impact of the crimes.

Fourth, regular training for law enforcement officials is essential so that prosecutors, judges, and police can proactively enforce restitution. This training includes skills in calculating losses to victims, sensitive communication tactics with child victims and their families, and how to monitor restitution implementation after a decision is made.

Fifth, strengthening legal and psychological support for child victims throughout the region, especially in remote locations, is a crucial element in ensuring the fulfillment of victims' participation rights. Child protection agencies and civil society organizations can contribute directly by supporting victims, explaining their right to restitution, and ensuring that victims receive necessary rehabilitation services.

Sixth, the use of a digital-based monitoring system can increase transparency and accountability in the implementation of restitution. This online system allows law enforcement to monitor restitution payments, ensure that recovery services are provided, and document each stage of the execution, so that restitution becomes more than a legal formality but a tangible instrument for victim recovery. With the integrated implementation of these strategic recommendations, the effectiveness of restitution for child victims of sexual crimes in Indonesia can be significantly increased, in line with the principles of child protection and victims' rights guaranteed by law in the future.

4. Conclusion

The application of restitution in Decision Number 1/Pid.Sus/2024/PN Msh demonstrates that restitution has been accommodated as an instrument for protecting the rights of child victims of sexual crimes in accordance with statutory provisions, particularly the Child Protection Law. Restitution serves to provide compensation for material and immaterial losses suffered by victims, while also serving as a form of recovery from a restorative justice perspective. However, its effectiveness remains hampered by implementation issues, such as limited collection mechanisms, a lack of awareness among perpetrators about fulfilling restitution obligations, and minimal post-verdict oversight. Therefore, the protection of child victims' rights requires strengthening at the restitution execution stage, coordination between law enforcement agencies, and the implementation of more operational technical regulations, so that the goals of victim protection and recovery can be optimally achieved.

5. References

Journals:

Andini Salma Hapsari, and Riska Andi Fitriono. "Hambatan Pemberian Restitusi Bagi Anak Korban Pencabulan Dalam Putusan Nomor 133/Pid.Sus/2023/PN. Skt." *Jembatan Hukum : Kajian Ilmu Hukum, Sosial*

Dan Administrasi Negara 1, no. 3 (2024): 101–13.
<https://doi.org/10.62383/jembatan.v1i3.430>.

Arifudin, N. Perlindungan Hak Asasi Manusia Terhadap Anak Didik Pemasarakatan Di Kalimantan Timur (Studi Di Lembaga Pemasarakatan Dan Rumah Tahanan Negara). *Risalah Hukum* 6, no. 2 (2010).

Ikhsan, Fatihul. Tinjauan Yuridis Terhadap Perlindungan Anak Menurut United Nations Convention on the Right of the Child 1989 Dan Implementasinya Di Indonesia, no. 07 (2025).

Miszuarty. Pelaksanaan Restitusi Bagi Anak Yang Menjadi Korban Tindak Pidana Sebagai Bnetuk Pembaruan Hukum Pidana Berdasarkan Peraturan Pemerintah Nomor 43 Tahun 2017. *Soumatera Law Review* 2, no. 1 (2019). <https://media.neliti.com/media/publications/284750-pelaksanaan-restitusi-bagi-anak-yang-men-cbd818e1.pdf>.

Prameswari, Zendy Wulan Ayu Widhi. “Ratifikasi Konvensi Tentang Hak-Hak Anak Dalam Sistem Peraturan Perundang-Undangan Di Indonesia.” *Yuridika* 32, no. 1 (2017): 167. <https://doi.org/10.20473/ydk.v32i1.4842>.

Sibarani, Fauzi Anshari, Madiasa Ablisar, Marlina, and Edy Ikhsan. “Penerapan Prinsip The Best Interest Of Child Terhadap Anak Yang Melakukan Tindak Pidana Kesusilaan (Studi Di Kepolisian Daerah Sumatera Utara).” *Buletin Konstitusi* 3, no. 1 (2022): 29. 50.

Simatupang, Benget Hasudungan, Clarita William, Sudirman Sitepu, and Pipi Susanti. “Hak Restitusi Bagi Anak Yang Menjadi Korban TPKS.” *University of Bengkulu Law Journal* 8, no. 1 (2023): 68. 78.

W, Anjari. “Perlindungan Anak Yang Bermasalah Dengan Hukum Dalam Perspektif Pemidanaan Integratif Pancasila. *Jurnal Yudisial* 13, no. 3 (2012): 351–72.

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

Andini Salma Hapsari, and Riska Andi Fitriono. Hambatan Pemberian Restitusi Bagi Anak Korban Pencabulan Dalam Putusan Nomor 133/Pid.Sus/2023/PN. Skt.” *Jembatan Hukum : Kajian Ilmu Hukum, Sosial Dan Administrasi Negara* 1, no. 3 (2024): 101–13. <https://doi.org/10.62383/jembatan.v1i3.430>.

Arifudin, N. “Perlindungan Hak Asasi Manusia Terhadap Anak Didik Pemasarakatan Di Kalimantan Timur (Studi Di Lembaga

Pemasyarakatan Dan Rumah Tahanan Negara). *Risalah Hukum* 6, no. 2 (2010).

Ikhsan, Fatihul. Tinjauan Yuridis Terhadap Perlindungan Anak Menurut United Nations Convention on the Right of the Child 1989 Dan Implementasinya Di Indonesia, no. 07 (2025).

Miszuarty. Pelaksanaan Restitusi Bagi Anak Yang Menjadi Korban Tindak Pidana Sebagai Bnetuk Pembaruan Hukum Pidana Berdasarkan Peraturan Pemerintah Nomor 43 Tahun 2017. *Soumatera Law Review* 2, no. 1 (2019). <https://media.neliti.com/media/publications/284750-pelaksanaan-restitusi-bagi-anak-yang-men-cbd818e1.pdf>.

Prameswari, Zendy Wulan Ayu Widhi. Ratifikasi Konvensi Tentang Hak-Hak Anak Dalam Sistem Peraturan Perundang-Undangan Di Indonesia. *Yuridika* 32, no. 1 (2017): 167. <https://doi.org/10.20473/ydk.v32i1.4842>.

Sibarani, Fauzi Anshari, Madiasa Ablisar, Marlina, and Edy Ikhsan. Penerapan Prinsip The Best Interest Of Child Terhadap Anak Yang Melakukan Tindak Pidana Kesusilaan (Studi Di Kepolisian Daerah Sumatera Utara). *Buletin Konstitusi* 3, no. 1 (2022): 29. 50.

Simatupang, Benget Hasudungan, Clarita William, Sudirman Sitepu, and Pipi Susanti. Hak Restitusi Bagi Anak Yang Menjadi Korban TPKS. *University of Bengkulu Law Journal* 8, no. 1 (2023): 68. 78.

W, Anjari. Perlindungan Anak Yang Bermasalah Dengan Hukum Dalam Perspektif Pemidanaan Integratif Pancasila. *Jurnal Yudisial* 13, no. 3 (2012): 35172.

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

Books:

Soekanto, Soerjono. *Efektivitas Hukum Dan Penerapan Sanksi*. Bandung: Ramadja Karya, 1988.

Syah, Putri Theodora. *Upaya Perlindungan Korban Kejahatan*. Jakarta: UI Press, 2006.

Regulation:

The 1945 Constitution of the Republic of Indonesia.

Criminal Code (KUHP).

Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

Law Number 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law No. 23 of 2002 concerning Child Protection into Law.

Law Number 31 of 2014 concerning Amendments to Law No. 13 of 2006 concerning Protection of Witnesses and Victims.

Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Crime.

Witness and Victim Protection Agency (LPSK) Regulation Number 1 of 2022 concerning Procedures for Application, Granting, and Implementation of Restitution for Victims of Crime.

Muara Sabak District Court Decision Number 1/Pid.Sus/2024/PN Mshas a case study object.