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# Restitution in Juvenile Criminal Justice: Functionalization of Criminal Law, Challenges, and Prospects

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## ABSTRACT

The functionalization of criminal law in providing restitution to female victims of sexual violence is critical to strengthening a victim-oriented criminal justice system, following the enactment of Law Number 12 of 2022 on Sexual Violence Crimes, Law Number 1 of 2023 on the Indonesian Criminal Code, and Law Number 20 of 2025 on the Indonesian Criminal Procedure Code. Although the legal framework recognizes restitution, its implementation remains inconsistent. This study aims to analyze the challenges and prospects of functionalizing criminal law in providing restitution to female victims of sexual violence through court decisions. Employing a normative juridical approach, this research examines three final court decisions, complemented by institutional annual reports and media sources. Data are analyzed descriptively and comparatively. The findings reveal variations in the imposition of substitute imprisonment, the absence of explicit asset confiscation and auction orders, and reliance on voluntary compliance by offenders or their families. This issue is particularly significant in the Juvenile Criminal Justice System when the offender is a child lacking independent economic capacity, causing restitution to depend on parents or other third parties. The study concludes that the new regulatory framework under the new Criminal Code and Criminal Procedure Code provides prospects for improving restitution enforcement. However, effective functionalization requires implementing guidelines, consistent substitute sanctions, systematic asset enforcement, clear standards for third-party payment, and stronger institutional coordination to ensure that restitution becomes an enforceable and substantive form of victim recovery. This requires clear standards.

**Keywords:** Functionalization of Criminal Law, Restitution, Sexual Violence, Juvenile Justice, Victim-Oriented Criminal Justice.

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## 1. INTRODUCTION

Sexual violence against women constitutes a serious violation of human dignity and has consequences that extend beyond the immediate physical harm suffered by victims. Its effects may involve psychological trauma, social disruption, economic loss, and a prolonged struggle to regain autonomy and a sense of justice. These consequences also expose an important limitation of conventional criminal justice systems, including juvenile criminal justice systems, when the success of criminal proceedings is measured predominantly by the punishment imposed on the offender rather than by the extent to which the harm suffered by the victim is actually repaired. Contemporary criminal justice scholarship has therefore increasingly questioned an offender-oriented model that places punishment at the center of the criminal process and has advocated a more victim-oriented approach in which victims' interests, participation, recognition, and recovery become integral components of justice. Mollis, for example, argues for rethinking the criminal process around victims' recognition, interests, well-being, and meaningful participation rather than treating victims merely as passive participants in a state-centered process (Mollis, 2025). This development is particularly significant in cases of sexual violence because conventional proceedings may themselves generate secondary victimization and retraumatization. Recent research indicates that victim-oriented and restorative approaches can provide victims with opportunities for recognition, participation, accountability, and recovery when they are carefully designed around victims' needs and safety (Jülich

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et al., 2024; Gavin et al., 2024).

Within this transformation, restitution occupies a strategically important position because it translates the abstract recognition of victims' rights into a concrete form of recovery. Restitution should therefore not be understood merely as an additional financial component attached to a criminal judgment, but as a mechanism through which criminal justice responds directly to the material consequences of criminal victimization. Suzuki (2023) places compensation among the enabling factors that can facilitate victim recovery and emphasizes that the effectiveness of restorative justice should be examined not only in terms of whether a particular intervention "works," but also in terms of how institutional processes actually contribute to recovery (Suzuki, 2023). Accordingly, a victim-oriented criminal justice system cannot be considered fully functional merely because a court formally recognizes a victim's right to restitution. The critical question is whether that right can be transformed from a judicial declaration into an enforceable and ultimately realized entitlement. This distinction between recognition of a right and realization of a right provides an important analytical basis for examining the functionalization of criminal law.

International criminal justice reforms have increasingly strengthened victims' rights to information, participation, recognition, compensation, and restitution. Nevertheless, the existence of progressive legal norms does not automatically guarantee effective recovery. Research on financial obligations within criminal justice demonstrates that the effectiveness of monetary sanctions depends substantially on how they are implemented and enforced, as well as on the institutional arrangements through which obligations are translated into actual payment (LaScala-Gruenewald & Paik, 2023). In the context of sexual violence, recent scholarship similarly emphasizes that victim-centered justice requires institutional safeguards, specialized procedures, and mechanisms capable of preventing the justice process itself from becoming a source of further harm (Jülich et al., 2024; Gavin et al., 2024). Thus, the effectiveness of restitution should be assessed not solely from the perspective of normative entitlement, but through the entire chain of criminal law functionalization, beginning with the recognition and assessment of the victim's claim, continuing through prosecution and adjudication, and ultimately reaching the execution of the court's decision.

The Indonesian legal system has undergone a significant normative transformation in this regard. Law Number 12 of 2022 on Sexual Violence Crimes (Indonesia, 2022) explicitly recognizes restitution as an important mechanism for fulfilling the rights of victims of sexual violence. The reform was subsequently strengthened by Law Number 1 of 2023 on the Indonesian Criminal Code (Indonesia, 2023), which integrates compensation into the structure of criminal sanctions, and by Law Number 20 of 2025 on the Indonesian Criminal Procedure Code (Indonesia, 2025), which further develops the procedural framework for its implementation. These reforms indicate a substantial shift from treating restitution primarily as a victim-initiated claim toward positioning financial recovery within the broader architecture of criminal sentencing and execution. This development is particularly important because previous Indonesian research has identified regulatory weaknesses and difficulties in realizing restitution, including situations in which offenders may prefer serving imprisonment rather than fulfilling financial obligations to victims (Ali et al., 2022).

However, the expansion of normative protection has not necessarily eliminated the implementation gap. The existence of a legal entitlement does not by itself ensure that restitution will be ordered consistently, secured through the offender's assets, or ultimately received by the victim. The effectiveness of restitution depends on the capacity of law enforcement institutions, coordination among investigators, prosecutors, judges, correctional institutions, and the Witness and Victim Protection Agency, as well as the availability of clear mechanisms for asset identification, confiscation, auction, and enforcement. Previous studies have demonstrated that progressive legal regulation may encounter institutional and administrative barriers in practice (Imania & Santoso, 2023; Kadapi et al., 2025). More broadly, research on legal financial obligations shows that implementation and enforcement constitute distinct problems from the mere existence of monetary sanctions in legislation (LaScala-Gruenewald & Paik, 2023). Consequently, the central problem is no longer whether Indonesian law recognizes restitution, but whether the criminal justice system possesses sufficient institutional and procedural capacity to make restitution effective, enforceable, and predictable.

This implementation gap becomes particularly visible in judicial decisions involving sexual violence. A court may determine a specific amount of restitution while failing to activate the legal instruments necessary to secure its payment. The three judgments examined in this study demonstrate this problem through variations in the

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imposition of substitute imprisonment, the absence of explicit orders concerning asset confiscation and auction, and the continued dependence on the voluntary compliance of perpetrators or their families. Such variations are not merely technical differences between judgments. They raise a fundamental question concerning the functionalization of criminal law: at what point does a restitution norm cease to be merely declarative and begin to operate as an enforceable component of criminal justice? If a judgment determines restitution without simultaneously establishing a credible pathway toward execution, the victim possesses a formally recognized right but not necessarily a practically realizable remedy. The distance between these two conditions represents a critical implementation gap in victim-oriented criminal justice.

This problem becomes more complex when the offender is a child. Juvenile criminal justice is governed by a distinct normative orientation that emphasizes the best interests of the child, restorative justice, rehabilitation, reintegration, and the avoidance of unnecessary stigmatization. Law Number 11 of 2012 on the Juvenile Criminal Justice System (Indonesia, 2012) therefore establishes a framework that differs significantly from adult criminal justice. At the same time, the application of restitution in sexual violence involving child offenders creates a difficult normative intersection: the justice system must protect and rehabilitate the child offender while simultaneously guaranteeing the right of the child or female victim to meaningful recovery. Siregar & Rahimy (2023) identify the reconciliation of rehabilitation and victim redress as a central challenge in juvenile sentencing in Indonesia. This tension becomes particularly pronounced when a child offender lacks independent economic capacity and restitution is consequently dependent on parents or other third parties.

The Jeneponto District Court Decision Number 3/Pid.Sus-Anak/2023/PN Jnp (Pengadilan Negeri Jeneponto, 2023) jo. Makassar High Court Decision Number 31/PID.SUS.ANAK/2023/PT MKS (Pengadilan Tinggi Makassar, 2023) jo. Supreme Court Decision Number 5713 K/Pid.Sus/2023 (Supreme Court of the Republic of Indonesia, 2023) provides a particularly important case for examining this intersection. Unlike conventional restitution cases involving adult offenders, the Jeneponto case involves a juvenile offender and a juvenile victim, thereby bringing together three legal interests that must simultaneously be accommodated: the protection and rehabilitation of the child offender, the recovery rights of the victim, and the authority of the state to enforce a criminal judgment. The case also reveals that restitution may, in practical terms, depend on the willingness and economic capacity of the offender's parents. This situation exposes a structural question that has received limited attention in the literature: whether restitution in juvenile criminal justice can be effectively functionalized when the person legally subjected to the criminal process is economically incapable of satisfying the restitution obligation and payment consequently shifts to a third party.

Existing literature has examined restitution and compensation in Indonesia from the perspective of regulatory deficiencies, victim protection, judicial responses, and broader criminal policy. Ali et al. (2022), for example, identify significant weaknesses in the Indonesian regulatory and judicial framework for compensation and restitution. Wibowo (2022) further discusses restitution within the Indonesian criminal justice system, while Gour (2026) examines victim-centric justice through the broader framework of protection, compensation, and restorative mechanisms. Other studies have addressed juvenile sentencing and the need to reconcile rehabilitation with victim redress (Siregar & Rahimy, 2023), as well as the development of restorative justice following the enactment of Law No. 1 of 2023 (Riyadi, 2025; Taufiqurokhman & Sodikin, 2026). Internationally, recent research has concentrated substantially on restorative justice, victim recovery, victim participation, and the conditions under which justice responses to sexual violence can be victim-centered (Suzuki, 2023; Hadar & Gal, 2023; Jülich et al., 2024; Gavin et al., 2024).

Nevertheless, a significant research gap remains. Previous studies have predominantly examined what restitution is, why victims are entitled to it, or why restorative and victim-oriented justice is important. Comparatively less attention has been given to how restitution is operationalized through the architecture of criminal law and judicial decisions, particularly from the point of sentencing to execution. Even more limited is the analysis of how this functionalization operates when restitution intersects with juvenile criminal justice, where the offender may lack independent economic capacity and payment may depend on parents or other third parties. This study therefore moves beyond a purely normative discussion of victims' rights and restorative justice by examining the functional chain of restitution enforcement: the imposition of restitution, the availability of substitute sanctions, the use of asset confiscation and auction mechanisms, and the practical dependence on voluntary compliance.

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The novelty of this research lies in three interrelated dimensions. First, it conceptualizes restitution as a functional test of criminal law, rather than merely as a formal entitlement of victims. The study distinguishes between normative recognition, judicial operationalization, and execution realization of restitution. Second, it develops a comparative analysis of three final and binding court decisions to identify whether restitution norms are translated consistently into enforceable judicial orders, particularly regarding substitute sanctions, asset confiscation, and auction mechanisms. Third, it places the Jeneponto juvenile case within this broader functionalization framework to reveal a specific structural problem that is not sufficiently captured by conventional victimology or restorative justice analyses: the displacement of the restitution burden from a child offender to a third party without a sufficiently standardized enforcement architecture. In this sense, the research connects substantive criminal law, criminal procedure, juvenile justice, victim protection, and judgment execution within a single analytical framework.

This perspective is important because the effectiveness of restitution cannot be determined solely by the amount awarded in a judgment. A restitution order becomes meaningful only when the legal system provides a credible pathway through which the amount determined by the court can actually reach the victim. The problem therefore involves not only sentencing policy but also institutional design and enforcement credibility. Research on legal financial obligations has demonstrated that the implementation and enforcement of monetary obligations can have consequences for both individuals and the functioning of justice institutions (LaScala-Gruenewald & Paik, 2023). Likewise, contemporary victim-oriented criminal justice scholarship emphasizes that placing victims at the center of criminal proceedings requires institutional mechanisms capable of translating recognition and participation into meaningful outcomes (Mollis, 2025).

The enactment of Law No. 1 of 2023 and Law No. 20 of 2025 creates an especially important moment for this analysis. The new legal framework provides a stronger basis for positioning compensation and restitution within criminal sentencing and establishes more detailed procedural mechanisms for its realization. The integration of substantive criminal law with procedural enforcement creates the possibility of moving restitution from a largely declarative mechanism toward an enforceable component of criminal justice. However, the existence of new legislation also raises a further research question: whether stronger statutory provisions are sufficient to eliminate the implementation disparities identified in earlier judicial practice, or whether detailed operational guidelines, institutional coordination, and standardized judicial reasoning remain necessary.

Against this background, this study aims to analyze the challenges and prospects of the functionalization of criminal law in providing restitution for women victims of sexual violence, with particular attention to its application within juvenile criminal justice. The analysis focuses on the consistency of restitution orders in court decisions, especially concerning substitute sanctions, asset confiscation, auction mechanisms, and the responsibility of third parties in fulfilling restitution obligations. Using a normative juridical approach and descriptive-comparative analysis of final and binding court decisions, this research examines the gap between the normative design of restitution and its judicial and practical implementation.

Theoretically, this study contributes to the development of contemporary criminal law by proposing that the success of victim-oriented criminal justice should be evaluated not only through the recognition of victims' rights but also through the functionalization and enforceability of those rights. It consequently extends the discussion of the transformation from an offender-oriented to a victim-oriented criminal justice system by introducing the execution stage as an essential indicator of substantive victim protection. Practically, the study provides a basis for developing more consistent prosecutorial and judicial guidelines concerning restitution, including the formulation of substitute sanctions, asset confiscation and auction orders, assessment of third-party responsibility, and coordination among law enforcement institutions and the Witness and Victim Protection Agency. Ultimately, the study argues that restitution will become a genuine instrument of victim-oriented justice only when the legal system is capable of moving it through the complete chain of normative recognition, judicial imposition, enforcement, and actual recovery.

## 2. RESEARCH METHOD

This study employs a normative juridical or doctrinal legal research approach, focusing on the systematic analysis of legal norms governing restitution for victims of sexual violence within the Indonesian criminal justice system. Normative legal research examines law primarily through legal rules, principles, doctrines, and judicial decisions

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to identify, interpret, and assess applicable legal propositions (Hamzani et al., 2023; Negara, 2023). The doctrinal approach remains particularly relevant where the research problem concerns the interpretation, coherence, and application of legal norms rather than the measurement of social behavior. Recent methodological scholarship emphasizes that the selection of a legal research method should correspond to the nature of the legal problem and the conception of law underlying the research (Choudhary, 2024). Contemporary doctrinal scholarship further emphasizes that doctrinal legal analysis involves an interpretive engagement between legal doctrine and its practical application, rather than merely describing statutory provisions (Byrne & Olsen, 2024).

The primary legal materials consist of statutory regulations and judicial decisions governing restitution, victim protection, criminal sanctions, and juvenile criminal justice. The principal statutory materials examined are Law Number 12 of 2022 concerning Sexual Violence Crimes (Indonesia, 2022), Law Number 1 of 2023 concerning the Indonesian Criminal Code (Indonesia, 2023), Law Number 20 of 2025 concerning the Indonesian Criminal Procedure Code (Indonesia, 2025), Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (Indonesia, 2012), and Supreme Court Regulation Number 1 of 2022 concerning the Procedures for the Settlement of Applications and the Granting of Restitution and Compensation to Crime Victims (Supreme Court of the Republic of Indonesia, 2022). These regulations are examined to identify the normative basis, legal status, enforcement mechanisms, and procedural requirements governing restitution.

In addition to statutory materials, this research analyzes three final and binding criminal court decisions concerning restitution in sexual violence cases, namely the Jeneponto District Court Decision Number 3/Pid.Sus-Anak/2023/PN Jnp (Pengadilan Negeri Jeneponto, 2023) jo. Makassar High Court Decision Number 31/PID.SUS.ANAK/2023/PT MKS (Pengadilan Tinggi Makassar, 2023) jo. Supreme Court Decision Number 5713 K/Pid.Sus/2023 (Supreme Court of the Republic of Indonesia, 2023); the Mungkid District Court Decision Number 242/Pid.Sus/2024/PN Mkd (Pengadilan Negeri Mungkid, 2025) jo. Semarang High Court Decision Number 238/PID.SUS/2025/PT SMG (Pengadilan Tinggi Semarang, 2025); and the Garut District Court Decision Number 195/Pid.Sus/2025/PN Grt (Pengadilan Negeri Garut, 2025). These decisions constitute the principal judicial materials for examining how restitution norms are translated into judicial orders and whether the available enforcement instruments are applied consistently. Particular attention is given to the determination of restitution, substitute sanctions, asset confiscation, auction mechanisms, and the responsibility of perpetrators or third parties for fulfilling restitution obligations.

The secondary legal materials consist of scholarly books, peer-reviewed journal articles, institutional reports, and other academic publications concerning restitution, victim-oriented criminal justice, restorative justice, juvenile criminal justice, criminal sanctions, and legal enforcement. These materials are used to construct the theoretical and conceptual framework and to situate the Indonesian restitution regime within broader developments in contemporary criminal law and victimology. The use of secondary materials also enables the study to critically assess the relationship between normative design and judicial implementation rather than treating statutory provisions as self-executing rules.

The legal materials are analyzed using a descriptive-comparative method combined with doctrinal legal analysis. First, the relevant statutory provisions are identified and interpreted to establish the normative framework governing restitution. Second, the selected court decisions are examined to determine how those norms are interpreted and operationalized by judicial institutions. Third, the decisions are compared to identify similarities, differences, and inconsistencies in the imposition and enforcement of restitution. The comparison focuses particularly on the presence or absence of substitute sanctions, asset confiscation and auction orders, and mechanisms for securing payment by perpetrators or third parties. This analytical procedure is intended to reveal the gap between the normative recognition of restitution and its judicial and practical functionalization.

The analysis subsequently evaluates the identified inconsistencies from the perspective of criminal law functionalization. In this study, functionalization refers to the extent to which restitution norms operate effectively through the complete legal process, beginning with normative recognition, continuing through judicial determination, and culminating in enforceable implementation and actual victim recovery. This framework enables the research to distinguish between restitution as a formally recognized legal right and restitution as an effectively enforceable judicial outcome. The final stage of analysis evaluates the prospects for improving restitution mechanisms following the enactment of Law Number 1 of 2023 and Law Number 20 of 2025, particularly in relation to juvenile criminal justice, third-party payment, substitute sanctions, asset enforcement, and institutional

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coordination.

## 3. RESULTS AND DISCUSSION

### 3.1. Criminal Law Functionalization and Restitution

#### a. Restitution as an Instrument of Victim-Oriented Criminal Justice

Restitution places victims as rights-bearing subjects who are entitled to concrete recovery for losses resulting from criminal acts. From a victimological perspective, restitution should therefore not be understood merely as an additional component of a criminal judgment, but as an instrument through which the criminal justice system responds directly to the consequences experienced by victims. The significance of restitution becomes even stronger in cases of sexual violence because the harm suffered by victims is frequently multidimensional and may continue after the criminal proceedings have formally ended. Suzuki (2023) explains that victim recovery should be understood as an ongoing process and identifies compensation or direct restitution as one of the enabling factors that may support recovery following violent victimization.

This perspective has an important implication for the functionalization of criminal law. A restitution provision cannot be considered fully functional merely because a court has determined the amount that must be paid. Functionalization requires the legal norm to operate throughout the entire criminal justice process, from the recognition of the victim's entitlement and determination of the amount, through judicial imposition, to execution and actual receipt by the victim. Accordingly, there is a fundamental distinction between restitution as a judicial declaration and restitution as an effective remedy.

This distinction is particularly important because contemporary victim-oriented justice increasingly evaluates criminal justice not only by the treatment of offenders but also by the extent to which victims obtain meaningful recognition and recovery. Research on restorative responses to sexual violence indicates that victims may value processes that provide recognition, opportunities to communicate their experiences, accountability, and meaningful participation—elements that are often less prominent in conventional adversarial proceedings (Jülich et al., 2024; Gavin et al., 2024). Thus, restitution forms part of a broader transformation in criminal justice from an exclusively offender-centered paradigm toward a system that also takes the victim's recovery seriously.

The findings of this study, however, demonstrate that this transformation has not yet been fully realized in judicial practice. The three decisions examined reveal that the recognition of restitution as a victim's right does not automatically produce a uniform and enforceable mechanism for securing payment. The problem therefore lies not primarily in the existence of the right, but in the functional capacity of the criminal justice system to convert that right into an enforceable outcome.

#### b. Variation in Substitute Sanctions

The most apparent evidence of incomplete functionalization is found in the variation concerning imprisonment or other substitute sanctions in the three judgments examined.

In the Jeneponto District Court Decision Number 3/Pid.Sus-Anak/2023/PN Jnp (Pengadilan Negeri Jeneponto, 2023) jo. Makassar High Court Decision Number 31/PID.SUS.ANAK/2023/PT MKS (Pengadilan Tinggi Makassar, 2023) jo. Supreme Court Decision Number 5713 K/Pid.Sus/2023 (Supreme Court of the Republic of Indonesia, 2023), restitution was imposed under joint and several responsibility but was not accompanied by a substitute sanction. In the Mungkid District Court Decision Number 242/Pid.Sus/2024/PN Mkd (Pengadilan Negeri Mungkid, 2025) jo. Semarang High Court Decision Number 238/PID.SUS/2025/PT SMG (Pengadilan Tinggi Semarang, 2025), a substitute sanction was subsequently introduced at the appellate level in the form of three months of imprisonment. Meanwhile, in the Garut District Court Decision Number 195/Pid.Sus/2025/PN Grt (Pengadilan Negeri Garut, 2025), restitution was ordered without a substitute sanction.

This variation is significant because Article 33 paragraph (7) of Law Number 12 of 2022 expressly regulates the imposition of a substitute imprisonment mechanism where the proceeds of auction are insufficient to fulfill restitution. The different approaches adopted in the three judgments therefore indicate that restitution has not yet acquired a sufficiently standardized position within the structure of criminal punishment.

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The problem is not merely that judges reached different conclusions. More fundamentally, the variation demonstrates that the legal consequence of non-payment is not consistently incorporated into the judicial formulation of restitution. When a restitution order contains a nominal amount but does not clearly activate the legal consequences of non-payment, the victim's right remains vulnerable at the execution stage.

This finding is consistent with the broader literature on monetary sanctions. LaScala-Gruenewald & Paik (2023) emphasize that monetary obligations within criminal justice must be examined not only from their formal imposition but also from their implementation and enforcement. Their review identifies implementation and enforcement as distinct dimensions of legal financial obligations and shows that the consequences of monetary sanctions extend to individuals, social networks, and public institutions. Similarly, Ruhland (2024) argues that questions of fairness and effectiveness are central to the operation of monetary sanctions in criminal justice.

Accordingly, the variation identified in this research indicates the need for a more standardized judicial approach. Restitution should not depend excessively on the interpretive preferences of individual judicial panels or on the stage of proceedings at which the case is examined. The consistency of the legal consequences of non-payment is necessary to establish what may be described as a uniform language of restitution enforcement.

### c. Absence of Asset Confiscation and Auction Orders

The second major finding concerns the absence of explicit orders concerning the confiscation and auction of assets. In all three judgments analyzed, the court did not issue an explicit amar ordering asset confiscation as security for restitution or the auction of confiscated assets when restitution was not fulfilled.

This finding is particularly important because Article 31 paragraph (3) of Law Number 12 of 2022 provides a legal basis for the confiscation of the perpetrator's assets as security for restitution, subject to judicial authorization. Furthermore, Article 33 paragraph (5) requires the judge to order the prosecutor to auction the security confiscation when restitution has not been paid within 30 days after the decision obtains permanent legal force.

Consequently, the absence of such mechanisms creates a structural gap between the normative design and the practical operation of restitution. A restitution order without a corresponding enforcement mechanism may be characterized as an obligation without an effective collection mechanism. The victim may possess a legally recognized claim, but the legal system does not necessarily provide an equally strong mechanism to ensure that the claim is realized.

This problem is consistent with research on legal financial obligations, which demonstrates that monetary sanctions involve a complex enforcement architecture rather than merely the issuance of a financial order (LaScala-Gruenewald & Paik, 2023). Harris et al. (2022) similarly emphasize that monetary sanctions, including restitution, constitute an important but often underexamined component of criminal justice and can operate differently depending on the institutional mechanisms through which they are administered.

The issue is also directly relevant to the recent Indonesian reform. As highlighted by Pudjoharsoyo, the low realization of restitution is related to structural and procedural weaknesses extending from investigation to adjudication, including the absence of clear operational mechanisms for asset tracing, confiscation, and auction (Al Hasany, 2026). Therefore, Law Number 20 of 2025 provides an important normative opportunity to strengthen the execution framework, but legislative reform alone cannot guarantee effectiveness if operational standards remain insufficient.

The finding consequently demonstrates that asset enforcement is a central component of the functionalization of restitution. Without asset identification, confiscation, and auction mechanisms being integrated into the criminal process, restitution risks remaining dependent on the offender's willingness and economic circumstances.

### d. Dependence on Voluntary Compliance

The third finding concerns the dependence of restitution payments on the awareness or willingness of perpetrators and their families. In the Jeneponto case, payment depended significantly on parental awareness. In the Mungkid case, payment was associated with the defendant's awareness, while in the Garut case, fulfillment depended on the awareness of the defendant's family.

This pattern demonstrates a fundamental weakness: restitution remains partly dependent on private morality rather than public enforcement. A criminal judgment should ordinarily produce legal consequences through

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institutional mechanisms rather than relying predominantly on the good faith of the person subject to the judgment.

LaScala-Gruenewald & Paik (2023) demonstrate that implementation and enforcement are crucial dimensions of monetary sanctions. Where enforcement mechanisms are fragmented or weak, monetary obligations may produce consequences that differ substantially between cases despite formally similar legal rules.

The same issue is reflected in the broader literature concerning financial sanctions. Harris et al. (2022) identify restitution as part of the broader system of monetary sanctions and emphasize the importance of examining how such sanctions operate within criminal justice institutions. The findings of the present study extend this discussion to the Indonesian restitution context by demonstrating that the effectiveness of restitution may depend on personal willingness when formal enforcement mechanisms are not activated.

This creates uncertainty for victims because the realization of their rights becomes dependent on circumstances outside the control of the justice system. Therefore, voluntary compliance should be treated as a supporting mechanism, not as the principal mechanism for realizing restitution.

#### e. From Formal Judgment to Effective Implementation

Taken together, the three findings—variation in substitute sanctions, absence of confiscation and auction orders, and dependence on voluntary compliance—indicate that the functionalization of restitution remains predominantly at the stage of formal judicial determination rather than effective implementation.

The distinction is analytically important: Normative recognition → judicial determination → enforcement → actual recovery

The first two stages appear relatively established because Indonesian law recognizes restitution and courts have ordered payment. The principal weakness emerges in the transition from judicial determination to enforcement and actual recovery.

This finding strengthens Suzuki (2023) argument that victim recovery should be analyzed as a process rather than merely as an outcome. In the context of this research, restitution can therefore be considered functionally successful only when the legal system provides a reliable pathway from the judicial determination of restitution to its actual realization by the victim.

The implication is that victim-oriented criminal justice requires integration between substantive criminal law, procedural law, judicial reasoning, and execution mechanisms. Reforming only one component is insufficient if the other components do not operate coherently.

### 3.2. Prospects for the Functionalization of Criminal Law

#### a. Strengthening the Normative Position of Restitution

The prospects for strengthening restitution are relatively significant following the enactment of Law Number 1 of 2023 and Law Number 20 of 2025. These two instruments provide an opportunity to move restitution from a predominantly victim-claim-oriented mechanism toward a more integrated component of criminal sentencing and execution.

Law Number 1 of 2023 places the payment of compensation within the structure of additional criminal sanctions through Article 66 paragraph (1) letter d. Article 66 paragraph (2) further provides a broader normative basis where the principal punishment is insufficient to achieve the purposes of punishment. Article 94 paragraph (2) connects the implementation of compensation with the mechanisms regulated in Articles 81 to 83, including the execution of financial obligations.

This development is significant because it changes the legal position of restitution. It is no longer appropriate to regard restitution simply as an external financial claim attached to criminal proceedings. Rather, restitution becomes increasingly integrated into the architecture of criminal punishment.

This normative strengthening is consistent with the broader development of victim-oriented criminal justice, in which victim recovery is increasingly considered part of the legitimacy and effectiveness of criminal justice rather than an ancillary issue (Mollis, 2025; Suzuki, 2023).

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**b. Strengthening Institutional Capacity and Coordination**

Normative reform, however, will have limited impact if institutional capacity does not develop simultaneously. The implementation of restitution requires coordinated action among investigators, public prosecutors, judges, correctional institutions, the Witness and Victim Protection Agency, and other relevant institutions.

The findings of this study show that the absence of explicit confiscation and auction mechanisms cannot be understood solely as an individual judicial problem. It reflects a broader institutional problem involving the availability of information concerning assets, early identification of the perpetrator's economic capacity, coordination among agencies, and execution procedures.

This is consistent with the literature emphasizing that victim-centered justice requires institutional capacity and consistent procedural arrangements. Jülich et al. (2024), for example, demonstrate that restorative responses to sexual violence require specialized preparation, support, and processes that are responsive to the needs and safety of victims. Gavin et al. (2024) similarly emphasize that restorative approaches to sexual violence require victim/survivor-led processes and specialist training.

Therefore, strengthening restitution should include not only legislative reform but also institutional standardization, professional training, inter-agency coordination, and monitoring of execution.

**c. Standardization of Substitute Sanctions**

The third prospect concerns the standardization of substitute sanctions. The three decisions demonstrate that the consequences of non-payment have not been formulated consistently. This condition creates uncertainty regarding the legal consequences that follow when restitution cannot be fulfilled.

The new criminal law framework provides an opportunity to develop a more proportionate and structured system of substitute sanctions. Nevertheless, the use of substitute imprisonment requires careful consideration because inability to pay should not automatically produce disproportionate deprivation of liberty.

The literature concerning monetary sanctions demonstrates that financial obligations can generate complex consequences when they intersect with socioeconomic circumstances (LaScala-Gruenewald & Paik, 2023). Ostermann (2024), for example, highlights the importance of understanding the relationship between monetary obligations and criminal justice outcomes rather than treating financial sanctions as neutral instruments.

Therefore, a future guideline should distinguish between deliberate non-compliance and genuine inability to pay. The former may justify stronger enforcement, while the latter requires a proportionate mechanism that protects the credibility of restitution without transforming poverty or economic incapacity into an additional basis for punishment.

**d. Asset Mapping and Credible Execution**

Another important prospect lies in strengthening asset mapping and the state's execution capacity. The existence of a legal power to confiscate and auction assets is insufficient if investigators and prosecutors cannot identify, preserve, value, and legally process the assets concerned.

The effectiveness of restitution consequently depends partly on the state's capacity to establish a credible link between the offender's assets and the victim's restitution claim. This requires asset tracing at an early stage rather than waiting until the judgment has become final.

The literature on monetary sanctions reinforces this point. LaScala-Gruenewald & Paik (2023) distinguish between the imposition of monetary obligations and their actual implementation and enforcement. Harris et al. (2022) likewise show that restitution operates within a wider institutional system of monetary sanctions, making administrative and enforcement structures central to its practical consequences.

Accordingly, the functionalization of restitution requires an integrated asset-to-recovery mechanism: asset identification → asset preservation/confiscation → judicial order → auction/execution → payment → victim recovery. Such a mechanism would substantially reduce the present dependence on voluntary payment.

**e. Voluntary Compliance as a Supporting Rather Than Substitutive Mechanism**

The findings demonstrate that awareness of the offender or family can facilitate restitution. This should not necessarily be regarded negatively. In restorative justice, acknowledgment of responsibility and voluntary reparative

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behavior may contribute positively to victim recovery.

Suzuki (2023) identifies direct restitution and compensation as enabling factors within the victim recovery process. Similarly, Jülich et al. (2024) found that restorative processes can provide opportunities for acknowledgment, apology, dialogue, and participation for victims of sexual violence when appropriate safeguards are present.

However, voluntary compliance should not substitute for state enforcement. This distinction is crucial. A victim's right should not become contingent upon whether an offender or family member is willing to act responsibly.

Accordingly, the appropriate model is: state enforcement as the guarantee + voluntary compliance as reinforcement. This model preserves the restorative dimension of restitution while maintaining the authority and credibility of criminal law.

### 3.3. Restitution in Juvenile Criminal Justice

#### a. The Intersection between Child Offender Protection and Victim Recovery

The Jeneponto District Court Decision Number 3/Pid.Sus-Anak/2023/PN Jnp jo. Makassar High Court Decision Number 31/PID.SUS.ANAK/2023/PT MKS jo. Supreme Court Decision Number 5713 K/Pid.Sus/2023 represents an important case for understanding restitution within juvenile criminal justice. Both the offender and the victim were minors, creating a complex intersection between the protection of the child offender and the right of the child victim to recovery. This case is therefore different from ordinary restitution cases involving adult offenders. The relevant legal framework must simultaneously accommodate the principles of the best interests of the child, rehabilitation, restorative justice, and victim recovery.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (Indonesia, 2012) emphasizes restorative justice, child protection, and social reintegration. At the same time, Law Number 12 of 2022 (Indonesia, 2022) establishes the victim's right to restitution. The two legal regimes consequently need to be interpreted together rather than in isolation.

This tension is supported by international juvenile justice literature. Kimbrell et al. (2023), through an updated systematic review and meta-analysis of 57 studies and 79 evaluations, found that restorative justice programs in juvenile justice were associated with a statistically significant reduction in subsequent delinquent behavior compared with more traditional juvenile justice responses. This supports the importance of maintaining the rehabilitative and restorative orientation of juvenile justice while simultaneously ensuring that victims are not marginalized.

#### b. Third-Party Responsibility for Restitution

The principal challenge in the Jeneponto case concerns the person responsible for fulfilling the restitution obligation. Because the offender was a minor without independent economic capacity, payment was effectively borne by the offender's parents.

This situation raises a distinctive legal question: how should restitution be enforced when the person subject to the criminal judgment is economically incapable of fulfilling the obligation?

Law Number 1 of 2023 (Indonesia, 2023) recognizes restitution or compensation as part of the criminal sanction framework, while Law Number 20 of 2025 (Indonesia, 2025) provides a broader procedural basis for restitution payments by third parties. The development is important because it provides greater legal recognition for situations such as the Jeneponto case.

Nevertheless, legal recognition does not necessarily resolve the question of enforcement. The present findings indicate that the effectiveness of payment remained substantially dependent on parental willingness. This means that third-party payment is recognized, but the standards governing the responsibility of the third party, the determination of economic capacity, the form of guarantee, and the consequences of non-payment require greater operational clarity.

The problem is therefore not merely who pays, but why that person is legally responsible, how that responsibility is determined, and what mechanism applies when payment does not occur.

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### c. Restitution and the Limits of Voluntary Family Responsibility

The Jeneponto case demonstrates both the potential and the limitation of family-based restitution. On the positive side, parental willingness can facilitate rapid recovery without requiring an extensive execution process. On the other hand, dependence on family goodwill creates uncertainty because not every child offender has parents with sufficient economic capacity or willingness to assume the obligation.

The problem is particularly important because juvenile justice should not transform parents into de facto criminally liable persons merely because the offender is a child. Third-party responsibility therefore requires a clear legal basis and proportional limits.

From this perspective, the optimal model is not to eliminate third-party payment but to institutionalize it. The system should establish, at minimum: 1. early assessment of the economic capacity of the child offender and family; 2. identification of the legally responsible third party; 3. determination of the amount and basis of third-party responsibility; 4. mechanisms for deposits or guarantees; 5. coordination between investigators, prosecutors, judges, and the Witness and Victim Protection Agency; and 6. an enforcement mechanism when the third party does not voluntarily fulfill the obligation.

Such standardization would transform third-party payment from an ad hoc solution into a legally structured mechanism.

### d. Towards an Integrated Juvenile Restitution Model

The prospects for restitution in juvenile criminal justice are therefore positive, but they depend on the development of a more integrated institutional framework. The combination of Law Number 11 of 2012, Law Number 12 of 2022, Law Number 1 of 2023, and Law Number 20 of 2025 provides a normative foundation for harmonizing child protection with victim recovery.

The international literature also indicates that restorative justice in juvenile settings can provide meaningful benefits when properly implemented. The systematic review by Kimbrell et al. (2023) demonstrates that restorative justice in juvenile justice should not be viewed merely as a theoretical alternative but as an approach with measurable outcomes across a substantial body of empirical research.

However, restitution adds an additional dimension that cannot be reduced to dialogue, apology, or reconciliation. It requires a concrete financial outcome. Therefore, juvenile restorative justice should be complemented by an enforceable restitution architecture.

The Jeneponto case can consequently be understood as both a successful example and a warning. It demonstrates that restitution can be incorporated into juvenile criminal proceedings while maintaining child-protection principles. At the same time, its reliance on parental willingness exposes the limitations of a system that has not yet developed a standardized enforcement mechanism for third-party payment.

The appropriate model is therefore not a purely punitive model and not a purely voluntary restorative model. Rather, it should combine: child-centered justice + victim recovery + restorative accountability + enforceable restitution. This integrated approach would ensure that protecting the child offender does not unintentionally weaken the rights of the victim.

### e. Overall Analytical Finding

The three dimensions examined in this research lead to one central finding: the effectiveness of restitution depends on the extent to which criminal law is functionalized beyond the courtroom.

The judicial determination of restitution represents only one stage. A fully functional system requires continuity from: legal entitlement → prosecution → judicial determination → asset identification → enforcement → payment → victim recovery.

The three decisions demonstrate that the weakest points currently lie in the transition from judicial determination to enforcement. This is reflected in the inconsistent substitute sanctions, absence of confiscation and auction orders, and reliance on voluntary compliance. In juvenile cases, the problem becomes more complex because the offender may lack independent economic capacity. The responsibility for restitution may therefore involve parents or other third parties. The Jeneponto case reveals that such payment can work in practice, but its sustainability cannot depend exclusively on family goodwill. The system requires a clear legal and

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institutional pathway for determining third-party responsibility and enforcing payment.

Thus, the principal contribution of this research is the proposition that restitution should be evaluated through its functional chain rather than through the existence of a restitution order alone. This approach moves the discussion from restitution as a legal entitlement toward restitution as an enforceable and realized victim right.

## 4. CONCLUSION

This study concludes that the functionalization of criminal law in providing restitution for women victims of sexual violence has not yet operated optimally. The analysis of three final and binding court decisions demonstrates three principal weaknesses: variations in the imposition of substitute sanctions, the absence of explicit confiscation and auction orders to secure restitution, and the continued dependence on the voluntary compliance of perpetrators or their families. These findings indicate that although Law Number 12 of 2022 has established a clear normative basis for restitution, its functionalization remains incomplete at the judicial and execution stages. Restitution has therefore been recognized as a legal right of victims, but has not yet been consistently transformed into an enforceable and reliably realized form of victim recovery.

The Jeneponto case further demonstrates the distinctive complexity of restitution within the Juvenile Criminal Justice System. The case illustrates that the protection and rehabilitation of child offenders must be reconciled with the victim's right to recovery. Because the child offender lacked independent economic capacity, the fulfillment of restitution depended substantially on the offender's parents as third parties. While this arrangement enabled restitution to be realized in the case examined, its dependence on familial willingness simultaneously reveals a structural weakness: the existing framework does not yet provide sufficiently detailed and standardized mechanisms governing third-party responsibility, economic capacity, guarantees, and enforcement in cases of non-payment.

Nevertheless, the enactment of Law Number 1 of 2023 and Law Number 20 of 2025 provides a stronger normative foundation for improving the functionalization of restitution. The integration of compensation into the structure of additional criminal sanctions and the development of more detailed procedural mechanisms create an opportunity to move restitution beyond formal judicial recognition toward effective enforcement. However, legislative strengthening alone is insufficient. Its effectiveness depends on comprehensive implementing regulations, consistent judicial application of substitute sanctions, systematic asset identification and confiscation, effective auction mechanisms, clear standards for third-party payment, and strengthened coordination among investigators, prosecutors, judges, the Witness and Victim Protection Agency, and other relevant institutions.

The principal contribution of this study is therefore the proposition that the effectiveness of restitution should be assessed not merely by the existence of a restitution order, but through its functional chain from normative recognition, judicial determination, enforcement, to actual victim recovery. From this perspective, the functionalization of criminal law is achieved only when a legally recognized restitution right can be translated into a predictable and enforceable recovery outcome. Strengthening this functional chain is essential for transforming Indonesia's evolving restitution framework into a genuinely victim-oriented criminal justice system, including within juvenile criminal justice.

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The author declares no financial conflicts of interest or personal relationships that could influence, or appear to influence, the analysis results and legal arguments presented in this article.

**Availability of Data and Legal Materials**

All legal materials, court rulings, or supporting data analyzed in this research are fully referenced and discussed in this manuscript.

**Statement on AI Usage**

The author declares that no Generative AI technology or AI assistance tools were used during the preparation, drafting, or analysis of this manuscript.

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