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Restoring the Rights of Child Victims Beyond Criminal Sentencing Following Failed Diversion and Unfulfilled Restitution: A Case Study of Judgment No. 9/Pid.Sus-Anak/2026/PN Ktp

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Original Article

Abstract

The failure of diversion and the non-enforcement of restitution in cases involving violence against children, particularly when the perpetrator is also a child, raise concerns about the continuity and effectiveness of efforts to restore victims' rights. This study aims to identify mechanisms for restoring the rights of child victims beyond these two legal mechanisms and to examine their relationship with the juvenile criminal justice process. This research employs a normative legal methodology using statutory and conceptual approaches. The findings demonstrate that available restorative measures include medical, psychological, and social rehabilitation; special protection; safety guarantees; support services; and social reintegration. However, their implementation remains constrained by the requirement for formal applications, inadequate interinstitutional coordination, and the lack of integration between referral mechanisms and judicial proceedings. This study concludes that restoring the rights of child victims constitutes an ongoing state obligation that persists independently of the success or failure of diversion and the enforcement of restitution.

Keywords: *Child Victims, Restoration of Rights, Diversion, Restitution, Juvenile Criminal Justice*

Abstrak

Kegagalan diversi dan tidak terlaksananya restitusi dalam perkara kekerasan terhadap anak yang pelakunya juga anak menimbulkan persoalan mengenai kesinambungan pemulihan hak korban. Penelitian ini bertujuan mengidentifikasi sarana pemulihan anak korban di luar kedua mekanisme tersebut serta menganalisis keterhubungannya dengan proses peradilan pidana anak. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa instrumen pemulihan meliputi rehabilitasi medis, psikologis, dan sosial, perlindungan khusus, jaminan keselamatan, pendampingan, serta reintegrasi sosial. Namun, pelaksanaannya terkendala ketergantungan pada permohonan, lemahnya koordinasi antarlembaga, dan belum terintegrasinya mekanisme rujukan dengan proses peradilan. Penelitian menyimpulkan bahwa pemulihan korban merupakan kewajiban negara yang tetap berlaku meskipun diversi gagal dan restitusi tidak terlaksana.

Kata kunci: *Anak Korban, Pemulihan Hak, Diversi; Restitusi, Peradilan Pidana Anak*

1. INTRODUCTION

Children are legal subjects entitled to fundamental rights and protection against all forms of violence, discrimination, exploitation, and treatment that may adversely affect their physical and psychological development. Given their inherent vulnerability, families, communities, and the state share a collective responsibility to ensure the fulfillment of children's rights to survival, growth, and development. Child protection, therefore, extends beyond the imposition of criminal sanctions on perpetrators to encompass victim rehabilitation and the restoration of rights following the commission of a criminal offense.[1]

This principle is constitutionally enshrined in Article 28B(2) of the 1945 Constitution of the Republic of Indonesia and further elaborated in Law No. 35 of 2014 concerning Child Protection. Article 76C prohibits any person from committing, permitting, ordering, or participating in acts of violence against children, while Article 80 establishes criminal penalties for such violations. Furthermore, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (Juvenile Criminal Justice System Law) explicitly recognizes the legal status of child victims and guarantees their access to medical and social rehabilitation, security protection, and information concerning the progress of their cases.

Despite the comprehensive normative framework governing the protection of child victims, law enforcement practices continue to face challenges when the criminal accountability of perpetrators does not correspond to the restoration of victims' rights. These challenges become particularly complex when the perpetrator is also a child in conflict with the law. The Juvenile Criminal Justice System Law prioritizes restorative justice through diversion and emphasizes rehabilitative measures that take into account the child's age, best interests, and future prospects. For example, Article 69(2) stipulates that children under the age of 14 may be subjected only to measures rather than criminal penalties. This rehabilitative orientation seeks to prevent the adverse consequences of criminal punishment on children's development. It must not compromise the rights of children who become victims of criminal offenses. The protection of child offenders and child victims should, therefore, be understood as two concurrent legal obligations rather than competing interests that require one to be subordinated to the other.

This legal imbalance is illustrated by Ketapang District Court Judgment No. 9/Pid.Sus-Anak/2026/PN Ktp. The failure of diversion, resulting from the refusal of the victim and the victim's family to participate in the proposed resolution, as well as their rejection of the compensation recommended in the social inquiry report, demonstrates the limitations of restorative mechanisms that depend on the parties'

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[1] Nurlaila Nurlaila et al., "Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Pelecehan: Studi Kasus Pondok Pesantren Bani Ma'mun, Kabupaten Serang," *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 2, no. 2 (2025): 239–54, https://doi.org/10.62383/presidensial.v2i2.778.

agreement. Although the court imposed rehabilitative measures by ordering the three juvenile offenders to undergo a six-month placement in a Child Social Welfare Institution (Lembaga Penyelenggaraan Kesejahteraan Sosial or LPKS), the judgment did not expressly provide for any specific form of redress for the victim. This circumstance demonstrates that the determination of criminal responsibility and the rehabilitation of offenders do not automatically ensure the fulfillment of victims' rights. Accordingly, the central legal issue concerns how the legal system can establish alternative mechanisms for restoring victims' rights beyond diversion and restitution and integrate these mechanisms into the juvenile criminal justice process.

Academic discourse concerning the legal protection of child victims of crime in Indonesia has developed through several perspectives, particularly those addressing restitution, restorative justice, diversion, and the effectiveness of victim redress mechanisms. These perspectives generally conceptualize the fulfillment of victims' rights within the framework of specific legal mechanisms. Consequently, an important analytical gap remains regarding how victims' rights can be restored when these mechanisms fail to produce an effective resolution.

Novrianto and Zuhir examine the implementation of restitution rights for child victims of crime at the investigation, prosecution, and trial stages. Their findings indicate that child protection practices remain predominantly oriented toward the imposition of criminal sanctions on perpetrators, while the fulfillment of victims' rights has yet to receive equivalent attention.[2] Similarly, Mareta argues that the implementation of restorative justice must be accompanied by the fulfillment of restitution to ensure that compensation for victims' material, physical, and psychological losses is not limited to the conclusion of a case through a settlement agreement. Both studies provide an important theoretical and empirical foundation for understanding restitution as an instrument of offender accountability and victim recovery.[3] Nevertheless, their analytical scope remains primarily confined to the fulfillment of restitution and the implementation of restorative justice, leaving insufficient attention to alternative mechanisms for restoring victims' rights when these approaches fail.

A different perspective is offered by Denadin et al., who examine the implementation of diversion within the juvenile criminal justice system in Batanghari Regency. Their study identifies several factors influencing the success of diversion, including the agreement of the parties involved, public awareness and understanding, the participation of relevant stakeholders, and prevailing perceptions of criminal case

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[2] M. Novrianto and Mada Apriandi Zuhir, "Implementasi Hak Restitusi Bagi Anak Yang Menjadi Korban Tindak Pidana Dalam Proses Penyidikan, Penuntutan Dan Putusan Pengadilan," *Lex LATA* 4, no. 2 (2023): 210–19, https://doi.org/10.28946/lexl.v4i2.1552.

[3] Josefhin Mareta, "Penerapan Restorative Justice Melalui Pemenuhan Restitusi Pada Korban Tindak Pidana Anak," *Jurnal Legislasi Indonesia* 15, no. 4 (2019): 309–19, https://doi.org/10.54629/jli.v15i4.260.

resolution.[4] Similarly, Nashiroh et al. find that diversion in cases involving violence perpetrated by juveniles may fail when the victim's family rejects an out-of-court settlement.[5] Meanwhile, Maharani and Ramada demonstrate that the failure of diversion does not necessarily prevent judges from imposing noncustodial measures on juvenile offenders to protect their future prospects.[6] These studies highlight the complexities of implementing restorative justice while remaining primarily focused on the case resolution process and the legal status of children in conflict with the law.

A more victim-centered perspective is presented by Galih et al., who identify several obstacles to obtaining restitution, including children's limited legal capacity, procedural complexities, inadequate institutional coordination, and the limited capacity of the Witness and Victim Protection Agency (LPSK).[7] V. Rahman finds that the low rate of restitution implementation undermines efforts to rehabilitate child victims of sexual violence.[8] Khotimah similarly demonstrates that limited understanding among victims' families and inadequate interinstitutional coordination constitute significant barriers to securing restitution.[9] Furthermore, Sulthoni et al. propose an ideal model for restitution that emphasizes strengthening the regulatory framework, law enforcement institutions, enforcement mechanisms, and state involvement. Taken together, these studies demonstrate that victim recovery requires institutional support and cannot depend exclusively on the existence of legal norms.[10]

Although existing research has examined the protection of child victims through the frameworks of restitution and diversion, an important research gap remains concerning the mechanisms available for restoring child victims' rights beyond these two frameworks. Furthermore, insufficient attention has been paid to how such mechanisms can be integrated into and coordinated with the juvenile criminal justice process. This study addresses these gaps by offering an integrated analysis of protection,

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4 Sausan Afifah Denadin et al., "Pendekatan Diversi Dalam Sistem Peradilan Pidana Anak (SPPA)," *Pampas: Journal of Criminal Law* 2, no. 2 (2021): 29–45, https://doi.org/10.22437/pampas.v2i2.13714.

5 Intan Nashiroh et al., "Pelaksanaan Upaya Diversi Dalam Perkara Kekerasan Yang Dilakukan Oleh Anak Dihubungkan Dengan Pasal 7 Ayat (1) Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak: Studi Kasus Putusan Perkara Nomor 6/Pid.Sus-Anak/2023/PN.Tsm," *Pustaka Galuh Justisi* 3, no. 1 (2024): 393–408, https://doi.org/10.25157/pustaka.v3i1.4374.

6 Aliffia Intan Maharani and Diandra Preludio Ramada, "Diversi Dalam Proses Hukum Tindak Pidana Anak: Studi Kasus Putusan Nomor 10/Pid.Sus-Anak/2024/Pn Unrdiversion in the Legal Process of Juvenile Criminal Offenses: A Case Study of Decision Number 10/Pid.Sus-Anak/2024/Pn Unr," *Rewang Rencang: Jurnal Hukum Lex Generalis* 6, no. 7 (2025): 1–22, https://doi.org/10.56370/jhlg.v6i7.1339.

7 Yuliana Surya Galih et al., "Kewenangan Mengajukan Hak Restitusi Dalam Perkara Tindak Pidana Kekerasan Terhadap Anak," *Jurnal Ilmiah Galuh Justisi* 13, no. 2 (2025): 429, https://doi.org/10.25157/justisi.v13i2.20995.

8 Vadya Rahman, "Pelaksanaan Restitusi Dalam Memulihkan Hak Anak Korban Kekerasan Seksual," *Jurnal Justice Aswaja* 4, no. 1 (2025): 25–41.

9 Reza Aulia Qusnul Khotimah, "Hambatan Pemenuhan Hak Restitusi Bagi Anak Penyandang Disabilitas Sebagai Korban Kekerasan Seksual: Studi Putusan Nomor:323/Pid.Sus/2023/Pn.Skt," *Pemuliaan Keadilan* 2, no. 3 (2025): 176–84, https://doi.org/10.62383/pk.v2i3.1052.

10 Kahfi Yudha Sulthoni et al., "Politik Hukum Pemberian Restitusi Terhadap Anak Korban Tindak Pidana Dalam Undang-Undang Perlindungan Anak: Legal Policy Regarding the Provision of Restitution to Child Victims of Criminal Offenses under the Child Protection Law," *Jurnal Qosim: Jurnal Pendidikan Sosial & Humaniora* 4, no. 5 (2026): 10198–209, https://doi.org/10.61104/jq.v4i5.14321.

rehabilitation, support services, and institutional referral mechanisms, using Ketapang District Court Judgment No. 9/Pid.Sus-Anak/2026/PN Ktp as its primary case study. Its contribution lies in examining victim restoration as a continuing legal obligation that extends beyond the limitations of diversion and restitution.

This study has two primary objectives. First, it seeks to identify and comprehensively examine the mechanisms available for restoring the rights of child victims beyond diversion and restitution, as provided for under the Child Protection Law, the Juvenile Criminal Justice System Law (Law No. 11 of 2012), Government Regulation No. 78 of 2021, Presidential Regulation No. 75 of 2020, and other relevant legal instruments. Second, it analyzes the relationship between these restoration mechanisms and the juvenile criminal justice process, particularly with regard to the allocation of institutional authority and responsibilities in ensuring the continuity of protection and recovery for child victims.

2. RESEARCH METHODOLOGY

This study employs a normative legal research methodology using statutory and conceptual approaches. The statutory approach examines the consistency and interrelationships among legal provisions governing the protection and restoration of the rights of child victims, with reference to the 1945 Constitution of the Republic of Indonesia, the Child Protection Law, the Juvenile Criminal Justice System Law (Law No. 11 of 2012), Government Regulation No. 78 of 2021, Presidential Regulation No. 75 of 2020, and other relevant legislation. The conceptual approach is used to analyze the principles of the best interests of the child, restorative justice, victim protection, and the restoration of victims' rights.

The legal materials consist of primary, secondary, and tertiary legal sources collected through library research. The collected materials are analyzed qualitatively through legal interpretation, systematic legal analysis, and prescriptive reasoning. This analytical process aims to identify and classify mechanisms for restoring victims' rights beyond diversion and restitution and to assess how these mechanisms relate to and can be integrated into the juvenile criminal justice process.

3. RESEARCH RESULT AND DISCUSSION

3.1. Mechanisms for Restoring the Rights of Child Victims Beyond Diversion and Restitution

Indonesian law provides several mechanisms for restoring the rights of child victims that do not depend on the success of diversion or the payment of restitution by the perpetrator. These mechanisms include medical, psychological, and social rehabilitation; special protection; safety guarantees; legal and psychosocial assistance; social support; and integrated services delivered through child protection institutions.

Child victims are entitled to three fundamental categories of rights: access to medical and social rehabilitation, guarantees of personal safety, and information concerning the progress of their cases. These rights are legally distinct from diversion and restitution because their fulfillment does not depend on an agreement between the victim and the perpetrator. Rather, they arise from the child's legal status as a victim of a criminal offense. Accordingly, the failure of diversion cannot constitute a legal justification for suspending or delaying the fulfillment of these rights.

The need for comprehensive rehabilitation is illustrated by Ketapang District Court Judgment No. 9/Pid.Sus-Anak/2026/PN Ktp. According to the court's findings, the victim sustained bruises and abrasions that temporarily impaired bodily functions and required hospital treatment. In addition to these physical injuries, the victim experienced fear, psychological distress, and disruptions to their education. These circumstances demonstrate that the consequences of violence against children are multidimensional and require responses extending beyond the treatment of physical injuries alone.

This obligation is reinforced by Article 59(2)(i) and Article 59A of the Child Protection Law. Article 59A provides that special protection for children must be implemented through prompt intervention, including medical treatment and/or physical, psychological, and social rehabilitation, as well as measures to prevent disease and other health-related problems. These provisions further encompass psychosocial assistance throughout the process, from initial treatment to recovery; social assistance for children from economically disadvantaged families; and protection and support at every stage of judicial proceedings. Rehabilitation must therefore be understood as a continuous process extending beyond initial medical intervention.[11] Physical recovery does not necessarily eliminate psychological trauma, just as psychological recovery does not automatically enable children to resume their normal social activities and educational participation. The victim's needs in the Ketapang case should be addressed through a continuum of services encompassing medical treatment, psychological counseling, social support, and assistance in returning to school.

These findings extend the analysis presented by V. Rahman, who identifies the relationship between obstacles to obtaining restitution and difficulties in implementing victim rehabilitation. Rehabilitation should be recognized as an independent legal entitlement with its own normative foundation. Its fulfillment must not depend on the perpetrator's financial capacity or the success of a restitution claim.[12] This argument

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[11] Maria Anjelica Deswita Kitu et al., "Rehabilitasi Sebagai Upaya Penanganan Pengguna Psikotropika: Kajian Hukum Dan Implementasi Di Indonesia," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 6, no. 6 (2026): 4382–88, https://doi.org/10.38035/jihhp.v6i6.9473.

[12] Rahman, "Pelaksanaan Restitusi Dalam Memulihkan Hak Anak Korban Kekerasan Seksual."

reinforces the position advanced by Novrianto and Zuhir that the protection of child victims must not end with the imposition of criminal sanctions on perpetrators.[13]

Another mechanism for restoring victims' rights is special protection, as provided for under the Child Protection Law and further regulated by Government Regulation No. 78 of 2021. This regulation establishes a framework for providing special protection to children requiring specific interventions, including those who have experienced physical and/or psychological violence. Such protection encompasses care, medical treatment, rehabilitation, psychosocial assistance, safety measures, and preventive interventions designed to reduce the risk of recurrent violence.

Special protection is particularly important because child victims may experience not only the immediate consequences of violence but also additional social and psychological pressure throughout the judicial process. Participation in investigations and court proceedings may expose victims to further distress if adequate support mechanisms are not provided. Consequently, protection should not be limited to measures taken after the occurrence of violence but must be maintained throughout the investigation, prosecution, trial, and post-proceeding recovery stages.[14] Child victims must be recognized as rights-holders entitled to both procedural and substantive protection. Procedural protection encompasses personal safety, appropriate assistance, and access to information throughout the judicial process, whereas substantive protection focuses on restoring their physical, psychological, and social well-being. These two dimensions of protection must be implemented simultaneously to ensure that children's participation in judicial proceedings does not expose them to further harm or secondary victimization.

The legal framework for victim recovery is further operationalized through Article 91 of the Juvenile Criminal Justice System Law (Law No. 11 of 2012). This provision authorizes community supervisors, professional social workers, social welfare personnel, and investigators to refer child victims to agencies or institutions responsible for child protection and social welfare services. Furthermore, when a child victim requires immediate assistance, investigators may refer the child directly to a hospital or child protection agency without waiting for the preparation of a social inquiry report. Subsequently, based on a community assessment and social inquiry report, child victims are entitled to medical rehabilitation, social rehabilitation, and social reintegration.

The Indonesian legal system establishes recovery mechanisms that can operate independently of the criminal case resolution process. Social rehabilitation is intended not only to facilitate psychological recovery but also to restore children's capacity to perform their social functions within their families, educational institutions, and broader

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[13] Novrianto and Zuhir, "Implementasi Hak Restitusi Bagi Anak Yang Menjadi Korban Tindak Pidana Dalam Proses Penyidikan, Penuntutan Dan Putusan Pengadilan."

[14] Ruly Ardiansyah et al., "Kedudukan Korban Kejahatan Dalam Sistem Peradilan Pidana Di Indonesia Berbasis Viktimologi," *Locus: Jurnal Konsep Ilmu Hukum* 6, no. 1 (2026): 301–13, https://doi.org/10.56128/jkih.v6i1.1062.

communities.[15] Social reintegration, meanwhile, focuses on restoring children's relationships with their surrounding environments and ensuring that victims do not experience social exclusion, stigma, or barriers to continuing their education and participating in community activities.[16]

Presidential Regulation No. 75 of 2020 further elaborates on the implementation of these rights through medical and social rehabilitation mechanisms that may be provided both within and outside institutional settings. Applications for medical rehabilitation may be submitted by parents, guardians, family members, investigators, social workers, or social welfare personnel. In cases requiring urgent intervention, investigators may refer victims directly to healthcare facilities. Social rehabilitation, in turn, follows a structured sequence of interventions comprising initial engagement, identification and assessment of problems, development of a problem-solving plan, implementation of the plan, resocialization, termination of services, and follow-up assistance.

These mechanisms are essential to ensuring that victim recovery does not end upon the completion of medical treatment. The disruption of educational activities and psychological distress experienced by child victims underscore the importance of individualized needs assessments, psychosocial support, and continuous monitoring of their well-being following their return to family and school environments. Recovery should not be measured solely by the completion of medical treatment but also by the extent to which victims can resume their daily lives in a safe and supportive environment.

These findings extend the analyses of Galih et al. and Sulthoni et al., which emphasize the need to strengthen restitution mechanisms. Responsibility for victim recovery does not rest exclusively with the perpetrator; it also constitutes an institutional obligation of the state, discharged through healthcare facilities, social workers, and child protection agencies. A perpetrator's inability to provide financial compensation must not restrict or prevent a victim's access to rehabilitation and social reintegration services.[17]

Another essential component of victim recovery is the guarantee of personal safety, as provided for under Article 90 of the Juvenile Criminal Justice System Law and further elaborated in Presidential Regulation No. 75 of 2020. Article 10 of this regulation identifies various forms of protection, including protection of the individual,

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[15] Ridho Novtiaziz Ginting and Erni Asneli Asbi, "Peran Pekerja Sosial Dalam Mengembalikan Fungsi Sosial Anak Panti Pada LKSA An-Nur," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 2, no. 12 (2025): 414–17.

[16] Ervani Faradillah Rahman and Hery Wibowo, "Reintegrasi Sosial Korban Kasus Kekerasan Seksual Anak Di P2TP2A DKI Jakarta," *Jurnal Peneliatian Dan Pengabdian Kepada Masyarakat* 4, no. 1 (2021): 97–105, https://doi.org/10.24198/focus.v4i1.34497.

[17] Galih et al., "Kewenangan Mengajukan Hak Restitusi Dalam Perkara Tindak Pidana Kekerasan Terhadap Anak"; Sulthoni et al., "Politik Hukum Pemberian Restitusi Terhadap Anak Korban Tindak Pidana Dalam Undang-Undang Perlindungan Anak."

family, and property; protection against threats or intimidation arising from the provision of testimony; identity confidentiality; assistance in obtaining a new identity; temporary or alternative housing; legal counsel; and other forms of support. Where threats to life are present, the Witness and Victim Protection Agency (LPSK) and/or the police may implement security measures and provide personal escorts. Furthermore, child victims are entitled to receive information concerning the progress of their cases through the LPSK or other relevant authorities.

Victim recovery encompasses both preventive and procedural dimensions. Protection is intended not only to address harm that has already occurred but also to prevent intimidation, threats, coercion, and the recurrence of violence. Safety guarantees and support services are particularly important when the parties involved are children who may continue to share the same social environment or maintain ongoing interpersonal relationships. The conclusion of judicial proceedings does not automatically eliminate the need for protection. Instead, the necessity and scope of continued protection must be determined through an assessment of the victim's circumstances and potential risks.

The LPSK plays a significant role in providing protection to child victims in accordance with its statutory mandate. Local governments also contribute to the provision of protection and support services through regional agencies responsible for women's empowerment and child protection. At the local level, the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) serves as an essential service delivery mechanism. Its functions include receiving complaints, conducting outreach and victim assistance, managing cases, providing support services, and coordinating referrals in accordance with its institutional authority and operational capacity.

Mechanisms for restoring the rights of child victims beyond diversion and restitution encompass four interrelated dimensions: medical, psychological, and social rehabilitation; special protection and social assistance; rehabilitation and social reintegration through institutional referral mechanisms; and safety guarantees, support services, and access to information concerning the progress of their cases. These four dimensions establish a comprehensive and sustainable framework for victim recovery that is independent of the successful resolution of a criminal case or the payment of restitution by the perpetrator.

These findings extend existing research, which primarily conceptualizes the failure of diversion and obstacles to obtaining restitution as challenges associated with the implementation of specific legal mechanisms.[18] The failure of these mechanisms,

[18] Maharani and Ramada, "Diversi Dalam Proses Hukum Tindak Pidana Anak: Studi Kasus Putusan Nomor 10/Pid.Sus-Anak/2024/Pn Unrdiversion in the Legal Process of Juvenile Criminal Offenses: A Case Study of Decision Number 10/Pid.Sus-Anak/2024/Pn Unr"; Nashiroh et al., "Pelaksanaan Upaya Diversi Dalam Perkara Kekerasan Yang Dilakukan Oleh Anak Dihubungkan Dengan Pasal 7 Ayat (1) Undang-Undang Nomor 11

however, should not be equated with the failure of the broader child protection system. Rather, alternative legal and institutional mechanisms remain available to address the needs and rights of child victims. Accordingly, the effectiveness of child protection within the criminal justice system should not be assessed solely in terms of the successful prosecution, punishment, or rehabilitation of perpetrators. It should also be evaluated based on the state's capacity to ensure that child victims receive meaningful physical, psychological, and social recovery, together with adequate guarantees of personal safety.

3.2. The Relationship Between Mechanisms for Restoring the Rights of Child Victims and the Juvenile Criminal Justice Process

Indonesia has established a relatively comprehensive institutional framework and allocation of authority for the protection of child victims. The relationship between judicial proceedings and victim recovery services continues to encounter structural challenges, particularly the dependence on formal requests for assistance, inadequate interinstitutional coordination, and the lack of integration between victim recovery mechanisms and the implementation of court judgments.

An examination of Article 59(1) and (2) and Article 59A of the Child Protection Law demonstrates that providing special protection for child victims of violence constitutes a state obligation involving the central government, regional governments, and other relevant state institutions. This obligation extends beyond establishing legal prohibitions and imposing criminal sanctions to include the provision of medical services, physical and psychological rehabilitation, psychosocial assistance, social support, and protection throughout the judicial process.

Government Regulation No. 78 of 2021 further clarifies the allocation of institutional responsibilities by requiring the involvement of social workers, healthcare professionals, spiritual counselors, educators, and legal aid providers. Article 49 specifically addresses the protection of children who are victims of physical and/or psychological violence through preventive measures, assistance, medical rehabilitation, and social rehabilitation. These provisions demonstrate that protecting child victims is not the exclusive responsibility of law enforcement agencies. Rather, it requires the involvement of social welfare and healthcare institutions, each operating within its respective statutory mandate.

This allocation of authority establishes a functional relationship between judicial institutions and service-providing agencies. Investigators, public prosecutors, and judges perform law enforcement functions, whereas healthcare facilities, social workers,

Tahun 2012 Tentang Sistem Peradilan Pidana Anak: Studi Kasus Putusan Perkara Nomor 6/Pid.Sus-Anak/2023/PN.Tsm"; Rahman, "Pelaksanaan Restitusi Dalam Memulihkan Hak Anak Korban Kekerasan Seksual."

the Witness and Victim Protection Agency (LPSK), and Regional Technical Implementation Units for the Protection of Women and Children (UPTD PPA) undertake protection and recovery functions in accordance with their respective mandates. These institutions should not operate as two separate systems but rather as interconnected components of an integrated child protection framework, in which the effectiveness of each institution depends partly on coordination with the others. This division of responsibilities is particularly important because child victims may experience physical injuries, psychological distress, and disruptions to their education. Addressing the needs of perpetrators, for example, through rehabilitation in a Child Social Welfare Institution (LPKS), does not automatically fulfill the medical, psychological, and social needs of victims. The state therefore remains obligated to ensure that appropriate recovery services are accessible through authorized institutions, including after the court has issued its judgment.

These findings extend the victimological perspective, which recognizes victims as legal stakeholders entitled to independent protection rather than merely as sources of testimony used to establish criminal liability.[19] The protection of child victims must be treated as an independent legal priority and must not be subordinated to the handling of children in conflict with the law.

Articles 90 and 91 of the Juvenile Criminal Justice System Law, together with Presidential Regulation No. 75 of 2020, establish a direct institutional connection between the juvenile criminal justice process and the provision of victim recovery services. Investigators, for instance, are responsible not only for collecting evidence and examining children in conflict with the law but also for facilitating access to healthcare and protection services for child victims when necessary. In emergency situations, investigators may refer victims directly to healthcare facilities without waiting for the preparation of a social inquiry report.

Meanwhile, social rehabilitation services are provided by social workers and social welfare personnel based on assessments of individual victim needs. The LPSK is responsible for providing security protection and facilitating access to information concerning case developments within the scope of its statutory authority. Families, guardians, and other parties authorized under applicable regulations may also submit requests for relevant services. This allocation of responsibilities demonstrates that restoring the rights of child victims requires the coordinated involvement of multiple institutions with distinct but complementary functions.

The existence of these interinstitutional relationships does not necessarily guarantee continuity in the delivery of recovery services. Access to many services remains dependent on formal applications, reports, or referrals submitted by designated

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[19] Muhammad Tazkiya Syauqi and Sukri Padil Dongoran, "Perlindungan Hukum Terhadap Korban Tindak Pidana Dalam Perspektif Viktimologi," *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial Dan Politik* 3, no. 2 (2026): 57–69, https://doi.org/10.62383/demokrasi.v3i2.1647.

parties. Consequently, a victim's ability to obtain recovery services may be influenced by the family's understanding of its legal rights, its capacity to navigate administrative procedures, and the initiative demonstrated by law enforcement officials. Such circumstances create a potential gap between the rights formally recognized under legislation and the actual services received by child victims.

The state's obligations cannot be fulfilled merely by establishing institutions and administrative procedures for accessing services. Effective implementation also requires proactive mechanisms to identify victims' needs, provide information about their legal entitlements, and facilitate referrals to appropriate service providers. The refusal of a victim's family to accept a settlement agreement or compensation must not be interpreted as a rejection of medical or psychological rehabilitation or social protection. These forms of intervention serve different purposes and derive from distinct legal foundations. Therefore, the failure of settlement negotiations or restitution arrangements should not prevent child victims from accessing other forms of protection and recovery to which they are legally entitled.

Presidential Regulation No. 55 of 2024 establishes the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) as a strategic institutional mechanism connecting child victims and their families with law enforcement agencies and service-providing institutions. Its responsibilities include receiving complaints, conducting outreach to victims, informing them of their legal rights, facilitating access to healthcare services, providing psychological assistance and social rehabilitation, delivering legal services, and coordinating the provision of temporary shelter when necessary.

One particularly significant aspect of this regulation is the authority granted to the UPTD PPA to monitor the fulfillment of victims' rights throughout the judicial process. This mandate demonstrates that the protection of child victims should not end with the submission of a complaint or the provision of initial assistance. Rather, the UPTD PPA is expected to maintain an ongoing role in ensuring that victims' needs are addressed throughout the investigation, prosecution, trial, and postjudgment stages.

The UPTD PPA performs an essential function by connecting victims who may experience physical injuries, psychological distress, or disruptions to their education with available local support services. Through individual assessments and interinstitutional coordination, the unit facilitates medical referrals, psychological counseling, legal consultation, and social support tailored to each victim's specific circumstances and needs.

From a normative perspective, however, the mere establishment of a UPTD PPA does not automatically guarantee the effective delivery of protection and recovery services. Limitations in professional staffing, particularly shortages of psychologists, social workers, and legal advocates, combined with substantial dependence on

coordination with other institutions, may undermine the effectiveness of its services. Accordingly, the UPTD PPA should not be regarded as the sole institution responsible for victim recovery but rather as a central coordination mechanism that ensures each identified need is referred to an institution with the appropriate professional competence and legal authority.

These findings extend the analyses of Denadin et al. and Nashiroh et al., which identify the failure of parties to reach an agreement as a significant obstacle to the diversion process.[20] Institutional coordination, however, must continue even after diversion has failed. In other words, the termination of a restorative dispute resolution process should not mark the end of the responsibilities of service-providing institutions toward child victims.

Article 71D(1) of the Child Protection Law grants child victims belonging to certain legally protected categories, including victims of physical and/or psychological violence, the right to seek restitution. The implementation of this provision is further regulated by Government Regulation No. 43 of 2017. Restitution constitutes a form of perpetrator accountability for the losses suffered by victims, whereas medical rehabilitation, social rehabilitation, security protection, and support services represent distinct state obligations.

This distinction has important legal implications. Restitution requires a formal application and a payment mechanism involving the party legally responsible for compensating the victim. By contrast, recovery services provided by the state derive from separate legal obligations established under child protection legislation and the juvenile criminal justice framework. The failure to submit a restitution claim or the inability to reach an agreement concerning compensation does not release the government from its obligation to provide the services required by the victim.[21]

A victim's family may reject a proposed compensation arrangement during the case resolution process. Such rejection must be distinguished from the formal rejection of a restitution claim because the two circumstances have different legal implications. Regardless of the nature of the rejection, a child victim's entitlement to rehabilitation and protection remains grounded in an independent legal basis and must continue to be fulfilled.

These findings are consistent with previous research, which highlights limitations in the implementation of restitution and emphasizes the need to strengthen the state's

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[20] Denadin et al., "Pendekatan Diversi Dalam Sistem Peradilan Pidana Anak (SPPA)"; Nashiroh et al., "Pelaksanaan Upaya Diversi Dalam Perkara Kekerasan Yang Dilakukan Oleh Anak Dihubungkan Dengan Pasal 7 Ayat (1) Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak: Studi Kasus Putusan Perkara Nomor 6/Pid.Sus-Anak/2023/PN.Tsm."

[21] Andi Koswara, "Tanggung Jawab Pemerintah Dalam Pemberian Dan Pengajuan Kompensasi Dan Restitusi Terhadap Korban Pelanggaran HAM Berat Berdasarkan Peraturan Pemerintah Nomor 3 Tahun 2002 Dan PP Nomor 44 Tahun 2008," *Doctrinal* 6, no. 1 (2021): 1–10.

institutional role.[22] The state's responsibility extends beyond facilitating restitution claims; it must also ensure access to recovery mechanisms that remain available independently of the perpetrator's financial capacity and the family's willingness to accept compensation.

In the case examined, Ketapang District Court Judgment No. 9/Pid.Sus-Anak/2026/PN Ktp establishes the criminal responsibility of the children in conflict with the law and imposes rehabilitative measures requiring the three juvenile offenders to undergo placement in a Child Social Welfare Institution (LPKS) for six months. However, the judgment does not expressly establish a referral arrangement or follow-up mechanism to ensure the provision of rehabilitation services for the child victim.

This circumstance does not necessarily indicate a judicial error, since criminal judgments are primarily concerned with determining the criminal responsibility of offenders and imposing measures authorized by applicable legislation. It reveals a potential gap in the integration of judicial proceedings with the continuity of victim recovery services. Whereas the juvenile offenders receive a clear determination concerning the nature of the measures imposed, the institution responsible for their implementation, and the duration of rehabilitation, the recovery of the child victim remains dependent on service delivery mechanisms operating outside the framework of the court's judgment.

When considered alongside Article 59A(d) of the Child Protection Law and the monitoring authority vested in the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) under Presidential Regulation No. 55 of 2024, these provisions establish that victim protection and support services should be integrated into the juvenile criminal justice process. Nevertheless, despite this normative recognition, a comprehensive operational mechanism remains underdeveloped to ensure the systematic assessment of victims' needs, interinstitutional referrals, monitoring of service delivery, and follow-up interventions after a court judgment has been rendered.

This situation suggests that repressive protection, which primarily focuses on the legal response to criminal offenses, does not yet adequately address the concrete recovery needs of victims. Although perpetrator accountability is pursued through criminal investigations and judicial decisions, the continuity of victim recovery lacks an equally clear institutional coordination mechanism. Victim recovery should not be understood merely in terms of the successful implementation of diversion. The failure to reach a diversion agreement does not release the state from its independent obligation to restore the physical, psychological, and social well-being of child victims.

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[22] Galih et al., "Kewenangan Mengajukan Hak Restitusi Dalam Perkara Tindak Pidana Kekerasan Terhadap Anak"; Novrianto and Zuhir, "Implementasi Hak Restitusi Bagi Anak Yang Menjadi Korban Tindak Pidana Dalam Proses Penyidikan, Penuntutan Dan Putusan Pengadilan"; Sulthoni et al., "Politik Hukum Pemberian Restitusi Terhadap Anak Korban Tindak Pidana Dalam Undang-Undang Perlindungan Anak."

The fundamental problem, therefore, does not lie in the absence of protective legal provisions or service-providing institutions but rather in the inadequate integration of institutional authority with the various stages of the juvenile criminal justice process. An effective coordination mechanism is necessary to ensure that victims' needs are identified from the investigation stage, appropriate referrals are facilitated throughout judicial proceedings, the fulfillment of victims' rights is monitored during the adjudication process, and rehabilitation and social reintegration continue after a final judgment has been issued.

The relationship between victim recovery mechanisms and the juvenile criminal justice process consequently remains predominantly normative rather than fully operational. Although the Child Protection Law, the Juvenile Criminal Justice System Law (Law No. 11 of 2012), Government Regulation No. 78 of 2021, Presidential Regulation No. 75 of 2020, and Presidential Regulation No. 55 of 2024 collectively establish the legal foundations, institutional responsibilities, and service delivery mechanisms for protecting child victims, they do not yet provide a sufficiently effective guarantee that every child victim will be systematically connected to the recovery services required. Accordingly, the fulfillment of child victims' rights must be recognized as an independent and continuing state obligation, irrespective of whether diversion succeeds or restitution is obtained, while being institutionally integrated into every stage of the juvenile criminal justice process.

4. CONCLUSION

Indonesian law establishes a range of mechanisms for restoring the rights of child victims, including medical, psychological, and social rehabilitation; special protection; safety guarantees; legal and psychosocial assistance; social support; and social reintegration. These mechanisms are grounded in the Child Protection Law, the Juvenile Criminal Justice System Law (Law No. 11 of 2012), Government Regulation No. 78 of 2021, Presidential Regulation No. 75 of 2020, and Presidential Regulation No. 55 of 2024. Nevertheless, the integration of these mechanisms into the juvenile criminal justice process remains constrained by dependence on formal applications, inadequate interinstitutional coordination, and the absence of integrated referral and postjudgment monitoring mechanisms. The failure of diversion or the nonimplementation of restitution does not extinguish the state's independent obligation to restore the rights of child victims.

This study contributes to the existing literature by advancing an integrated victim protection perspective that connects judicial proceedings with institutional recovery services. It demonstrates that the restoration of child victims' rights must be recognized as an ongoing state obligation rather than a process contingent upon the success of diversion or the fulfillment of restitution. However, this study is limited by its normative legal research approach and its reliance on a single court judgment as the primary case

study. Accordingly, strengthening mandatory referral mechanisms, interinstitutional coordination, and continuous monitoring by the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA) is essential to ensuring the effective implementation of victims' rights. Future research should adopt empirical approaches to examine the effectiveness, accessibility, and continuity of recovery services for child victims across different regions of Indonesia.

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