



Research Article

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Fulfilling the Restitution Rights of Crime Victims: The Legal Practice in Indonesia

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Abstract

According to Articles 38D and 38G of the Republic of Indonesia's 1945 Constitution, citizens have the right to a sense of safety from the state, including the right to be protected from crimes. In Indonesia, there is an annually increasing rate of crime, many of them being crimes against wealth. Unfortunately, victims seldom receive attention, including recovery from losses or restitution. This was normative legal research conducted on secondary data, including primary legal materials, secondary legal materials, and other supporting legal materials. The data were collected through a literature review and were analyzed using the descriptive-qualitative method. Results showed that the restitution rights of crime victims are regulated in Indonesia's legal regulations (the 1945 Constitution, the Law on the Protection of Witnesses and Victims, the Law on Human Rights, the Law on Corruption, etc.). But these regulations are still incomplete and they are difficult to implement in legal practice. In Indonesia, the implementation of crime victims' restitution rights has not been fulfilled. Many victims fail to obtain restitution from the perpetrators because they still lack knowledge of their restitution rights and the application procedures due to a lack of socialization from the law-enforcing apparatus and the government. Victims may file a civil case lawsuit to the District Court to fulfill their restitution rights. It can be done through a combined mechanism of a civil lawsuit in a criminal case or through a pure criminal court decision. In conclusion, Indonesian law has regulated victims' restitution rights. Even so, the laws are still incomplete and they lack harmony. The fulfillment of victims' restitution rights is not yet ideal and its procedures are too complicated.

Keywords: Restitution rights, crime victims, legal fulfillment, legal practice, Indonesia

1. Introduction

According to Dimiyati et al. (2021), "Indonesian law is basically aimed to provide prosperity, protection, assurance, and justice to all people." The Republic of Indonesia's 1945 Constitution Article 28G clause (1) states, "Everyone has the right to protection. They have the right to have their families, dignity, honor, and wealth under their power honored, they also have the right to a sense of safety and protection from threats of fear to do or not to do things that are their human rights". People's rights are also regulated in Article 28D of the 1945 Constitution. This article states that every person shall have the right to recognition, guarantees, protection, and certainty before a just law as well as equal treatment before the law (Husna, 2021). Concerning these rights, the state has the obligation to protect every person, both citizens and non-citizens from the confiscation or elimination of these rights, including from becoming victims of criminal actions. Lubis (2016) stated that human rights are important for Indonesians, but Indonesia often fails to maintain its commitment towards the application of those rights.

As previously known, criminal law policies aim to protect people from criminal actions to achieve legal order, justice, and certainty. In the end, these various types of criminal actions harm victims, causing physical, mental, and economic losses (Cristiari & Utari, 2014, p. 2). So far, the criminal law and the criminal justice system only focus on the aspect of punishment imposition. They do not give enough attention to victims. Thus, only the relationship between the perpetrator and the state occurs. Criminal sanctions are directed to perpetrators, either to give retribution in the forms of the death penalty, imprisonment, arrest, or fines, or to impose additional punishments in the forms of the revocation of certain rights, the confiscation of certain items, and the announcement of judicial decisions. All these actions are oriented to the interests of the criminal perpetrators (offender-oriented). The law does not orient towards the interests of the victims (victim-oriented). From the victims' perspective, the practice of justice is not substantial justice that recovers the losses experienced by the victims, i.e., the justice produced is not restorative. The existing legal system rather forces the victims to be satisfied with the severe punishments imposed on the perpetrators even though the former does not obtain anything or is not recovered from their losses.

Victims stay as harmed victims. Meanwhile, perpetrators are imprisoned for their crimes. The issue is deemed to end without any attention given to the victims. Perpetrators are not demanded to be responsible for the losses they made, although the allotment of compensation for the victim's losses is a form of attention to creating restorative justice in the criminal justice system. Even so, it is not always easy to provide compensation for every criminal action (Ningsih, 2014). Substantial justice for crime victims can only be achieved when victims obtain recovery from the losses they suffered in the form of restitution from the perpetrators, apart from the imposition of a just punishment to the criminal perpetrators. Santoso stated that under the restorative justice perspective, the victims' restitution rights emphasize the recovery of the victim's losses. Restorative justice focuses on the victims, perpetrators, and society (Santoso, 2020, pp. 195-196).

Some international instruments also regulated the protection of victims, including the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power No. A/Res/40/34 of 1985. It regulated the victims' rights (Angkasa, 2004, pp. 5-7). Then, the United Nations Declaration on the Prosecution and Assistance of Crime Victims number 4 Part I-General Principles declared the obligation of each country in fulfilling the rights of crime victims as follows (Muladi, 2002, p. 177):

"Reparation by the offender to the victim shall be an objective of the process of justice. Such a reparation may include (1) the return of the stolen property, (2) monetary payment for losses, damages, personal injuries and psychological trauma, (3) payment for suffering, and (4) service to the victim. Reparation should be encouraged by the correctional process".

The protection of victims is also found in Tokyo Rules, where Rule 8.2 regulates the Types of Non-Custodial Sanctions. This rule recommends non-custodial sanctions (Arief, 2015).

The data from the National Socio-Economic Survey shows there is still a low percentage of

crime victims that report to the police, namely 23,92 % (2018) and 22,19 % (2019) (Badan Pusat Statistik (Indonesia Statistics), 2020, p. 45). It means that there is still a great percentage of unreported crimes that do not go through the legal/litigation process. In reality, most crimes in the statistical data above are crimes against wealth (theft, fraud, embezzlement, corruption, and the like) (Badan Pusat Statistik (Indonesia Statistics), 2020, pp. 20–27). But there is no specific data on the total amount of financial losses caused by those crimes. It is certain, however, that the numbers are very high.

The legal protection of crime victims has been carried out through penal policies in *Wetboek van Strafrech (WvS)* as well as through various criminal legislations outside of the Criminal Code. Protection is also given in the Criminal Procedural Code and the Law on the Protection of Witnesses and Victims by guaranteeing victims' rights during the litigation processes (Muchamad Iksan, 2011, pp. 316–334). But the above protection on victims has not brought justice for crime victims, i.e., restorative justice, that recovers the losses they experienced. The crime victims are "forced" to be satisfied with the punishment imposed on the perpetrators. But the material and immaterial losses of the victims are not yet recovered, especially from their rights to obtain restitution from crime perpetrators.

Restorative justice is an effort to protect human rights. Such a recovery is needed to develop a better society in the future. In principle, restorative justice is an approach to systematically respond to occurring criminal actions, with the main focus to recover damages or to recover losses. It balances the attention given to the interests of the victims, perpetrators, and society. This principle of restorative justice shows that sanctions or forms of perpetrators' responsibility that orients towards recovering or rehabilitating the losses of the crime perpetrators' losses are according to the justice principles that apply in society as regulated in the second pillar of Pancasila (Indonesia's state ideology that contains five principles) (M. Iksan et al., 2022, p. 129).

Concerning the law and the current legal practice in Indonesia, Dimiyati et al. in their article stated:

"However, the law in this country experiences what we call ideological poverty that substantially omits the intrinsic soul of the law itself. The cause is that the institution with the authority to dictate law has ignored the welfare state philosophical reference from the founding fathers. The founding fathers' philosophy on the welfare state is neither liberalism nor communism. Prophetic-transcendentally, the characteristic of the Indonesian legal welfare state concept can be defined in the conception that the "Belief in the Almighty God" principle is fundamental in order to bring welfare to Indonesians. Indonesia may achieve welfare if it understands the welfare state philosophy as perceived by the founding fathers" (Dimiyati et al., 2021).

Based on the background above, the problem of this research is: How is the fulfillment of crime victims' restitution rights in the legal practice in Indonesia?

2. Materials and Methods

This research used the normative juridical or doctrinal method. The normative legal method is legal research that positions the law as a building of a system of norms. In this research, this method is used to analyze the fulfillment of victims' restitution rights by crime perpetrators. This system of norms encompasses principles, norms, and values from legal regulations, trial decisions, agreements, and also doctrines (Nugroho, Haryani, & Farkhani, 2020, p. 29). The legal materials used in this paper include primary legal materials, secondary legal materials, and non-legal materials, that were published especially during Indonesia's Reformation Era. These legal materials were analyzed using the descriptive qualitative method. This research applied the statute and conceptual approaches.

3. Results

Crime victims' rights for restitution from crime perpetrators are regulated in several legal regulations, including Article 1365 of the Civil Code (*Burgerlijke Wet Book*), Criminal Procedural Code, Law No. 13

of 2006 that was changed into Law No. 31 of 2014 on the Change of the Law on the Protection of Witnesses and Victims, and criminal laws outside of the Criminal Code.

Criminal actions are law-violating actions that (can) bring losses to other people's legal interests. In the Civil Code, law-violating actions that bring losses to other parties are regulated in Article 1365, which states, "Every action that violates/is against the law and that brings losses to other people obliges that person whose wrongdoings caused the losses to compensate for those losses."

Associated with Article 1365 of the Civil Code above, an action is deemed to violate the law if the following elements are fulfilled (Haswandi, 2017, p. 159): 1. there is an action; 2. that action violates the law; 3. the wrongdoing of the perpetrator occurs; 4. the victim experienced losses; 5. there is a causal effect between the actions and the losses experienced by the victim.

Victims have the right to sue or demand for compensation of their losses due to law-violating actions against the crime perpetrators. Another stipulation that regulates the compensation for losses by crime perpetrators is Article 1366 of the Civil Code which states, "Every person is responsible, not only for the losses caused by actions but also for the losses caused by his negligence or carelessness."

Compensation of losses (restitution) is commonly known as a *stelsel* (system) of sanctions in civil law on law-violating actions. Such is regulated in Article 1365 of the Civil Code. If its fulfillment is not voluntarily applied, it must be sued based on civil law. This civil lawsuit on compensation can be carried out using two means. First, the victim applies a civil lawsuit to the district court through a civil procedural mechanism. This mechanism is certainly complicated and time-consuming. Worse, it often requires a large budget. Second, the victim applies a compensation lawsuit (restitution) through a civil case examination mechanism, i.e., the incorporation of a case as regulated in Articles 98 to 101 of the Criminal Procedural Code. Article 98 clause (1) of the Criminal Procedural Code states:

"If an action that becomes a basis of offense in a criminal case examination by the district court brings losses to other people, the Head of the Trial Judge, under the demand of that person, may decide to combine the lawsuit for the case of compensation for the losses due to that criminal case."

The second method is relatively simpler, but it also contains several weaknesses. Among them is that the civil lawsuit decision highly depends on the criminal case decision as the former is combined with the decision of the latter. If the offender is deemed not guilty (the judge decided to liberate or free them from any legal demands), thus, the lawsuit for compensation is automatically rejected. Also, without a proposal, the lawsuit for compensation cannot be applied for an appeal or cassation (see Articles 99 to 100 of the Criminal Procedural Code).

Then, the third mechanism to obtain the restitution rights of victims is through the Institution for the Protection of Witnesses and Victims as regulated in Articles 5, 7, 7A, and 7B of Law No. 31 of 2014 on the Change of the Law on the Protection of Witnesses and Victims; Articles 36, 41, and 42 of the Governmental Regulation in lieu of Law No. 1 of 2002 on the Eradication of the Crime of Terrorism that was changed into Law No. 15 of 2003. It is also regulated in Article 35 of Law No. 26 of 2000 on the Human Rights Trials.

The regulations on witnesses or restitution right fulfillment above are in line with the customary law as a law that lives in society. It is conceived as a legal system that is formed and originated from people's empirical experiences in the past, that are deemed as just and appropriate. It has obtained legitimization from customary leaders. Thus, it is binding and is (normatively) complied with. The compliance process on customary laws initially emerged from the existence of the assumption that since birth, humans have been encompassed with norms. These norms regulate personal behavior for each legal action and the legal relationships carried out to create a harmonious interaction (Handrawan, 2010, pp. 13-14). Punishments for customary law violators are not limited to the punishments imposed by the decision of the customs authority or judge. Perpetrators may be punished through social punishments such as insults. They may be ignored, rejected from participating in village ceremonies, banished from the customary society, etc.

Concerning customary laws, Bernard L. Tanya stated that in the perspective of legal historicism, the law is not initially a product of political authorities as understood by legal positivism. It was not

artificially created as ordered in the teachings of Austin. But it must be discovered and found in the soul of the people. Every nation has a *volksgeist*, which has an organic relationship with the law. Even, the law is a mere reflection of the *volksgeist*. Thus, the "people's law" that grows and develops in the womb of the *volksgeist*, must be perceived as the "true law of life". True law is not made, but it must be found. Legislation is only deemed as important so long as it has declarative characteristics towards the true law. A nation's law is associated with its national characteristics, just as how language, customs, and the constitution are. All these are special characteristics of the society where that law grows and applies.

Legal phenomena do not stand alone. They are combined into the people's character due to the unified principles of that society. The law does not accidentally appear, but it is born from the people's moral awareness. That is why the law develops along with societal development. In the end, it will disappear when a society loses its nationality. For legal positivism, the law is like a living organism. Its life develops like an organism, and it keeps on strengthening through empirical constancy that goes on from time to time. It was born, and then it grows and develops along with the development of society. The law is constructed in a historical process of a society. Thus, the law is always ingrained in the peculiar form of social life. Even, it is a mere reflection of the ideas, traditions, values, and goals of a society (Tanya, 2013).

Thus, according to customary conception, the goal of legal sanctions is to return cosmic balance, balance the world of the living and the world of the supernatural, and create a sense of harmony in society. Such harmony must be created between members of society. Apart from that, punishments must be fair, in the sense that these punishments must be felt as just by the perpetrator, the victim, and society. This is to eradicate disturbances, imbalances, and conflicts (Widnyana, 2013, p. 142).

Various customary laws in Indonesian regions also acknowledge punishment sanctions where crime perpetrators must pay restitution to the victims or their families, even though they have different terms for it. These customary laws include:

a. Dayak Customary Laws of East Waringin City.

The customary laws of the Dayak Ngaju tribe consist of 96 articles, containing actions that are punishable according to the local customary laws. Such actions may be imposed with various sanctions, including paying compensation for the losses made (Kedamangan Kecamatan Mentawa Baru Ketapang, n.d.).

b. Tolaki Customary Law.

The Taloki customary law contains many customary offenses that are threatened with sanctions in the form of fines that must be paid to victims, as well as *selamatan* (ritual feast) in the form of customary ceremonies whose funding is burdened to the offender (Handrawan, 2010, pp. 13–14).

c. Kaili Palu Customary Law (*Atura Nu Ada Ante Givu Nu Ada TO KAILI Ri Livuto Nu Palu*).

In the Kaili customary law of Palu City, violations against customary laws are threatened with customary sanctions (*Givu*). One of the *Givu Salakana* (severe customary sanctions) is *Bangu Mate*, i.e., sanctions towards the *Salakana* customary law. It is carried out by making perpetrators or their families compensate or pay fines in the form of a large animal and other customary equipment according to the stipulations (Bauwo, 2012, pp. 37–38). The payment of this *bangu mete* sanction is given to the victims or the family of the victims.

We must remember Gustav Rabruch's saying, "*Est autem jus a justitia, sicut a matre sua ergo pirus fuit justitia quam jus*" (the aim of the law is to achieve justice) (Marzuki, 2008, p. 139).

4. Discussion

The fulfillment of crime victims' restitution rights through the civil procedural mechanism has not very much been used by crime victims. This is because society does not know that crime victims have the right to sue/demand compensation from the crime perpetrator. There is a lack of socialization of

this right by the government, universities, and society. But for those who already know the existence of that right, there is a chance that they will carry out legal steps by applying for compensation for the law-violating actions through a pure civil court mechanism.

Some decisions of the Civil Court that granted the lawsuit for restitution payment applied by crime victims through the mechanism of a civil lawsuit to District Courts are shown below:

- 1) The decision of Wates District Court No. 12 Pdt.G/2011/ PN. Wt. which punished the Defendant, Wartoyo, to pay compensation (restitution) to the Plaintiff, Lancar Mukti Abadi Ltd., with the amount of Rp. 59.000.000,- because Defendant was guilty of carrying out a law-violating deed by embezzling the Plaintiff's wealth. This was proven by the sanctioning towards the crime of embezzlement perpetrated by the Defendant as decided based on the Decision of the Yogyakarta District Court No. 240/Pid.B/2011/PN. Yk ("Vonis Pidana Yang Berlanjut Gugatan (Criminal Verdict That Continues the Lawsuit)," 2017).
- 2) A Cassation Decision of the Lawsuit on Material Compensation No. 670 K/Pdt/2004, where the victim was hit by a bus. The judge assembly punished the Defendant (crime perpetrator/driver and boss/owner of the vehicle) to pay compensation to the Defendant (the victim of the crime) in the amount of Rp. 36.700.000.

In these two cases and many others, the results were the same, i.e., the crime victims' demand for compensation to the crime perpetrator through the district courts was granted. In these two cases, the mechanism was purely civil law-based. Thus, it is a juridical, sociological, or philosophical reason for carrying out legal reconstruction. The compensation payment by crime perpetrators to the victims can be a form of criminal sanction.

But in practice, the fulfillment of the restitution rights through the amalgamation of the lawsuit on compensation (restitution) that is regulated in Articles 98 to 101 of the Criminal Procedural Code has not often been used by crime victims. The policy on an amalgamation of the lawsuit on compensation in the Criminal Procedural Code is a positive thing from the perspective of victim protection that was unacknowledged in the HIR (*het Herzine Inland Reglement*). This is because, with the said mechanism, the victims or the family can demand compensation from crime perpetrators (defendants) in unison with the examination of the court trials on that criminal case. It saves more time, energy, and money. This is a reflection of the implementation of the principle of a simple, fast, and affordable justice system.

People lack the understanding that there is a mechanism of case amalgamation in demanding compensation for crime perpetrators. Some also assess that the civil lawsuit mechanism is ineffective. Thus, not many crime victims want to go through this mechanism. In consequence, many crime victims experience abundant losses. They suffer from material losses when becoming witnesses to the courtly processes. They suffer from criminal action and they are burdened with fees from the occurrence of a crime, such as medical fees.

Some court decisions imposed the sanction of paying compensation to the victims using a compensation lawsuit combined with the criminal case in the case examination. Such a mechanism is regulated in Articles 98 to 101 of the Criminal Procedural Code. Examples of such court decisions are as follows:

- 1) The decision of the Klaten District Court No. 187/Pid.B/2010/PN.Klt punished Defendant Ali Harahap for his negligence in driving a motorized vehicle, causing a traffic accident with a severely injured victim. He was punished with five months of imprisonment. He must pay a case fee of Rp. 2.000,- and pay medical fees (as compensation) to the victim in the amount of Rp. 11.000.000 (The Republic of Indonesia's Supreme Court, n.d.).
- 2) The decision of the Pariaman District Court No. 35/PID. B/2014/PN. PRM imposed sanctions on Defendant Yusmar for committing the crime of abuse that caused severe wounds (Article 351 clause (3) of the Criminal Code). The sanction was in the form of imprisonment for four years. Apart from that, he must pay the case fee of Rp. 2.000,-. The judge granted part of the plea for compensation demanded by the plaintiff as the victim of abuse, with the amount of Rp. 2.747.000 (two million seven hundred forty-seven thousand rupiahs).

- 3) The decision of the Painan District Court No. 127/Pid.B/2010/PN.Pin which punished Idrawan, son of Syahrial in the case of abuse (Article 351 clause (3) of the Criminal Code). He was sanctioned with imprisonment for one year and eight months. He must pay the case fee Rp. 1.000 (one thousand rupiahs). Then, in the civil case, Defendant was punished to pay a compensation fee to Plaintiff for the losses in the amount of Rp. 11.602.300 (eleven million six hundred and two thousand three hundred rupiahs).

The decisions above utilize stipulations of Articles 98 to 101 of the Criminal Procedural Code on the amalgamation of the lawsuit on compensation in the criminal case examination. Victims that experienced losses due to the crime of abuse, such as wounds that need surgery and medical costs, applied for a lawsuit for compensation which is actually a characteristic of civil law. It was combined with the examination of the criminal case. As a result, the judge assembly granted part of the demand.

From the aspect of punishment theory, the court decisions on crime perpetrators that impose both imprisonment and compensation payment have fulfilled the aim of punishment from the combined/mixed theory. As previously known (criminal and civil) punishments bring suffering to crime perpetrators (the aspect of restitution and justice for victims). They also bring a deterrent effect to the perpetrators (special prevention). They serve as a "warning" to other members of society to prevent them from doing similar actions (general prevention). According to Johannes Andenaes, general prevention has three effects, namely: (1) preventive effect; (2) strengthening moral prohibitions; and (3) encouraging the habit of compliance with the law (Muladi & Arief, 1984, pp. 15-16).

The last mechanism for fulfilling victims' restitution rights through criminal justice (in cases of corruption), is the sanction of "paying compensation" to the state. Most court decisions that adjudicate corruption cases, punish defendants with imprisonment and fines. Apart from that, perpetrators must pay compensation for the losses of the state that they consumed. The characteristic of the compensation money is actually the same as the punishment to pay for compensation (restitution to the state). This is because the state is the party that experienced the losses (the victim) from the act of corruption.

An example of a criminal court decision where the perpetrator must pay compensation due to corruption and money laundering is the Cassation Decision of the Supreme Court No.537 K/Pid.Sus/2014. The Defendant was Police General Djoko Susilo. This decision strengthened the appeal decision of the Jakarta Special Capital Region High Court that imposed the sanction of 18 years of imprisonment and fines of 1 billion rupiahs. There was an additional punishment where the perpetrator must compensate money in the amount of 32 billion rupiahs to the state.

The double track method in punishing and returning state losses, either through the criminal lawsuit system or through the civil lawsuit system, shows that Indonesian law has many types of sanctions, especially in the law on the crime of corruption. The criminal sanctions include the deprivation of freedom, death sentence, imprisonment, and fines. Then, there is also the obligation to compensate for the state losses, though the lawsuit must use the civil law method. But substantially, these legal mechanisms aim to achieve restorative justice, i.e., justice that is hoped to recover state losses due to the crime of corruption.

The return of state losses according to the civil instrument can be carried out based on Articles 32 to 34 of Law No. 31 of 1999 on the Eradication of the Crime of Corruption and Article 38 C of Law No. 20 of 2001 on the Change of Law No. 31 of 1999 on the Eradication of the Crime of Corruption. It can be carried out by the State Lawyer Attorney or other institutions that experienced losses. The stipulations of Articles 32 to 34 provide a legal basis for the state that is represented by the State Lawyer Attorney or other governmental institutions that suffered from losses due to corruption to make a civil lawsuit against corruption perpetrators or their heirs to the District Court.

It must be noted that the application of the lawsuit by determining the civil legal instrument as stated above only applies so long as the disputed object (the corrupted wealth or property of the perpetrators and the family) are in the territory of Indonesia or on board a ship that bears the Indonesian flag. Thus, if that object is outside of the Indonesian territory, the issue of ownership and

other rights for that object will be regulated according to and complying with the civil law that applies in that country.

In the civil process, the burden of evidence is the obligation of the plaintiff. In the case of corruption, it is carried out by the State Lawyer Attorney or other institutions that experienced losses. In this relationship, the plaintiff has the obligation to prove: (1) that the state has truly experienced financial losses; (2) the state financial losses impacted are related to the law-violating actions of perpetrators, defendants, or the punished, that is suspected to originate from corruption; and (3) perpetrators, defendants, or the punished have wealth that can be used to return the state financial losses.

The accommodation of the chance to undergo a civil lawsuit on the return of state financial losses is to provide a sense of justice to society as a result of the law-violating actions carried out by the corruption perpetrators. One of the criteria for law-violating actions is that the action violates the obligations stated in the law. It means that it violates binding legal stipulations issued by an authorized power. That stipulation may be in the realm of public law, including criminal law regulations. It may also be in the realm of private law, including civil law. Thus, a criminal action may not only violate the criminal law. But in several cases, it may also violate civil law, where its liability may reach the perpetrators' heirs as no person can profit from criminal actions (Wulandari, 2020, pp 233-249).

The court decisions above show that in legal practice, the sanction of paying for losses (restitution) has been practiced. It may be carried out through purely civil lawsuit procedures, through the combination of a compensation lawsuit in a criminal court, or purely through the criminal justice system, although with the sanctioned term of "paying compensatory money" (Nugroho, 2015, pp 15-24).

Therefore, stipulations on the victims' rights to obtain restitution that is regulated in the Law on the Protection of Witnesses and Victims, whose application is carried out through the Institution on the Protection of Witnesses and Victims to the District Court have already been applied, although they are very selective. The application must be initiated by criminal victims just as the civil lawsuit on compensation. The stipulations on the rights to obtain restitution in the Law on the Protection of Witnesses and Victims do not explicitly state "the criminal sanction is to pay compensation". It is a right of the victim that must be paid for by the crime perpetrators. According to the writer, this stipulation is not strict enough. It should clearly state "paying compensation" as a criminal sanction. This should also apply to several other special criminal laws such as the Law on Traffic and Road Transportation, the Law on the Eradication of the Crime of Corruption, etc.

5. Conclusion

Indonesia has regulated restitution rights for crime perpetrators in various legal regulations, such as the 1945 Constitution, the Law on the Protection of Witnesses and Victims, the Law on Human Rights, the Law on Corruption, etc. It is part of the effort to protect anyone who becomes a victim of crimes, allowing them to obtain substantial justice that recovers the victims' losses. But these stipulations are still incomplete and there are disharmonies.

The implementation of the fulfillment of restitution rights for crime victims in Indonesia has not run well. Many victims fail to obtain restitution from the perpetrators. This is because society still doesn't know of these restitution rights and the procedures for applying for them. This is caused by the lack of socialization from the law-enforcing apparatus and the government. Victims who had their restitution rights fulfilled obtained them from filing a civil case lawsuit to the District Court. It can be done through a combined mechanism of a civil lawsuit in a criminal case or through a pure criminal court decision.

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