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# Juridical Review of Criminal as a Form of Justice in Child Ability in Indonesia Cases Decision Study Number 66/PID.SUS/2022/PN.ATB

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## ABSTRACT

*Payment of restitution following unlawful intercourse with children is unjust and unable to recover victims' physical and psychological needs and rights. Because the restitution paid by the victim is solely to restore the victim's rights which cannot be long-term and cannot be considered fair in providing solutions to criminal acts of intercourse child, this study aims to know justice punishment and restitution in recovery victim rights. This research includes doctrinal legal research (normative) with the approach case, and the research is prescriptive. Following unlawful intercourse, children need protection because the substance is inside regulation Law No. 35 of 2014 concerning Child Protection, which has not yet been obtained to protect the victim completely. On the principle of equality before the law, the victim is a woman with the human right to equal treatment in law and government as a form of guarantee and protection. With existing case intercourse in which child restitution is not yet considered fair, they should give the perpetrator's attention to the rights of victims as a child in the long term, material and immaterial.*

**Keywords:** Restitution, Criminal Child Intercourse, Justice.

## I. INTRODUCTION

As a supremacy country law, Indonesia enforces all cases with the highest seat position law. With such fundamentals, the law as a state tool to manage and order life can protect the right inhabitant of his country without intervention from and by parties anywhere, including government and state administrators. Statement the prove that with availability rule law that has formed and set, must offset with exists ability in enforce rule law. Especially in a matter This Gustav Radbruch state that with a country that has decree law, the law must enforce to achieve justice, certainty, and benefit.<sup>3</sup>

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<sup>3</sup> Takasya Angela Tanauw Khristanto, 'Kedudukan Hukum Cctv Sebagai Alat Bukti Elektronik Setelah Terbitnya Putusan Mahkamah Konstitusi Nomor 20/Puu-Xiv/2016 Tanggal 07 September 2016', *To-Ra*, 6.2 (2020), 96–222.

Enforcement law proving state supremacy law can provide protection special to the child. It can be proven by decree Law No. 35 of 2014 concerning Change on Law No. 23 of 2002 Concerning Child Protection. Protection child according to perspective law considered very important without putting aside the protection aspect other because it focuses on protecting children physically and psychologically, which has an imperative nature (force).<sup>4</sup> Especially according to the meaning according to Article 1 of the Law Child Protection, Child is not yet 18 (eighteen) years old, including children who are still in the womb, with the understanding become consideration that Children have the right to growth and development, survival, and entitled to protection from discrimination and violence.<sup>5</sup>

A child, as a bud successor to the ideals of the nation, has special characteristics, characteristics, and strategic roles, so it must be protected from all forms that result in human rights violations. Protection is given to guarantee their rights so that they can grow and develop optimally under human dignity. The principle of child protection must comply with the Convention on the Rights of the Child, ratified by the government of the Republic of Indonesia with Presidential Decree No. 36 of 1990 concerning the Ratification of the Convention on the Rights of the Child.<sup>6</sup> As a source of power and human development, a child must get construction and development started as early as possible.<sup>7</sup>

Protection child can look at things decision Atambua District Court No.66/Pid.Sus /2022/PN Atb. On the verdict, decide a case in which the Defendant as a convict has been legally and convincingly proven guilty of committing a crime by deliberately inducing a child to have intercourse with her. The victim is 13 years old and experience violence with proof there is a visa result et Repertum issued by House Sick Buffer Border (RSPP) Betun with number: RSUPP.331/VER/24/V/2022 dated May 4, 2022, which is the victim's genitals were found with two torn hymen presumed victim as I hurt and signs violence. Moreover, according to results from the Report Social Head of Social Service Regency Malacca Head Field Rehabilitation on May 10, 2022, the victim experienced a trauma condition, scared to leave the house because she still remembers the incident.<sup>8</sup>

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<sup>4</sup> Nuzul Qur'aini Mardiyah, 'Penerapan Hukuman Kebiri Kimia Bagi Pelaku Kekerasan Seksual Implementation of Chemical Castration', *Jurnal Konstitusi*, 14.1 (2017), 18.

<sup>5</sup> Sri Mulyani, 'Penyelesaian Perkara Tindak Pidana Ringan Menurut Undang-Undang Dalam Perspektif Restoratif Justice', *Jurnal Penelitian Hukum De Jure*, 16.3 (2017), 337 <<https://doi.org/10.30641/dejure.2016.v16.337-351>>.

<sup>6</sup> Sri Sudaryatmi, 'Peranan Hukum Pidana Adat Dalam Pembangunan Hukum Nasional Di Era Globalisasi Milenial', *Masalah-Masalah Hukum*, 41.4 (2012), 61–75 <<https://doi.org/10.35706/djd.v1i1.5471>>.

<sup>7</sup> Achmad Ratomi, 'Konsep Prosedur Pelaksanaan Diversi Pada Tahap Penyidikan Dalam Penyelesaian Tindak Pidana Yang Dilakukan Oleh Anak', *Arena Hukum*, 6.3 (2013), 394–407 <<https://doi.org/10.21776/ub.arenahukum.2013.00603.6>>.

<sup>8</sup> Nur Hafizal Hasanah and Eko Sopyonyono, 'Kebijakan Hukum Pidana Sanksi Kebiri Kimia Dalam Perspektif

In unlawful intercourse with a child, a child as a necessary sacrifice gets protection maximum in ensuring the right to honor and dignity of humanity. To maintain his honor and dignity, children as victims have the right to get legal protection in their existing justice system, confirmed in law No. 11 of 2012 concerning the Juvenile Justice System because the substance in Constitution No. 35 of 2014 concerning Child Protection has not been able to protect victims fully.<sup>9</sup> Child sexual intercourse as a criminal act regulated in the Child Protection Act and other laws and regulations only focuses on punishing the perpetrators who set aside and have not thought of legal remedies for victims of child sexual intercourse. Therefore, the position of the victim of child sexual intercourse in the Child Protection Act is not yet optimally regulated when compared to the perpetrator's position.<sup>10</sup>

On the verdict from Atambua District Court, the convict gets a criminal conviction prechill for 15 (fifteen) years and a criminal fine of Rp. 100,000,000.00 (one hundred million rupiahs) with a provision that if the fine is not paid, replaced with criminal confinement for 6 (six) months. Besides that, the charge for paying restitution against the top victim is 10,000,000.00 IDR (ten million rupiahs), with the provision of cost Restitution the No paid replaced with criminal confinement for 6 (six) months. The authors consider that restitution payments given to victims are unfair and cannot restore victims' physical and psychological needs and rights. Because the restitution paid by the victim is solely to restore the victim's rights cannot be long-term and cannot be considered fair in providing a solution to the criminal act of sexual intercourse child. Especially If restitution the No can be paid and will replace with criminal confinement for 6 (six), it cannot help the victim's physical and psychological fulfillment and satisfaction for life, growth, and thriving.

Justice in the payment of restitution and sentencing on the crime of child sexual intercourse needs to be considered to guarantee and protect the recovery of victims' rights. If restitution is recovered to pay for the guilt of his actions because he has committed sexual intercourse with the child, the writer feels injustice. With the abovementioned problems, the author is interested in discussing "Review Juridical punishment as Form Justice in Case Student Association Decision No.66/Pid.Sus /2022/PN Atb". Because in this case, justice in the payment of restitution as a form of guarantee of protection needs to be considered and is of primary interest

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HAM Dan Hukum Pidana Indonesia', *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 7.3 (2018), 305 <<https://doi.org/10.24843/jmhu.2018.v07.i03.p03>>.

<sup>9</sup> Nur Rochaeti, 'Implementasi Keadilan Restoratif Dan Pluralisme Hukum Dalam Sistem Peradilan Pidana Anak Di Indonesia', *Masalah-Masalah Hukum*, 44.2 (2015), 150 <<https://doi.org/10.14710/mmh.44.2.2015.150-160>>.

<sup>10</sup> Rahadi Wasi Bintoro, 'Implementasi Mediasi Litigasi Di Lingkungan Yurisdiksi Pengadilan Negeri Purwokerto', *Jurnal Dinamika Hukum*, 14 No. 1.1 (2014), 13–24.

in restoring victims' rights which are considered ideal for victims.

### **(A) Research methods**

This research uses doctrinal legal research (normative) that is descriptive.<sup>11</sup> The nature of the research in this study is prescriptive, which aims to get suggestions on how to solve a particular problem. The approach used is Approach case (case approaches) with study consideration case juridical.<sup>12</sup> The legal material that will be used as a basis to support this research is data collected from secondary data in the form of primary legal materials and secondary legal materials.

### **(B) Discussion**

#### **A. Overview Juridical punishment as Form Justice Recovery Victim's Rights**

Punishment is generally interpreted as a penalty or punishment to the accused who has followed the criminal. The convict of the defendant can be dropped if the punishment is given by the implementing agency or enforcer law authorized, by an authorized body, and by legislators. Drop criminals are intended not as an attempt at revenge but as an attempt prevention and train criminals. According to Wirjono Prodjodikoro, objective punishment for:<sup>13</sup>

- a. Gives fear so that others do not commit similar crimes, both to many people (preventive generals) and certain people (special preventive)
- b. To repair or educate the personality of the person who committed the crime to become a good person so useful to the public.

Imposed accused can be used to fulfill customary law views, rehabilitation and re-socialization, community protection, and psychological aspects to relieve guilt for those concerned. Funding dropped to the defendant more oriented to the actors, commonly called individual responsibility (personal responsibility).<sup>14</sup> One in which the perpetrator is seen as the subject law considered known and can be responsible full of deeds or done. In essence, the criminal dimension is oriented towards criminal sanctions, the best means of dealing with crime. Herbert L. Packer conveys the basic conclusions of the assumptions formulated editorially as follows:<sup>15</sup>

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<sup>11</sup> Rian Saputra and others, 'Reform Regulation of Novum in Criminal Judges in an Effort to Provide Legal Certainty', *JILS (JOURNAL OF INDONESIAN LEGAL STUDIES)*, 6.2 (2021), 437–82 <<https://doi.org/10.15294/jils.v6i2.51371>>.

<sup>12</sup> Rian Saputra, M Zaid, and Silaas Oghenemaro, 'The Court Online Content Moderation : A Constitutional Framework', *Journal of Human Rights, Culture and Legal System*, 2.3 (2022), 139–48 <<https://doi.org/10.53955/jhcls.v2i3.54>>.

<sup>13</sup> Slamet Tri Wahyudi, 'Problematika Penerapan Pidana Mati Dalam Konteks Penegakan Hukum Di Indonesia', *Jurnal Hukum Dan Peradilan*, 1.2 (2012), 207 <<https://doi.org/10.25216/jhp.1.2.2012.207-234>>.

<sup>14</sup> Rian Saputra, 'Pergeseran Prinsip Hakim Pasif Ke Aktif Pada Praktek Peradilan Perdata Perspektif Hukum Progresif', *Wacana Hukum*, 25.1 (2019), 10–18.

<sup>15</sup> Herbert L. Packer, *The Limits of the criminals Sanctions*, Stanford University Press, California, 1968, p. 87

- a. The criminal sanction is indispensable. We could not get along without it now or in the foreseeable future.
- b. The criminal sanction is the best available device for dealing with gross and immediate harm and threats of harm.
- c. The criminal sanction is at once the prime guarantor used indiscriminately and coercively; it is a matter.

The type of punishment imposed on the defendant is called the Criminal Code (KUHP). However, for special criminal laws outside the Criminal Code (KUHP), there are expansions or additions to the types of crimes. Giving punishment according to Article 64 of the Criminal Code (KUHP), Criminal consists of principal crime, additional punishment, and criminal offenses that are specific to certain criminal acts specified in the law. Principal punishment consists of prison punishment; supervision punishment; cover sentences; fines; and social work punishment. Additional punishments consist of payment of compensation; revocation of certain rights; revocation of certain permits; confiscation of certain goods and/or bills; announcement of the judge's decision; and fulfillment of local customary obligations. Moreover, special punishment is the death penalty which is always threatened alternatively.<sup>16</sup>

With a benchmark of punishment, "The philosophy of punishment" is oriented towards "The model of justice" to be achieved by deeds done to the accused in a criminal justice system. Concretely, judges as controllers of applicable policies in terms of making decisions are also oriented to the theoretical dimension and must also refer to the values of justice that all parties want to achieve.<sup>17</sup> Concretely, the logical consequence of this aspect is that the judge's decision or court decision is expected to be closer to justice, which reflects the values that live in society. However, in Indonesia, no sentencing guidelines can serve as a barometer and catalyst for judges. This dimension is identical to the legal situation in Singapore, where this aspect is described in more detail by Molly Cheang:

"The formal law as expressed in our criminal law gives enormous discretionary power to the judge without guidance as to how that power is to be exercised. The law generally authorizes a wide range of possibilities. The legislature often does little than establish an upper and lower limit."<sup>18</sup>

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<sup>16</sup> Rian Saputra and Silaas Oghenemaro Emovwodo, 'Indonesia as Legal Welfare State : The Policy of Indonesian National Economic Law', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022), 1–13 <<https://doi.org/10.53955/jhcls.v2i1.21>>.

<sup>17</sup> Muhammad Bagus Adi Wicaksono and Rian Saputra, 'Building The Eradication Of Corruption In Indonesia Using Administrative Law', *Journal of Legal, Ethical and Regulatory Issues*, 24.Special Issue 1 (2021), 1–17.

<sup>18</sup> Molly Cheang, Disparity of Sentence, *Singapore Malaya Law Journal*, PTE Ltd., 1977, p. 2

Especially in giving punishment, only think about retribution for what the perpetrator did without caring what happened to the victim. It has not optimally provided rights and positions to victims of crime fairly and humanely. Even when compared with the rights and position of the perpetrator in the criminal justice system, the rights and position of the victim are not equivalent, both from a normative and philosophical perspective.<sup>19</sup> The main rights, such as recovery for suffering caused by a crime in compensation, both in the form of restitution and compensation and rehabilitation, cannot be fully accommodated comprehensively, either explicitly or implicitly. Explicitly, the merger of cases stipulated in The Criminal Procedure Code (KUHAP), which represents the right to compensation for victims, does not accommodate immaterial losses.<sup>20</sup> Meanwhile, implicitly, the criminal verdict handed down to the perpetrator does not directly correlate with improvement or recovery. Victim after the occurrence of a crime. Even in the punishment with a retributive perspective, the justice who seeks to defend the law by establishing guilt and administering punishment, the justice distributed by judges in court is only oriented towards retaliating against the perpetrators.<sup>21</sup>

This fundamental problem must be resolved as soon as possible through improvements in criminal law policies and criminal law enforcement that are better and more accommodating to the protection of victims. It is a fundamental step in improving criminal law policy by accommodating medicinal values and justice. In essence, these values are not new but exist, are contained in the nation's philosophy of life, and are practically still maintained by our customary law.<sup>22</sup> The need or reuse of this paradigm is interpreted as an attempt to re-philosophy of legal justice. The implication of applying this paradigm is the emergence of a balanced and proportional legal alignment of victims, communities, and perpetrators. Thus, the conception of crime, which is only based on a violation of the public or state interest, must be transformed into a violation of the interests of the parties, in this case, the victim, perpetrator, and society.

Protection of victims' rights regarding losses suffered by the victim with Restitution. Restitution in Law No. 31 of 2014 concerning Changes to Law No.13 of 2006 concerning Protection Witnesses and Victims interpreted as Compensation given to victims or their families by

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<sup>19</sup> Rian Saputra, 'Development of Creative Industries as Regional Leaders in National Tourism Efforts Based on Geographical Indications', *Bestuur*, 8.2 (2020), 121–28 <<https://doi.org/10.20961/bestuur.43139>>.

<sup>20</sup> Appludnopsanji Appludnopsanji and Ani Purwanti, 'Double Track Criminal System of Indonesia: Criminal Sanction and Chemical Castration Treatment Policy on Pedophilia?', *Diponegoro Law Review*, 6.1 (2021), 17–32 <<https://doi.org/10.14710/dilrev.6.1.2021.17-32>>.

<sup>21</sup> Dewi Safitri and others, 'Optimalisasi Kebijakan Sistem Peradilan Pidana Secara Elektronik Di Masa Pandemi Covid-19', *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora*, 8.2 (2021), 279–87 <<http://jurnal.um-tapsel.ac.id/index.php/Justitia/article/view/2532>>.

<sup>22</sup> Rian Saputra, Adi Sulistiyono, and Emmy Latifah, 'Pendaftaran Internasional Sebagai Upaya Perlindungan Indikasi Geografis Dalam Perdagangan Global (Study Peraturan Pemerintah Nomor 22 Tahun 2018)', *Jurnal IUS Kajian Hukum Dan Keadilan*, 7.2 (2019), 237 <<https://doi.org/10.29303/ius.v7i2.630>>.

perpetrators or third parties. Existence restitution is a form of protection in all efforts' fulfillment of rights and assistance to provide victims with a sense of security or known with the principle of restoration to its original state (*restitutio in integrum*). The principle confirms the complete restoration of the victim's rights, possibly covering various aspects resulting from the action crime that occurred. In case, the victim and the victim's family must obtain proper and fair compensation from the perpetrator following the crime or a third party that is considered responsible. Law No. 31 of 2014 regulates compensation for losses incurred because of suffering directly related to a crime; compensation for loss of wealth or income; and/or reimbursement of medical and/or psychological treatment costs.

Victims' rights are regulated in the Criminal Code (KUHP), and The Criminal Procedure Code (KUHAP) is limited to the right to compensation. Victims' rights are developed in the law to protect witnesses and victims. Namely, the scope of victims' rights has become wider and can be provided at every stage of criminal justice, starting from the level of investigation. However, weaknesses in regulating victims' rights have resulted in victims not receiving maximum protection for their rights.<sup>23</sup> Reconstruction of the protection of victims' rights needs to be carried out to provide maximum protection and open the widest possible access for victims to fight for their rights damaged by a crime.

### **B. Justice Punishment and Restitution in Recovery Victim's Rights**

With existing case Decision Atambua District Court No.66/Pid.Sus /2022/PN Atb. Decide the case that the Defendant as a convict has been legally and convincingly proven guilty of committing a crime by deliberately inducing a child to have child intercourse with her. In case the give penalty criminal to the defendant, pay attention to Article 81 paragraph (1) of Law No.17 Years 2016 about Determination Regulation Government Replacement Constitution No.1 of 2016 regarding the second amendment to Law No.23 the Year 2002 about child protection Jo Chapter 76 E Law No.35 the Year 2014 About Protection Child Jo Chapter 64 Paragraph (1) The Criminal Code (KUHP) and Law No.8 of 1981 concerning Criminal Procedure Code. On verdict Atambua District Court the convict gets a criminal conviction prechill for 15 (fifteen) years and a criminal fine of Rp. 100,000,000.00 (one hundred million rupiahs) with provision if fine the No paid replaced with criminal confinement for 6 (six) months. Besides that, the charge for paying restitution against the top victim is 10,000,000.00

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<sup>23</sup> Andry Harijanto, Siti Hatikasari, and Juliet Musabula, 'The Model of Legal Protection for Children Victims of Domestic Violence Based on Justice Elimination of Violence Against Women . 2 Indonesia Has Ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women ( Conve', *Journal of Human Rights, Culture and Legal System*, 2.2 (2022), 100–112 <<https://doi.org/10.53955/jhcls.v2i2.33>>.



IDR (ten million rupiahs), with the provision that if the cost of restitution is No paid, replaced with criminal confinement for 6 (six) months.

Restitution payments given to victims are unfair and cannot restore victims' physical and psychological needs and rights because the restitution paid by the victim is solely to restore the victim's rights which cannot be long-term and cannot be considered fair in providing a solution to the criminal act of sexual intercourse child. Especially If restitution of the No Can be paid and will replace with criminal confinement for 6 (six), it cannot help the victim's physical and psychological fulfillment and satisfaction for living, growing, and thriving. The Criminal Procedure Code (KUHP) provides space for victims to obtain rights by filing compensation for losses from a crime. Victims can file a lawsuit for compensation and ask the head judge at trial to give a stipulation to combine the compensation case with the examination of the criminal case. The compensation claim is filed against reimbursing costs incurred by the injured party.<sup>24</sup> The victim's family or attorney can file a submission restitution. According to Article 20 of the Regulations Government No. 7 of 2018 concerning Providing Compensation, Restitution and Assistance to Witnesses and Victims, requests for restitution can be submitted before or after a court decision that has obtained permanent legal force through the Witness and Victim Protection Agency (LPSK).<sup>25</sup>

Forms and rules for restitution to protect victims' rights have been regulated in Law No. 31 of 2014 concerning Protection Witnesses and Victims (PSK Act). However, If noticed and analyzed carefully, gift restitution not yet, of course, can be considered for pay on deed crime that occurred and experienced by the victim. Restitution implementation causes many problems in the provisions of compensation for victims of criminal acts that are considered No fair. If, according to the Constitution, Justice children and child victims are entitled to medical rehabilitation and social rehabilitation, both within and outside institutions; guarantee of safety, whether physical, mental, or social; and ease of obtaining information regarding the progress of the case. Whereas in The PSK Law, which is emphasized in article 5, Victims have the right:

- a. obtain protection for personal security, family, and property, and be free from threats related to the testimony that will be, is being, or has been given

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<sup>24</sup> Kartono Kartono and Aji Mulyana, 'The Implementation of Chemical Castration Penalties towards Paedophilia Crime Perpetrators', *FIAT JUSTISIA: Jurnal Ilmu Hukum*, 13.4 (2019), 321 <<https://doi.org/10.25041/fiatjustisia.v13no4.1683>>.

<sup>25</sup> Ari Purwita Kartika, Muhammad Lutfi Rizal Farid, and Ihza Rashi Nandira Putri, 'Reformulasi Eksekusi Kebiri Kimia Guna Menjamin Kepastian Hukum Bagi Tenaga Medis/Dokter Dan Perlindungan Hukum Bagi Pelaku Pedophilia', *Jurnal Hukum Ius Quia Iustum*, 27.2 (2020), 345–66 <<https://doi.org/10.20885/iustum.vol27.iss2.art7>>.

- b. participate in the process of selecting and determining forms of security protection and support;
- c. provide information without pressure;
- d. got a translator;
- e. free from ensnared questions;
- f. obtain information regarding the progress of the case;
- g. obtain information regarding court decisions;
- h. obtain information in terms of the convict being released;
- i. identity withheld;
- j. got a new identity;
- k. get a temporary residence;
- l. got a new residence;
- m. obtain reimbursement of transportation costs as needed;
- n. get legal advice;
- o. obtain temporary living expenses assistance until the Protection deadline expires; and/or
- p. get assistance.

In criminal intercourse, children need protection because all this time, the substance is inside regulation Law No. 35 of 2014 concerning Child Protection has not yet been obtained to protect the victim completely. Intercourse child as follow criminal law stipulated in the regulations Constitution. Child Protection and regulations legislation only focuses on punishing the perpetrators who set aside and have not thought of legal remedies for victims of sexual intercourse child. So, from That, the position of the victim of promiscuity child in the Act of Child Protection has not been optimally regulated If compared to the actor's position.<sup>26</sup> Given the law, the victim's position as a legal subject has the same position before the law If compared to the perpetrator. It explained equality before the law in principle that universally gives similarity degrees to humans.<sup>27</sup>

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<sup>26</sup> Okky Chahyo Nugroho, 'Peran Balai Pemasarakatan Pada Sistem Peradilan Pidana Anak Ditinjau Dalam Perspektif Hak Asasi Manusia', *Jurnal HAM*, 8.2 (2017), 161 <<https://doi.org/10.30641/ham.2017.8.356>>.

<sup>27</sup> Krismiyarsi Krismiyarsi, 'Study of Penal Policy on Chemical Castration Sanction on Child Sexual Crimes Cases in Indonesia', *IJCLS (Indonesian Journal of Criminal Law Studies)*, 3.2 (2018), 121–32 <<https://doi.org/10.15294/ijcls.v3i2.17171>>.

Equality before the law guarantees the right of every individual to receive equal protection and treatment in matter get equal and fair treatment before the law, get fair treatment in government and get legal services and protection. Guarantee similarity must be protected, guaranteed, and ensured by each citizen, state, and government.<sup>28</sup> Especially if, in the case of an intercourse child, restitution is restored for paying error his deeds because already intercourse child matters the felt injustice. Because serious matter raises loss physical and psychological to the victim. Whereas already emphasized the principle of equality before the law, the victim as a human has the human right to equal treatment in law and government as a form of guarantee and protection.<sup>29</sup>

Settlement of criminal cases through the criminal justice system is a series of processes consisting of several stages, namely the stages of investigation, investigation, prosecution, and examination in court and Court Decisions.<sup>30</sup> With existing case intercourse in which child restitution is Not yet considered fair, it should perpetrator give attention to the rights of victims as a child in the long term. Which is necessary become attention to the matter. This can form the defendant marrying the victim if the matter is approved by both split family defendant paying period-long costs incurred by the victims, both material and immaterial, restoring circumstances psychology experienced by the victim; help access or service education, health, social as victim's rights and fix circumstances psychic victim's family with always intertwine in a manner good connection.<sup>31</sup>

## II. CONCLUSION

With existing case Decision Atambua District Court No.66/Pid.Sus /2022/PN Atb. Decide the case that the Defendant as a convict has been legally and convincingly proven guilty of committing a crime by deliberately inducing a child to have child intercourse with her. Restitution payments given to victims are unfair and cannot restore victims' physical and psychological needs and rights because the restitution paid by the victim is solely to restore the victim's rights which cannot be long-term and cannot be considered fair in providing a solution to the criminal act of sexual intercourse child. Following criminal intercourse, children need to

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<sup>28</sup> Lusia Indrastuti and Rian Saputra, 'Lost Role of Local Governments in Coal Mining Licensing and Management Environment in Indonesia', *European Online Journal of Natural and Social Sciences*, 11.2 (2022), 397–408.

<sup>29</sup> Andri Winjaya Laksana, 'Keadilan Restoratif Dalam Penyelesaian Perkara Anak Yang Berhadapan Dengan Hukum Dalam Sistem Peradilan Pidana Anak', *Jurnal Pembaharuan Hukum*, 4.1 (2017), 57 <<https://doi.org/10.26532/jph.v4i1.1644>>.

<sup>30</sup> Roger Koppl and Meghan Sacks, 'The Criminal Justice System Creates Incentives for False Convictions', *Criminal Justice Ethics*, 32.2 (2013), 126–62 <<https://doi.org/10.1080/0731129X.2013.817070>>.

<sup>31</sup> Rian Saputra and Resti Dian Luthviati, 'Institutionalization of the Approval Principle of Majority Creditors for Bankruptcy Decisions in Bankruptcy Act Reform Efforts', *Journal of Morality and Legal Culture*, 1.2 (2020), 93–102 <<https://doi.org/10.20961/jmail.17i1.41087>>.

get protection because all this time, the substance is inside regulation Law No. 35 of 2014 concerning Child Protection has not yet been obtained completely to protect the victim. Whereas already emphasized the principle of equality before the law, the victim as a human has human rights to equal treatment in law and government as a form of guarantee and protection. In case of intercourse where child restitution is not considered fair, the perpetrator should give attention to the victims' rights as a child over a long period. Which is necessary become attention to the matter. This can form the defendant marrying the victim if the matter is approved by both split family defendant paying period-long costs incurred by victims, both material and immaterial; restoring circumstances psychology experienced by the victim; helping access or service education, health, social as victim's rights and fix circumstances psychic victim's family with always intertwine in a manner good relationship.

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