

## ENHANCING VICTIM-CENTERED JUSTICE THROUGH RESTITUTION: A FRAMEWORK FOR VICTIM IMPACT STATEMENTS IN CHILD SEXUAL VIOLENCE CASES

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### Abstract

This study examines the role of the Victim Impact Statement (VIS) and restitution in safeguarding the rights of child victims of sexual violence within Indonesia's criminal justice system. The research highlights the importance of VIS in providing victims with a formal avenue to express the physical, emotional, social, and economic impacts of crimes committed against them. The study adopts a normative juridical approach, analyzing statutory regulations and case law to assess the implementation of Supreme Court Regulation (PERMA) No. 1 of 2022. Comparative analysis with legal frameworks from other countries, such as the United States and Australia, underscores the necessity of institutionalizing VIS in Indonesia to align with international best practices. Findings reveal that while PERMA No. 1 of 2022 provides a legal foundation for restitution, significant challenges remain in terms of legal structure, substance, and culture, limiting its effectiveness. The study proposes a standardized VIS model tailored for child sexual violence cases to ensure clarity, consistency, and fairness in judicial decisions. Strengthening the legal framework, providing specialized training, and raising public awareness are crucial steps toward integrating VIS into Indonesia's justice system. This research contributes to the broader discourse on victim-centered justice, emphasizing the need for systemic reforms to enhance legal protections for child victims.

Keywords: *child victims, legal framework, restitution, Victim Impact Statement, victim-centered justice*

### INTRODUCTION

In recent decades, a great progress has been made in recognizing and fulfilling victims' rights within the criminal justice system (Dufour et al., 2023). One key mechanism in this regard is the Victim Impact Statement (VIS), which allows victims to articulate the effects of a crime on their lives. The concept of VIS emerged following the 1969 mass murder by Charles Manson's followers, which deeply affected Doris Tate, the mother of one of the victims (Webb et al., 2024). Doris became an activist and successfully advocated for the passage of the Victims' Bill of Rights in California in 1982, which granted victims or their families the right to present impact statements in court. This development marked a shift toward a justice system that acknowledges victims' suffering and ensures their voices are heard in legal proceedings (Roberts & Edgar, 2006).

VIS is closely linked to restitution, as both serve to facilitate victim recovery (Erez, 1991). VIS provides essential information for judges to determine appropriate restitution, which may include compensation for property loss, medical expenses, and psychological suffering (Ashley Benitez, 2024). In Indonesia, restitution is regulated under PERMA No. 1 of 2022, which outlines procedures for submitting claims (Badrudduja & Widowaty, 2023). For child victims, applications can be submitted by guardians, heirs, or the Witness and Victim Protection Agency (LPSK) (Studi et al., 2024). The importance of a victim-centered approach is particularly evident in cases of sexual violence, which disproportionately impact children. Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) and Law No. 35 of 2014 on Child Protection emphasize the need to safeguard victims' rights and ensure their well-being, recognizing the severe physical, psychological, and social consequences of such crimes.

Data from the National Commission for Child Protection in 2023 revealed a 30% increase in reported child abuse cases, with sexual violence being the most prevalent form of abuse (Nabilah, 2023). Despite such alarming figures, Indonesia's legal framework remains largely retributive, focusing on punishing offenders while often neglecting victims' rights (Heru Susetyo, 2023). The criminal justice system, as governed by the Criminal Procedure Code (KUHP), primarily safeguards defendants' rights, limiting victims' participation in legal proceedings. While

laws like UU TPKS and PERMA No. 1 of 2022 provide some protection, they are case-specific and lack a comprehensive framework for integrating VIS across all criminal offenses (Badrudduja & Widowaty, 2023). In contrast, countries like the Netherlands, the United States, and Australia have institutionalized VIS, allowing victims to formally present statements that influence judicial decisions.

A balanced justice system must incorporate both punitive and restorative elements, ensuring that victims receive not only compensation but also recognition of their suffering. Judges has important duties in considering VIS when issuing verdicts, as stipulated by PERMA No. 1 of 2022, which grants victims the right to restitution. However, challenges remain in fully implementing this victim-centered approach in Indonesia's legal system. Standardized procedures for VIS submission are still lacking, and the justice system continues to prioritize offender prosecution over victim support. Strengthening the legal framework to integrate VIS more comprehensively would enhance the fairness of judicial decisions and improve access to justice for victims. By adopting a more balanced approach, Indonesia can ensure that its legal system upholds justice, legal certainty, and benefits all parties involved.

## LITERATURE REVIEW

The concept of Victim Impact Statements (VIS) has gained increasing recognition in various legal systems worldwide as a means to ensure justice and provide a voice to victims in judicial proceedings. This literature review explores existing research on VIS, its evidentiary role, and its integration into Indonesia's legal framework. Additionally, it examines the implementation of PERMA No. 1 of 2022 concerning restitution and compensation, as well as the theoretical underpinnings of restorative justice.

A study by Mohammad Abduh from the Master of Law Program at Universitas Gadjah Mada investigates the role of VIS in parole decisions. The research highlights that while the United States and the United Kingdom recognize VIS as an integral factor in parole considerations, it remains a discretionary element rather than a mandatory requirement. In contrast, Indonesia lacks explicit regulations granting victims the right to participate in parole decisions. Although victim responses are included in the Social Inquiry Report (Laporan Litmas), they do not hold the same legal weight as a formal VIS, emphasizing a gap in Indonesia's legal protections for victims (Abduh Jerusalem, 2024).

Similarly, Zihan Tasha Maharani Fauzi from Universitas Islam Indonesia explores the evidentiary aspects of VIS, comparing its use in Indonesia and South Australia. The study concludes that while VIS enhances fairness in sentencing by ensuring victims' voices are heard, it should not be considered direct evidence but rather a supplementary factor for judicial consideration. South Australia has institutionalized VIS to improve sentencing proportionality, whereas Indonesia's legal framework remains underdeveloped in this regard, suggesting the need for reforms to acknowledge VIS as a relevant factor in judicial decisions.

Another study by Imera Azzahra (2023) from Universitas Brawijaya focuses on the protection of sexual violence victims through VIS in Indonesia's criminal justice system. The research underscores the urgency of legal amendments to strengthen victim rights, proposing revisions to Law No. 31 of 2014 on Witness and Victim Protection and the Draft Criminal Procedure Code (RUU KUHAP). By incorporating VIS, Indonesia's legal system could shift towards a more victim-centric approach, ensuring that victims' experiences and psychological impacts are considered in judicial proceedings. These studies collectively emphasize the necessity of integrating VIS into Indonesia's legal framework to enhance justice, align with international practices, and provide better protection for victims.

The Supreme Court of Indonesia has prioritized access to justice for women and children for over a decade. Following research by the American Bar Association Rule of Law Initiative (ABA ROLI) and the National Research and Innovation Agency (BRIN), the Supreme Court established a Working Group on Women and Children in 2010. This initiative has been reinforced by policy papers on sexual violence handling within judicial institutions. PERMA No. 1 of 2022 provides detailed guidelines on restitution and compensation mechanisms. It delineates the scope, authority of courts, victim rights, and application procedures. Restitution includes compensation for material and immaterial damages, medical expenses, and psychological support. A comparison between PERMA No. 1 of 2022 and Law No. 12 of 2022 on the Crime of Sexual Violence (UU TPKS) reveals distinctions in definition, objectives, processes, and the role of offenders in providing restitution. The PERMA provides administrative clarity, whereas the UU TPKS mandates restitution as part of sentencing.

Albert Eglash's restorative justice theory underpins the rationale for integrating VIS and restitution in criminal proceedings. Restorative justice emphasizes victim participation, offender accountability, and community involvement in achieving equitable outcomes (Soedarto, n.d.). By strengthening VIS and restitution mechanisms, Indonesia's legal system can align more closely with international restorative justice principles (Hosana, 2022). Existing research highlights significant gaps in Indonesia's legal framework regarding VIS and restitution. Key issues include the absence of explicit legal mandates for VIS in parole and sentencing, the lack of standardized evidentiary treatment of VIS, and the underdevelopment of restitution mechanisms. Future research should explore

effective models for institutionalizing VIS and restitution in Indonesia, drawing from international best practices. The reviewed literature underscores the necessity of integrating VIS and restitution into Indonesia's legal system to enhance justice, align with international practices, and strengthen victim protection. The implementation of PERMA No. 1 of 2022 represents a significant step forward, but further legal reforms are needed to ensure comprehensive victim-centered justice.

## **METHOD**

This research adopts a normative juridical approach, utilizing both statutory and case-based analyses to examine the implementation of Supreme Court Regulation (PERMA) No. 1 of 2022 within the criminal justice system, particularly in relation to the role of the Victim Impact Statement (VIS) in safeguarding the rights of child victims of sexual violence (Sonata, 2015). The study relies on legal materials categorized into: (1) Primary sources, including statutory regulations and binding court decisions, and (2) Secondary sources, such as literature, academic journals, and prior relevant studies (Negara, 2023). Legal materials are gathered through library research, involving a comprehensive review of legal documents, regulations, and judicial rulings concerning victim restitution. The research employs a descriptive-analytical method, interpreting existing legal provisions, evaluating their application in court practice, and comparing them with VIS frameworks in other legal systems (Ansari & Negara, n.d.). Ultimately, this study aims to develop recommendations for a standardized VIS model in Indonesia, ensuring consistency with victim-centered justice principles and strengthening legal protections for victims within the criminal justice system.

## **RESULTS AND DISCUSSION**

### **The importance of the Victim Impact Statement (VIS) and Restitution in Ensuring Justice for Child Victims of Sexual Violence**

Sexual violence against children is a grave crime with long-term consequences, not only for the victims but also for their families and society (Badrudduja & Widowaty, 2023). As a vulnerable group, children often struggle to express their suffering within a legal system primarily focused on the perpetrator. To ensure their voices are heard, the Victim Impact Statement (VIS) serves as a crucial instrument, allowing victims to articulate the physical, emotional, social, and economic impacts of the crime on their lives (Yunara & Kemas, 2024). VIS is a statement made by the victim or their representative regarding the impact of a criminal act. It serves an essential function in a victim-centered justice system by enabling victims to share their suffering across multiple dimensions. Many Western countries have recognized the importance of VIS since the 1960s, incorporating it into their legal frameworks to enhance the rights of crime victims. According to Robert Booth and Edgar, VIS allows victims or their families to convey their experiences to legal decision-makers through oral, written, audio, or video formats (Roberts & Edgar, 2006).

The urgency of implementing VIS in cases of child sexual violence is particularly high due to the lasting trauma it inflicts (Studi *et al.*, 2024). Victims often face severe emotional distress, social difficulties, and barriers to education and career opportunities. However, the current legal system in Indonesia remains primarily focused on punishing perpetrators rather than addressing the victims' recovery. Although the Law on Sexual Violence Crimes (UU TPKS) provides a legal basis for restitution, its implementation remains inadequate. VIS can bridge this gap by ensuring that victims' perspectives are integral to the legal process. VIS aligns with the principles of restorative justice, which emphasize repairing harm and restoring victims. By allowing victims or their families to express the impact of the crime, VIS aids emotional healing and provides judges with insights to issue more appropriate sentences (Dufour *et al.*, 2023). Countries such as the United States, Canada, and Australia have successfully integrated VIS into their judicial systems, demonstrating its effectiveness in improving victim protection and enhancing judicial decision-making (Roberts & Edgar, 2006).

In Indonesia, VIS is not yet standardized, especially in cases of child sexual violence. However, efforts have been made to prioritize justice for women and children. The Supreme Court (MA) has established a Women and Children Working Group and introduced Supreme Court Regulation (PERMA) No. 1 of 2022, which outlines procedures for restitution and compensation. This regulation provides comprehensive guidelines for courts in processing victim requests, particularly in cases involving sexual violence. PERMA No. 1 of 2022 details mechanisms for restitution, including court authority, victim rights, and application procedures. Article 3 states that courts handling the perpetrator's case are authorized to adjudicate restitution claims. Article 4 defines restitution as compensation covering loss of property or income, direct suffering, medical expenses, and other financial burdens resulting from the crime. Victims or their representatives can submit applications through the courts, the Witness and Victim Protection Agency (LPSK), or legal authorities.

A comparison between the TPKS Law and PERMA No. 1 of 2022 highlights key differences in their approach to restitution. While the TPKS Law focuses on restitution as a sanction imposed on perpetrators, PERMA No. 1 of 2022 provides structured guidelines for courts in assessing claims. Restitution can be granted for crimes such as human rights violations, terrorism, human trafficking, and child-related offenses. Compensation, on the other hand, is specifically designated for victims of terrorism and serious human rights abuses. An example of restitution implementation under PERMA No. 1 of 2022 can be seen in the Karanganyar District Court case, where LPSK filed restitution claims for six child victims. The claims covered financial losses incurred by victims' families, compensation for psychological suffering, and medical or psychological treatment costs. Based on LPSK assessments, restitution amounts were approved, ensuring that victims received fair compensation for their suffering.

Despite its growing recognition, the implementation of VIS in Indonesia faces several challenges. According to Lawrence M. Friedman's legal system theory, these challenges stem from three elements: legal structure, legal substance, and legal culture. First, law enforcement officials require specialized training to ensure VIS is effectively utilized in trials. Second, more detailed and binding regulations are needed to integrate VIS consistently into legal proceedings. Third, shifting the legal culture remains a significant hurdle, as many officials still view VIS as an optional rather than essential component of justice. VIS plays a critical role in achieving justice for child victims of sexual violence. By incorporating victims' voices into the legal process, VIS contributes to more victim-centered judicial outcomes. While challenges remain, strategic measures such as regulatory improvements, law enforcement training, public awareness campaigns, and ongoing evaluations can strengthen VIS implementation. Through these efforts, Indonesia can enhance protections for child victims and uphold their rights within the justice system.

### **A Standardized Victim Impact Statement (VIS) Model for Child Sexual Violence Cases**

A Victim Impact Statement (VIS) is a document that contains a statement from the victim or their representative regarding the consequences of a criminal act (Webb et al., 2024). In cases of child sexual violence, the VIS serves as a crucial mechanism for ensuring that the victim's voice is heard in the legal process (Bandes, n.d.). It also aids the judge in determining an appropriate punishment for the perpetrator and in deciding the restitution to be awarded. The proposed VIS model, as outlined by the author, is based on Articles 4 and 5 of Supreme Court Regulation (PERMA) No. 1 of 2022, which governs restitution for crime victims. Restitution is a form of compensation that the perpetrator must pay to the victim to help restore their condition following the crime. It includes compensation for financial or material losses, both tangible and intangible damages caused by the crime, reimbursement of medical and psychological treatment costs, and compensation for other impacts suffered by the victim. Additionally, the VIS must adhere to the requirements set forth in Article 5, which include: The identity of the Applicant The identity of the Victim (if different from the applicant) A description of the Criminal Act The identity of the Defendant/Respondent A detailed account of the Losses suffered The total amount of Restitution requested.

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**VICTIM IMPACT STATEMENT (VIS)**  
**PERNYATAAN DAMPAK KORBAN KEKERASAN SEKSUAL**

Pemohonan Restitusi  
Kepada Yth. Ketua Pengadilan Negeri (Nama Pengadilan)  
Melalui: (Langsung/LPSK/Penyidik/Penuntut Umum)  
Di (Tempat)

**I. IDENTITAS PEMOHON**

Nama	(Isi Data)
Tempat, Tanggal Lahir	(Isi Data)
Jenis Kelamin	(Isi Data)
Alamat	(Isi Data)
Pekerjaan	(Isi Data)
No. Identitas (KTP/SIM/Paspor)	(Isi Data)
No. Kontak	(Isi Data)

**II. IDENTITAS KORBAN**

Nama	(Isi Data)
Hubungan dengan Pemohon	(Isi Data)
Tempat, Tanggal Lahir	(Isi Data)
Alamat	(Isi Data)
No. Identitas	(Isi Data)

**III. URAIAN TINDAK PIDANA**

Nomor Laporan Polisi	(Isi Data)
Tanggal Kejadian	(Isi Data)
Tempat Kejadian	(Isi Data)
Kronologi Singkat	(Isi Data)

**IV. IDENTITAS TERDAKWA/TERMOHON**

Nama	(Isi Data)
Tempat, Tanggal Lahir	(Isi Data)
Alamat	(Isi Data)
Pekerjaan	(Isi Data)
No. Identitas	(Isi Data)

**V. URAIAN KERUGIAN YANG DIDERITA**

Ganti Rugi Kehilangan Kekayaan atau Penghasilan	(Uraian)
Ganti Rugi Materiil maupun Immateriil akibat Penderitaan Langsung dan Tindak Pidana	(Uraian)
Penggantian Biaya Perawatan Medis dan/atau Psikologis	(Uraian)
Ganti Rugi atas Kerugian Lain Akibat Tindak Pidana	(Uraian)

**VI. BESARAN RESTITUSI YANG DIMINTA**

No.	Jenis Kerugian	Jumlah (Rp)	Keterangan
1	Kehilangan Kekayaan/Penghasilan	(Jumlah)	(Keterangan)
2	Kerugian Materiil/Immateriil	(Jumlah)	(Keterangan)
3	Biaya Perawatan Medis/Psikologis	(Jumlah)	(Keterangan)
4	Total	(Total Keseluruhan)	(Keterangan)

**VII. PERMOHONAN**  
Dengan ini, saya mengajukan permohonan restitusi kepada Ketua Pengadilan Negeri (Nama Pengadilan) agar dapat dipertimbangkan dalam proses peradilan terhadap Terdakwa. Saya bersedia memberikan keterangan tambahan jika diperlukan.  
Demikian permohonan ini saya buat dengan sebenar-benarnya. Atas perhatian dan kebijaksanaan, saya ucapkan terima kasih.

(Tempat, Tanggal)  
(Nama Pemohon)  
(Tanda Tangan)

Figure 1. Model Victim Impact Statement

The proposed VIS model aims to establish a clear standard for protecting the rights of child sexual violence victims within the criminal justice system. It is intended for use in cases where the Witness and Victim Protection Agency (LPSK) has not submitted a restitution recommendation to the Public Prosecutor (PU) or the Court. By providing a structured format, the VIS ensures that victims or their representatives can effectively communicate the impact of the crime they endured. Furthermore, it helps judges assess the extent of the victim's suffering, leading to more just and victim-centered legal decisions. Beyond recognizing the victim's pain, the VIS plays a critical role in facilitating their recovery. The restitution included in the VIS encompasses various forms of compensation, addressing both financial and psychological aspects. Given that child sexual violence often results in long-term effects on a victim's social life and education, reimbursement for medical and psychological care becomes a fundamental component of the VIS, ensuring that the victim receives the necessary support. In addition to restitution, the VIS safeguards the victim's rights throughout the legal process. Identifying both the applicant and the victim ensures clarity on who is eligible to submit the statement. This is particularly important for minor victims, as the VIS may be submitted by a parent, guardian, or legal representative, preventing any potential neglect or misuse of the victim's rights within the judicial system.

A crucial element of the VIS is the detailed description of the crime, which provides a clear and systematic account of the events experienced by the victim. This narrative is essential in illustrating the severity of the crime's impact. Furthermore, including the defendant's or respondent's identity in the VIS ensures that the restitution claim is directed toward the responsible party. Another key aspect of the VIS is the comprehensive explanation of the victim's losses. Victims or applicants must specify the nature of the harm suffered, whether physical, psychological, social, or economic. A well-documented VIS becomes an essential factor in the judicial process, guiding the court in determining the most appropriate form of restitution. Finally, the requested restitution amount must be explicitly stated and supported by relevant evidence, such as medical bills, psychological assessments, or other documentation that substantiates the claim. This approach strengthens the victim's case and ensures that the restitution request is legally valid. By implementing a standardized VIS, the Indonesian legal system can better uphold justice for child sexual violence victims.

## CONCLUSION

The Victim Impact Statement (VIS) and restitution are essential in ensuring justice for child victims of sexual violence by incorporating their voices into legal proceedings. A standardized VIS model, aligned with Supreme Court Regulation (PERMA) No. 1 of 2022, can strengthen victim protection and facilitate fair restitution. However, challenges in legal structure, substance, and culture hinder its full implementation. To address this, Indonesia must enhance legal frameworks, provide specialized training, raise public awareness, and establish monitoring mechanisms. These steps will ensure that VIS becomes an integral part of a victim-centered justice system, fostering a safer and more just environment for children.

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