

# TRANSFORMING THE CRIMINAL SYSTEM IN INDONESIA TOWARDS RESTORATIVE JUSTICE: PROVIDING COMPENSATION BASED ON LAW NUMBER 20 OF 2025

Muslim Setiawan <sup>a\*)</sup>

<sup>a)</sup> Universitas Jenderal Soedirman, Banyumas, Indonesia

<sup>\*)</sup> Corresponding Author: [muslim.setiawan@mhs.unsoed.ac.id](mailto:muslim.setiawan@mhs.unsoed.ac.id)

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**Abstract.** This study aims to examine the transformation of Indonesia's criminal justice system toward restorative justice through the state compensation mechanism for victims of criminal offences under Law Number 20 of 2025 concerning the Criminal Procedure Code. The study specifically analyzes how the new Criminal Procedure Code positions victims and offenders as legal subjects in achieving substantive justice and identifies the mechanisms and obstacles in implementing state compensation when offenders are unable to fulfill restitution obligations. This research employs a normative juridical method using statutory, conceptual, and comparative approaches. The results show that the new Criminal Procedure Code strengthens a victim-centered orientation by recognizing compensation as a state responsibility when restitution cannot be paid by offenders. However, the absence of clear procedural rules, disharmony with existing regulations on witness and victim protection, and the lack of limitation regarding eligible crimes and victim categories create serious implementation challenges. The novelty of this study lies in its critical analysis of compensation as an instrument of substantive justice within Indonesia's emerging restorative justice framework. Practically, the study implies the need for regulatory harmonization, clearer technical procedures, limitation of compensation scope, and capacity building for law enforcement officers. This study contributes to the development of victim protection discourse and offers policy recommendations for a more effective, accountable, and sustainable compensation system.

**Keywords:** Compensation Mechanism; Restorative Justice; State Responsibility; Substantive Justice; Victim-Centered Justice.

## I. INTRODUCTION

The transformation of the Indonesian criminal justice system reflects a fundamental shift from a retributive model of punishment toward a more restorative, victim-oriented, and substantively just legal framework. For decades, criminal law enforcement in Indonesia was largely constructed around the state's authority to prosecute and punish offenders. In this model, crime was primarily understood as a violation against public order and state authority, while the victim's position was often reduced to that of a witness in the evidentiary process. Such a paradigm has been criticized for failing to sufficiently address the material, psychological, and social losses suffered by victims. The enactment of Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code represents an important legal momentum in reorienting criminal justice toward human rights protection, victim recovery, offender accountability, and social reconciliation [1], [2].

Restorative justice is increasingly recognized as an alternative paradigm that does not merely focus on punishment but also emphasizes the restoration of harm, the active participation of victims and offenders, and the repair of social relationships disrupted by criminal conduct. In the Indonesian legal context, the restorative approach has developed through various institutional policies, including prosecutorial, police, and judicial regulations that encourage settlement, reconciliation, and proportional accountability in criminal cases [3], [4]. This direction is consistent with the broader development of modern criminal law, which seeks to balance legal certainty, utility, and justice. In this regard, restorative justice is not intended to eliminate criminal responsibility, but to reconstruct it by ensuring that offenders acknowledge wrongdoing and contribute to the recovery of victims.

The victim-centered orientation introduced in the new Criminal Procedure Code is particularly significant because it expands the legal recognition of victims as subjects of justice rather than passive participants in criminal proceedings. This orientation is reflected in the regulation of restitution and compensation. Restitution refers to compensation imposed on

offenders or third parties to restore the losses suffered by victims, while compensation refers to state-funded recovery when offenders are unable to fulfill restitution obligations. This arrangement marks an important development in Indonesian criminal procedure because it affirms that the state has a responsibility not only to punish offenders but also to ensure that victims are not left without remedy when offenders lack the capacity to provide reparation [5].

However, the regulation of compensation within the new Criminal Procedure Code also raises complex normative and practical issues. Unlike several previous regulations that limited compensation to specific categories of victims, such as victims of gross human rights violations or terrorism, the new Criminal Procedure Code does not clearly restrict the type of criminal offenses or categories of victims eligible for state compensation [6], [7]. On the one hand, this broad formulation strengthens victim protection and reflects a progressive commitment to substantive justice. On the other hand, it may create uncertainty in implementation, increase the fiscal burden on the state, and potentially weaken offender responsibility if compensation is perceived as a substitute for personal accountability.

The problem becomes more serious when viewed from the perspective of regulatory harmonization. Existing legal instruments, including the Law on Witness and Victim Protection, Government Regulation Number 7 of 2018, Supreme Court Regulation Number 1 of 2022, and Law Number 12 of 2022 concerning Sexual Violence Crimes, contain different mechanisms and scopes regarding restitution and compensation [8], [9]. These differences may lead to inconsistent interpretation among law enforcement officers, judges, prosecutors, victim protection institutions, and victims themselves. The absence of a detailed procedural mechanism in the new Criminal Procedure Code regarding how compensation claims should be submitted, examined, assessed, and executed may hinder the effectiveness of the victim-centered paradigm.

From the perspective of legal theory, the issue of compensation is closely related to the principles of state responsibility, substantive justice, and the effectiveness of legal norms. A legal norm cannot operate effectively without clear substance, capable legal structures, and supportive legal culture. The effectiveness of compensation policy therefore depends not only on the existence of statutory provisions but also on the readiness of law enforcement institutions, the availability of budgetary mechanisms, the capacity of victim protection agencies, and the legal awareness of practitioners [10]. Comparative experiences from jurisdictions such as England also demonstrate that victim compensation systems require institutional clarity, eligibility criteria, assessment standards, and financial limitations to prevent misuse while maintaining victim protection [11].

In addition, the implementation of restorative justice requires adequate communication, institutional coordination, and professional competence among legal actors. Suchyadi and Marthaa emphasize that interpersonal communication plays an important role in shaping discipline and institutional behavior in educational settings, a principle that may also be conceptually relevant to legal institutions where

communication between officials and justice seekers determines the effectiveness of policy implementation [12]. Similarly, Hardinata, Suchyadi, and Wulandari highlight the importance of technological literacy and institutional readiness in facing modern governance challenges [13]. Although these studies are situated in the field of education, their insights support the argument that reform-oriented policies require competent human resources, communication capacity, and adaptive institutional culture. In the context of criminal justice reform, these elements are essential for ensuring that victims understand their rights and that law enforcement officers can properly guide compensation procedures.

The urgency of this research lies in the gap between the normative promise of restorative justice and the practical uncertainty surrounding compensation implementation. The new Criminal Procedure Code provides a broader legal basis for victim recovery, yet its effectiveness remains uncertain because of unclear procedural rules, overlapping regulations, limited institutional capacity, and the potential absence of fiscal control. If these challenges are not addressed, compensation may become merely a formal legal provision rather than a functional instrument for achieving substantive justice. Therefore, there is a need for critical legal analysis that examines how the new Criminal Procedure Code positions victims and offenders within the restorative justice framework and how state compensation should be regulated to ensure fairness, accountability, and sustainability [14], [15].

Based on this background, this study aims to analyze the transformation of Indonesia's criminal justice system toward restorative justice through the regulation of state compensation for victims of crime under Law Number 20 of 2025 concerning the Criminal Procedure Code. Specifically, this study examines two main issues: first, how the new Criminal Procedure Code positions victims and offenders as subjects in fulfilling restorative justice; and second, how the mechanism and obstacles of state compensation for victims should be understood within the framework of substantive justice. This study is expected to contribute theoretically to the development of victimology, restorative justice, and state responsibility discourse, and practically to the formulation of clearer, more accountable, and more sustainable compensation mechanisms in Indonesian criminal procedure.

## II. RESEARCH METHODS

This study employs a normative juridical research method, which is appropriate for examining legal norms, statutory provisions, legal principles, and doctrinal constructions related to state compensation for victims of crime. Normative legal research focuses on law as a system of norms and analyzes the coherence between legal rules, legal concepts, and their implementation within the broader legal system [16], [17]. In this study, the normative juridical method is used to assess the transformation of Indonesia's criminal procedure law toward restorative justice, particularly through the regulation of restitution and compensation under Law Number 20 of 2025 concerning the Criminal Procedure Code [2]. This method enables the study to evaluate whether the new compensation

framework reflects the principles of victim-centered justice, substantive justice, and state responsibility.

The research applies three main approaches: the statutory approach, the conceptual approach, and the comparative approach. The statutory approach is used to examine relevant legal instruments, including Law Number 20 of 2025 concerning the Criminal Procedure Code, Law Number 31 of 2014 concerning Witness and Victim Protection, Government Regulation Number 7 of 2018, Supreme Court Regulation Number 1 of 2022, and Law Number 12 of 2022 concerning Sexual Violence Crimes [2], [8], [9]. The conceptual approach is applied to analyze key legal concepts such as restorative justice, victim-centered justice, restitution, compensation, state responsibility, and substantive justice. Meanwhile, the comparative approach is used to compare Indonesia's compensation mechanism with victim compensation models in other jurisdictions, particularly England and the United States, in order to identify regulatory models that provide clearer institutional procedures, eligibility standards, and financial accountability [11], [18].

The data used in this study consist of secondary legal materials, including primary, secondary, and tertiary legal sources. Primary legal materials include statutes, court regulations, government regulations, and official legal documents relevant to victim compensation and criminal procedure. Secondary legal materials include academic books, journal articles, research reports, and scholarly opinions discussing restorative justice, victimology, restitution, compensation, and state responsibility [19], [20]. Tertiary legal materials, such as legal dictionaries and encyclopedias, are used to support conceptual clarification. The legal materials are collected through library research and analyzed qualitatively using a descriptive-analytical method. This analytical technique is used to describe the existing legal framework, identify disharmony among regulations, examine implementation obstacles, and formulate legal recommendations for a more effective and sustainable compensation mechanism for victims of crime.

### III. RESULTS AND DISCUSSION

#### The Position of Victims and Offenders as Subjects in Fulfilling Restorative Justice under the New Criminal Procedure Code

The findings of this study indicate that the enactment of Law Number 20 of 2025 concerning the Criminal Procedure Code marks a significant normative transformation in Indonesian criminal procedure. The new framework no longer places victims merely as evidentiary instruments in criminal proceedings but recognizes them as legal subjects whose losses, suffering, and recovery must be addressed within the criminal justice process [2]. This transformation is consistent with the broader development of restorative justice, which views crime not only as a violation of state authority but also as a harmful act that disrupts the rights, dignity, and social relations of victims, offenders, and communities [3], [15]. Therefore, justice in criminal procedure should not stop at conviction and punishment but must also include recovery, responsibility, and social restoration.

In this context, the position of victims becomes central because the new Criminal Procedure Code introduces a broader victim-centered orientation through the recognition of restitution and compensation. Restitution is imposed on offenders or responsible third parties, while compensation is provided by the state when offenders are unable to fulfill restitution obligations [2]. This regulation shows that the offender remains the primary subject of accountability, while the state functions as the guarantor of victim recovery when offender-based restitution fails. Such a construction reflects a restorative balance between offender accountability and victim protection. The offender is not only treated as an object of punishment but also as a subject required to repair the consequences of the crime. At the same time, the victim is not left without remedy merely because the offender lacks financial capacity.

However, the study also finds that the broad formulation of compensation in the new Criminal Procedure Code may create legal uncertainty if it is not followed by clear implementing regulations. Previous legal instruments, such as the Law on Witness and Victim Protection, Government Regulation Number 7 of 2018, and Supreme Court Regulation Number 1 of 2022, limit compensation mainly to specific categories of victims, including victims of gross human rights violations and terrorism [8], [21]. By contrast, the new Criminal Procedure Code provides a broader basis for compensation without clearly limiting the types of crimes, categories of victims, or maximum amount of compensation. This expansion is progressive from the perspective of victim protection, but it may also create problems in terms of fiscal sustainability, institutional readiness, and legal certainty.

The victim-centered paradigm must therefore be understood not as unlimited state liability but as a structured recovery mechanism. Without clear boundaries, compensation may create moral hazard, especially when offenders deliberately avoid restitution obligations or conceal assets because they assume that the state will ultimately bear the victim's losses. This situation may weaken the corrective function of criminal responsibility and shift the burden of crime entirely to the state. Therefore, compensation should be regulated as a subsidiary mechanism that operates only after the offender's inability to pay restitution has been verified through a clear legal and financial assessment. In this regard, the principle of state responsibility must be balanced with the principle of offender accountability [14], [22].

The results also show that the concept of victim in compensation policy requires further legal clarification. Victimology recognizes different types of victims, including direct victims, indirect victims, and community victims [23]. Direct victims are individuals who directly suffer physical, psychological, or economic harm as a result of a crime. Indirect victims include family members or dependents who suffer secondary harm, while community victims refer to broader social groups affected by criminal conduct. If the Criminal Procedure Code does not distinguish between these categories, compensation claims may become excessively broad and difficult to administer. Therefore, a clear classification of eligible victims is necessary to ensure that compensation is directed to those who suffer direct and serious harm.

From the perspective of substantive justice, compensation is important because it prevents victims from bearing the consequences of crime alone. A criminal justice system that punishes offenders but fails to restore victims remains incomplete. Nevertheless, substantive justice also requires proportionality, accountability, and institutional feasibility. Compensation must not be reduced to a symbolic promise in statutory text; it must be supported by procedural clarity, budgetary design, institutional coordination, and professional competence among law enforcement officers. As Friedman's theory of legal effectiveness explains, law works effectively only when legal substance, legal structure, and legal culture operate coherently [14]. In this case, the substance of compensation has been introduced, but its structure and culture still require substantial strengthening.

### **Mechanisms and Obstacles in the Implementation of State Compensation for Victims of Crime**

The second finding of this study concerns the absence of a comprehensive procedural mechanism for the implementation of compensation under the new Criminal Procedure Code. Although the Criminal Procedure Code recognizes the victim's right to compensation when offenders are unable to pay restitution, it does not provide detailed technical rules regarding the submission, examination, verification, assessment, decision, payment, and supervision of compensation claims [2]. This normative gap may create confusion among victims, investigators, prosecutors, judges, advocates, and victim protection institutions. In practice, a right that is not accompanied by an operational procedure may be difficult to enforce and may remain merely declarative.

The implementation challenge becomes more evident when the new Criminal Procedure Code is compared with existing regulations. Supreme Court Regulation Number 1 of 2022 provides procedural guidance for restitution and compensation, but its scope is still connected to specific categories of victims and existing statutory frameworks [8]. Law Number 12 of 2022 concerning Sexual Violence Crimes also contains a distinct mechanism by which the state may provide compensation when the offender's seized assets are insufficient to fulfill restitution obligations [9]. These different mechanisms indicate regulatory disharmony. As a result, law enforcement officers may interpret compensation differently depending on the type of crime, the applicable statute, and the procedural stage of the case. Such disharmony may undermine legal certainty and weaken victim protection.

The study further finds that one of the most critical obstacles is the limited understanding of law enforcement officers regarding compensation as part of restorative justice. Investigators, prosecutors, and judges are legally expected to inform victims of their rights, including the right to restitution and compensation. However, when procedural rules are unclear, officers may hesitate to provide such information or fail to guide victims properly. This condition may result in the non-fulfillment of victims' rights even when the law formally recognizes them. Previous studies on legal implementation show that institutional capacity, legal literacy, and communication among officials play an important role in ensuring that legal reforms are effectively translated into practice [12], [13], [24].

Comparative analysis demonstrates that victim compensation systems in other jurisdictions are generally supported by specialized institutions, eligibility criteria, and standardized assessment procedures. In England, victim compensation is administered through the Criminal Injuries Compensation Authority, which assesses applications based on specified criteria and compensation tariffs [11], [25]. In the United States, the Office for Victims of Crime supports victim compensation programs that reimburse eligible victims for crime-related expenses, including medical costs, mental health counseling, lost wages, and funeral expenses [26]. These models show that compensation requires institutional specialization and administrative mechanisms that are separate from, but coordinated with, criminal justice proceedings.

The Indonesian compensation framework therefore requires the establishment of an integrated mechanism that combines judicial authority, victim protection institutions, and state financial administration. The mechanism should begin from the early stages of criminal proceedings, where investigators are required to identify potential victim losses and inform victims of their rights. Prosecutors should ensure that restitution claims are included in the prosecution strategy, while judges should clearly state restitution obligations and the consequences of offender inability in the judgment. If offenders are unable to pay, the victim protection institution should verify the claim and submit a recommendation for state compensation. The payment should then be processed through a designated public fund with clear audit and accountability mechanisms.

A major policy issue concerns the source of compensation funding. Since compensation is paid by the state, it will ultimately affect public finance. Without eligibility restrictions, the state may face an excessive financial burden, especially in crimes involving large economic losses such as fraud, embezzlement, or corruption-related offenses. Therefore, compensation should prioritize victims who suffer serious bodily injury, psychological trauma, sexual violence, terrorism, gross human rights violations, trafficking in persons, and other crimes causing severe and direct harm. This does not mean that victims of economic crimes should be excluded entirely, but their compensation mechanism should be carefully distinguished from asset recovery, restitution enforcement, civil claims, and seizure-based recovery.

The findings also indicate that the compensation mechanism should include a maximum payment ceiling and proportional assessment criteria. Comparative experience from England shows that compensation schemes often use tariff-based or capped payment models to ensure predictability and fiscal sustainability [11], [25]. Indonesia may adopt a similar model by establishing categories of compensable harm, such as medical treatment, psychological rehabilitation, loss of income, funeral expenses, and long-term care. Each category should be assessed based on evidence, proportionality, and statutory limits. This approach would provide certainty for victims while preventing excessive or fraudulent claims.

The compensation mechanism should be designed not only as a legal right but also as an accountable public policy instrument. The state must ensure that victims receive effective recovery, but it must also prevent misuse, ensure budgetary

discipline, and maintain offender accountability. Compensation should therefore be treated as a subsidiary and exceptional mechanism, not as a replacement for restitution. The offender's assets must first be traced, seized, and used to satisfy restitution obligations. State compensation should be activated only when those efforts are insufficient or impossible.

The discussion further confirms that restorative justice in criminal procedure cannot be implemented solely through statutory recognition. It requires an institutional ecosystem that includes clear norms, professional structures, adequate budgets, victim assistance services, and a supportive legal culture. Satjipto Rahardjo's progressive legal thought emphasizes that legal norms require human agency to achieve justice [27]. In this context, investigators, prosecutors, judges, advocates, and victim protection officers must act not merely as procedural actors but as agents of substantive justice. They must ensure that victims are informed, heard, protected, and restored.

The novelty of this study lies in its argument that compensation under the new Criminal Procedure Code should be understood as a bridge between restorative justice and state responsibility. Previous compensation frameworks were relatively limited to specific crimes, while the new Criminal Procedure Code expands the possibility of compensation across broader criminal cases. This expansion represents an important legal breakthrough, but it must be accompanied by a structured mechanism to avoid legal uncertainty and fiscal vulnerability. Therefore, the contribution of this study is the formulation of a balanced compensation model based on four principles: victim recovery, offender accountability, state responsibility, and institutional sustainability [28], [29].

In conclusion, the results and discussion demonstrate that the new Criminal Procedure Code has created an important foundation for strengthening victim-centered justice in Indonesia. However, the effectiveness of state compensation depends on the harmonization of regulations, the development of technical procedures, the clarification of eligible victims and crimes, the establishment of funding mechanisms, and the improvement of law enforcement capacity. Without these measures, compensation may remain an abstract norm that fails to provide real recovery for victims. Conversely, with proper regulation and implementation, compensation can become a concrete instrument of substantive justice within Indonesia's restorative criminal justice system.

### III. CONCLUSIONS

The new Criminal Procedure Code brings a paradigm shift in criminal law towards a restorative justice approach that is victim-centered oriented. In this paradigm, victims and perpetrators are seen as important subjects in the process of solving criminal acts. The perpetrator is not only punished, but also charged with the responsibility to recover the victim's losses through restitution, while the victim is given the right to recovery through restitution and compensation. If the perpetrator is unable to pay restitution, the state is obliged to provide compensation. However, the compensation arrangements in the Criminal Code that do not limit the type of

criminal act or the type of victim have the potential to cause abuse, burden the state's finances, and weaken the responsibility of the perpetrator. Therefore, clear restrictions are needed regarding the type of crime, the type of victim, and the amount of compensation in order to create legal certainty and a balance between victim protection and the state's capabilities. In its implementation, the provision of compensation based on the Criminal Code still faces various obstacles because there is no implementing rule that regulates the procedures for submitting, auditing, and implementing compensation in detail. The disharmonization between the Criminal Procedure Code, the LPSK Law, Government Regulation Number 7 of 2018, Perma Number 1 of 2022, and the TPKS Law causes differences in mechanisms and interpretations in practice. As a result, law enforcement officials often have difficulty providing information to victims about compensation rights, so that victims' rights have not been fulfilled effectively. This condition shows that the victim-centered paradigm in the Criminal Code is still normative and has not been fully implemented in practice. Therefore, it is necessary to harmonize regulations, establish comprehensive implementing rules, and increase the understanding of law enforcement officials so that the goal of restorative justice in the form of victim protection and recovery can be realized in real terms.

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