

## THE ROLE OF LPSK TOWARDS THE DISTRIBUTION OF LOSSES AND DISTRIBUTIVE JUSTICE TO VICTIMS

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### Abstract

This article aims to analyze the role of the Witness and Victim Protection Agency (LPSK) in the distribution of losses experienced by victims and its contribution to realizing distributive justice. The problem formulations proposed in this research are: (1) What is the form of loss distribution provided by LPSK to victims of crime? and (2) What are the challenges faced by LPSK in implementing loss distribution and realizing distributive justice for victims? This research uses a normative juridical approach by analyzing the applicable laws and regulations as well as the LPSK annual report as research material.

Keywords: LPSK, victims, distributive justice, loss recovery

## INTRODUCTION

Victims of criminal acts in the Indonesian criminal justice system are still often neglected. The traditional offender-oriented approach has led to sentencing processes that tend to disregard the rights of victims. However, from the perspective of distributive justice, victims have both moral and legal rights to obtain restitution for the harm they have suffered. Based on the provisions of Law No. 31 of 2014, the Witness and Victim Protection Agency (LPSK) is legally mandated to facilitate victim recovery through mechanisms such as restitution and compensation. Nevertheless, the implementation of this function in practice has often been far from optimal.

In Indonesia's criminal justice system, victims are frequently marginalized. In the enforcement of criminal law, the focus is predominantly on the perpetrators and the prosecution process, while the protection of victims' rights and interests is often overlooked. This has resulted in minimal efforts to redress the losses suffered by victims—whether material, psychological, or social.

Meanwhile, within the framework of modern justice, particularly through the *restorative justice* approach, the redress of victim losses is seen as a fundamental aspect of establishing a fair justice system. The establishment of the Witness and Victim Protection Agency (LPSK) represents a state initiative to meet the need for protection and recovery of victims' rights. LPSK was established under Law No. 13 of 2006 concerning the Protection of Witnesses and Victims, which was later strengthened by Law No. 31 of 2014. One of LPSK's core functions is to provide recovery services for victims, which include the provision of compensation, restitution, medical and psychological rehabilitation, legal assistance, and guarantees of safety and protection.

Although normatively LPSK holds a strategic role in victim recovery, its implementation in the field still faces various challenges. These obstacles include budgetary constraints, insufficient human resources, and the low level of awareness among law enforcement officers regarding victims' rights. This situation further worsens access to protection and recovery—especially for vulnerable victim groups such as women, children, persons with disabilities, and indigenous communities.

This issue becomes even more significant when analyzed through the lens of distributive justice, which emphasizes the importance of proportional allocation of rights and responsibilities, particularly in ensuring the restoration of victims' rights to compensation for the suffering caused by criminal acts. Within this framework, crime victims should be treated as a priority group deserving state protection through affirmative policies. Therefore, evaluating the effectiveness of LPSK's role is not only relevant from a normative legal standpoint but is also crucial in the broader effort to realize social justice.

This study aims to analyze the extent of LPSK's role in restoring victims' losses and its contribution to achieving distributive justice in Indonesia. The study will examine the forms of protection provided by LPSK, the challenges of its implementation, and the degree to which these efforts align with the principles of distributive justice as developed by political philosophers such as John Rawls and Amartya Sen. Using a normative juridical approach and literature study, this article is expected to contribute academically to the development of victim protection within the national legal system.

## RESEARCH METHODS

This study adopts a normative juridical method, which is an approach based on the examination of legal norms contained in statutory regulations and supported by secondary legal materials such as legal literature. This approach is used to thoroughly examine the role of the Witness and Victim Protection Agency (LPSK) in efforts to restore victims' losses and to assess the extent of its contribution to achieving the principles of distributive justice.

By using the normative juridical method, the researcher is able to systematically trace the normative regulations that govern victims' rights and the authority of LPSK as stipulated in the following:

- a. Law No. 31 of 2014 on the Protection of Witnesses and Victims (as an amendment to Law No. 13 of 2006)
- b. Government Regulation No. 7 of 2018 concerning the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims;
- c. Legal instruments related to restitution, compensation, and victim recovery within the criminal justice system;
- d. Official documents and annual reports from LPSK as secondary legal materials.

The types of legal materials used in this study consist of:

- a. Primary legal materials: legislation that regulates the protection of witnesses and victims, as well as its implementing regulations;
- b. Secondary legal materials: books, scholarly articles, previous research findings, and expert opinions relevant to victim protection and rights recovery;
- c. Tertiary legal materials: legal dictionaries and legal encyclopedias used to clarify legal terminology.

This study applies qualitative analysis techniques by interpreting applicable legal provisions and comparing them with the principles of distributive justice. This analysis is reinforced by data from LPSK annual reports, which serve as empirical benchmarks to assess the extent to which these legal norms are implemented in practice.

In addition, a theoretical approach is employed to examine the alignment between Indonesia's positive legal norms and distributive justice theories, particularly John Rawls' difference principle and Amartya Sen's capability approach.

This method is chosen because it is relevant to the objectives of the research, namely to examine the adequacy of regulations and institutional effectiveness in realizing legal protection for victims. Through this method, the study is expected to contribute to the development of victim protection law both conceptually and practically.

## **RESULT AND DISCUSSION**

### **1. Forms of Victim Compensation and Recovery by the Witness and Victim Protection Agency (LPSK)**

The Witness and Victim Protection Agency (LPSK) was established as a mandate of Law No. 13 of 2006 in conjunction with Law No. 31 of 2014 concerning the Protection of Witnesses and Victims. One of LPSK's primary functions is to provide recovery mechanisms for victims of criminal acts, which include the provision of compensation, restitution, and rehabilitation services aimed at restoring the victims' physical and psychological condition. Compensation is granted by the state to victims, particularly in cases of gross human rights violations or acts of terrorism, while restitution refers to reparations imposed on the offender by court order.

LPSK is responsible for facilitating the legal process of submitting restitution claims and advocating for the victim's right to compensation. In addition, LPSK provides psychological support services, medical rehabilitation, and legal assistance. According to the 2023 Annual Report of LPSK, "the number of restitution applications submitted throughout the year increased by 60% compared to the previous year, with the majority arising from cases of sexual violence and human trafficking." The state's obligation to protect victims includes the fulfillment of their basic rights as part of efforts to alleviate the suffering caused by crime. This recovery is not solely material but also includes the restoration of dignity, a sense of security, and the victim's psychosocial well-being. In certain cases—such as violence against children and women—psychosocial recovery is often more urgent than financial compensation.

Therefore, the comprehensive approach applied by LPSK in handling victim recovery is a crucial principle that deserves recognition.

The amount of compensation granted by LPSK varies depending on the type of crime and the extent of the victim's loss. During the 2020–2022 period, LPSK disbursed compensation to 631 victims of past terrorism acts, with a total amount reaching IDR 103,416,852,987.00. The breakdown is as follows: in 2020, IDR 39.205 billion was distributed, and in 2021–2022, IDR 59.720 billion. For example, an individual victim named Bachtiar Johan received compensation amounting to IDR 35 million (for material losses) and IDR 12.5 million (for immaterial losses).

The legal provisions regarding compensation are regulated under Article 43L paragraph (4) of Law No. 5 of 2018, which was later extended to a 10-year period by Constitutional Court Decision No. 103/PUU-XXI/2023. Its implementation is based on Government Regulation No. 35 of 2020 and Government Regulation No. 7 of 2018, with technical procedures regulated under LPSK Regulation No. 7 of 2020, as last amended by LPSK Regulation No. 5 of 2024.

## **2. Challenges in the Implementation of Victim Compensation and Recovery**

Although LPSK's authority is normatively strong, its implementation in the field faces numerous challenges. **First, budget constraints** are the primary obstacle in executing state-funded compensation. Not all eligible victims can receive compensation due to limited funding in the national budget (APBN). **Second, the restitution application process** still encounters various bureaucratic hurdles. Victims often lack access to legal information and assistance, making it difficult for them to submit claims. While LPSK provides facilitation, not all regions receive equal assistance due to **limited human resources**. LPSK reports state:

"Many law enforcement officers still do not understand the mechanisms for restitution and compensation, resulting in victims' rights often being overlooked in the criminal justice process."

This highlights the urgent need for comprehensive training and legal outreach for all stakeholders, including investigators, prosecutors, and judges.

Third, inter-agency coordination remains suboptimal. In some cases, LPSK does not receive full support from the police or prosecutors in obtaining documents or expediting legal processes. This delays recovery efforts and may result in negative psychological impacts on victims.

## **3. LPSK's Contribution to Realizing Distributive Justice**

The concept of distributive justice, as articulated by John Rawls, emphasizes the principle that social and legal systems should benefit those who are the most disadvantaged in society. Victims of crime are among the most harmed and are most in need of state intervention to restore their rights. The role of LPSK in the framework of distributive justice is highly significant. Through the provision of compensation and the facilitation of restitution, the state acts as a guarantor of justice for victims—who have long been underprotected within a conventional offender-oriented justice system.

"Compensation and restitution are not merely forms of assistance, but a recognition of the victims' suffering and the restoration of their rights as citizens."

This illustrates that LPSK has begun to shift the paradigm from a retributive justice system toward a model that is more restorative and distributive in nature.

However, the implementation of distributive justice by LPSK still faces structural and political challenges. A more comprehensive policy reform is needed, including regulatory harmonization, budget increases, and the establishment of victim assistance units at the local level, in order to ensure that justice is truly accessible to all segments of society.

#### **4. Case Study on LPSK's Implementation of Victim Recovery**

As a concrete illustration, in 2023 the Witness and Victim Protection Agency (LPSK) handled a child sexual violence case in a region of Central Java, in which the victim received restitution amounting to over IDR 30 million through intensive support provided by LPSK. This demonstrates that despite administrative challenges, victim recovery can still be successfully implemented when there is active support from relevant institutions.

In LPSK's 2023 report, it is stated that:

"The provision of restitution and compensation is a form of state responsibility toward victims, particularly in cases of gross human rights violations or other serious crimes."

This statement reinforces LPSK's commitment as a constitutional mandate bearer in the context of victims' rights protection.

In 2020, LPSK, in collaboration with the Ministry of Finance, distributed compensation to 357 victims of past terrorism acts (pre-2018) with a total value of IDR 39 billion. One of the recipients was the family of a victim of the 2002 Bali Bombing, who received compensation for the loss of a family member and for severe injuries.

Compensation, provided by the state when the perpetrator is unable to pay restitution or has not yet been prosecuted, reflects the state's responsibility to victims and serves as a form of retroactive distributive justice.

#### **5. Theoretical Perspective of Distributive Justice in LPSK Policy**

According to John Rawls' theory of distributive justice, a distribution is considered just when it provides the greatest benefit to the least advantaged members of society (*the difference principle*). LPSK's policies align with this principle by prioritizing victims as the most disadvantaged party within the criminal justice system.

The implementation of this policy is heavily influenced by the political will of the state and the support of other institutions. LPSK cannot work in isolation to realize distributive justice. Cross-sectoral policies that support and facilitate comprehensive victim recovery are essential.

#### **6. Authorities of LPSK**

LPSK holds the following authorities:

- a. To provide protection of identity and residence.
- b. To offer medical, psychological, and rehabilitation assistance.
- c. To provide legal assistance, including restitution (compensation from the perpetrator) and compensation (from the state).
- d. To resolve consumer disputes through non-litigation means.
- e. To issue decisions that are final and binding, if not challenged in court within a specified period
- f. To supervise the circulation of goods and services.

On the efforts of protection and implementation of loss recovery within the framework of distributive justice, in the context of justice, the process of recognizing, respecting, and restoring the dignity of victims is an essential part of *loss recovery*, in addition to compensating for financial losses. In this regard, victim protection forms the basis for LPSK's legitimacy in advocating for distributive justice. But does LPSK have the authority to receive funds under the Loss Recovery Mechanism?

In reality, LPSK does not have direct authority to "receive" compensation funds (restitution) from either perpetrators or victims. LPSK's role is limited to facilitating and submitting restitution and compensation requests to the competent institutions. This is regulated in:

- a. Law No. 31 of 2014 on the Protection of Witnesses and Victims,
- b. Government Regulation No. 7 of 2018 on the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims,
- c. Supreme Court Regulation (Perma) No. 1 of 2022 on Procedures for Providing Restitution to Victims of Criminal Acts,
- d. In practice, LPSK facilitates the submission of compensation applications to the Ministry of Finance and delivers restitution recommendations to the Prosecutor's Office, to be included in the criminal charges by the prosecutor.

Some cases facilitated by LPSK have resulted in court decisions, including:

- a. Decision No. 195/Pid.Sus/2021/PN.Mks: The Makassar District Court imposed criminal penalties and set restitution against a sexual violence perpetrator, based on the prosecutor's charges following an LPSK recommendation.
- b. Decision No. 130/Pid.Sus/2023/PN.Jkt.Tim: A restitution amounting to IDR 37,500,000 was granted to a child sexual exploitation victim.

In both cases, LPSK submitted a restitution value recommendation, which was then included in the prosecutor's charges and granted by the court in its verdict.

During the distribution or execution of restitution and compensation, the Prosecutor plays a critical role, including:

- a. Including the restitution request in the criminal indictment, in accordance with Article 98 of the Indonesian Criminal Procedure Code (KUHAP) in conjunction with *Perma No. 1 of 2022*,
- b. Once the verdict becomes legally binding (*inkracht*), execution is carried out by the prosecutor as mandated by KUHAP
- c. If the perpetrator is unable to pay, the state may provide compensation, for which the application is submitted by LPSK to the Minister of Finance.

The authority to demand and execute compensation components of a verdict lies entirely with the Prosecutor, not in direct fund distribution.

The functions of LPSK, the Prosecutor's Office, and the Courts are interrelated in the victim loss recovery process:

- a. LPSK: Provides victim loss assessment services, prepares restitution value recommendations,
- b. Prosecutor's Office: Follows up on the recommendation by including it in the criminal indictment and executes the verdict,
- c. Court: Tries the case and formally determines the restitution amount.

Coordination among these three institutions is crucial in ensuring the effectiveness of victim recovery.

## CONCLUSIONS

Research findings indicate that although LPSK has provided compensation, restitution, and rehabilitation to victims, significant challenges remain in the implementation of these policies—particularly concerning budget constraints, inter-agency coordination, and law enforcement's understanding of victims' rights. To achieve distributive justice, there is a need for policy harmonization, institutional strengthening of LPSK, and synergy among relevant stakeholders in victim protection.

LPSK holds a strategic role in Indonesia's criminal justice system, especially in ensuring the protection and restoration of victims' rights. Normatively, LPSK has a sufficient legal basis and mandate. However, its implementation still faces various obstacles, including budgetary and human resource limitations, complex bureaucratic procedures, and lack of inter-institutional synergy. Within the framework of distributive justice, LPSK has made tangible contributions, although further institutional strengthening, consistent policy support, and increased public awareness are still needed to fully realize the recovery of victims' rights.

LPSK has strategic authority in facilitating loss recovery, particularly in the form of restitution recommendations and submission of compensation claims to the state. Although it does not manage compensation funds directly, LPSK plays a crucial role in ensuring that victims receive their entitlements through legally formal mechanisms. Court rulings that include restitution based on LPSK's recommendations demonstrate a growing judicial awareness of victims' rights, as seen in Decision No. 195/Pid.Sus/2021/PN.Mks and Decision No. 130/Pid.Sus/2023/PN.Jkt.Tim. This reflects a legal system increasingly accommodating restorative and distributive justice approaches.

The role of the prosecutor is central in the restitution process—as the party who includes the restitution demand in the indictment and executes the court's decision. However, the success of this initiative heavily depends on the effectiveness of coordination among LPSK, the Prosecutor's Office, and the Courts. To establish a comprehensive and just victim recovery system, it is essential to strengthen implementing regulations, promote awareness among law enforcement officers, and ensure political will from both central and local governments.

## **ACKNOWLEDGMENT**

All praise and gratitude I offer to the presence of Almighty God, for His guidance, support, and sustenance that have enabled the author to complete this legal journal entitled: "The Role of LPSK in Loss Distribution and Distributive Justice for Victims."

This journal is prepared as one of the academic requirements for the course "Scientific Publication II" in the Master of Law Program at Universitas 17 Agustus 1945 Jakarta.

Throughout the process of writing this journal, the author has received valuable guidance and support from many parties, whose contributions were instrumental in the timely completion of this work. Therefore, with great humility, the author wishes to express sincere gratitude and highest appreciation to:

1. Dr. Adv. Apt. Gunawan Widjaja, S.H., S.Farm., M.H., M.M., M.K.M., M.A.R.S., ACIArb, MSIArb, as the lecturer of the course and First Author, for his direction, mentorship, and continuous motivation throughout the learning process.
2. Dr. Wagiman, S.Fil., S.H., M.H., as the course lecturer and Second Author, for his guidance, advice, and encouragement during the course.
3. Myself, as a student and Third Author, for the perseverance in nurturing a commitment to intellectual development. May the dedication and effort shown during this academic journey contribute meaningfully to my future path—both in legal practice and academia.

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