

## **Judges' Consideration on Restitution for Sexual Violence Against Minor's Child Victim**

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### **ABSTRACT**

This Legal Research is not only aimed to analyse the regulation of restitution in sexual violence against minor cases, but also to study the practice of relevant legal enforcement in ensuring and protecting the rights of restitution of the child victim in sexual violence against minor's cases. This Legal Research uses normative-empirical approach, which includes the combination of library, literature, and field research. The data acquired in this research are primary data, and secondary data which are analysed through descriptive analysis between restitution legal enforcement and studies regarding restitution, as well as observation towards several sexual violence against minor cases. The first finding in this Legal Research is that the judge in sexual violence against minor cases would consider in granting restitution for the victim based on the procedure used in accordance with the applicable law and regulation, he loss suffered by the child victim based on the supporting evidence of the loss and the capability of the convict to pay for the restitution. Furthermore, the second finding in this Legal Research is that the calculation standard used by the judge in granting the amount of restitution is based on the amount of restitution requested by the child victim's which were commonly based on the material losses suffered by the victim.

**Keywords:** Restitution, Sexual Violence Against Minor, Judge Consideration, Indonesian Criminal Law

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### **INTISARI**

*Penelitian Hukum ini tidak hanya bertujuan untuk menganalisis peraturan terkait restitusi dalam kasus kekerasan seksual terhadap anak, tetapi juga untuk menganalisis praktik penegak hukum yang relevan dalam menjamin dan melindungi hak-hak restitusi anak korban dalam kasus kekerasan seksual terhadap anak.. Penelitian Hukum ini menggunakan pendekatan normatif-empiris, yang meliputi perpaduan antara penelitian kepustakaan, literatur, dan penelitian lapangan. Data yang diperoleh dalam penelitian ini adalah data primer dan data sekunder yang dianalisa dengan analisis deskriptif antara penegakan hukum restitusi dan kajian hukum terkait restitusi, serta observasi terhadap beberapa kasus kekerasan seksual terhadap anak di bawah umur. Penemuan pertama dalam Penelitian Hukum ini adalah hakim dalam kasus kekerasan seksual terhadap anak untuk memberikan restitusi bagi anak korban akan mempertimbangkan prosedur yang berlaku sesuai peraturan perundang-undangan yang berlaku, juga mempertimbangkan kerugian yang diderita oleh anak korban berdasarkan bukti-bukti pendukung kerugian tersebut, dan mempertimbangkan kesanggupan terpidana dalam membayar restitusi. Selanjutnya, penemuan kedua pada Penelitian Hukum ini adalah standar perhitungan yang digunakan hakim dalam memberikan besaran restitusi didasarkan pada besarnya restitusi yang diajukan oleh pihak anak korban dimana perhitungan umumnya didasarkan pada kerugian materiil yang diderita oleh anak korban.*

**Kata Kunci:** *Restitusi, Kekerasan Seksual Terhadap Anak, Pertimbangan Hakim, Hukum Pidana Indonesia.*

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