

Recovery of Victims' Economic Losses from a Civil Law Perspective on the Implementation of Criminal Social Work

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ABSTRACT

Recovery of the victim's economic losses from a civil law perspective is a legal consequence of an unlawful act that causes losses as regulated in Article 1365 of the Civil Code. Every perpetrator who causes losses is obliged to provide compensation to the victim as a form of civil liability. However, in criminal justice practice, the application of social work as an alternative punishment in the Criminal Code is more oriented towards the development of the perpetrator, so that the aspect of recovering victims' losses has not received adequate attention. This study aims to analyze the recovery of victims' losses from a civil law perspective in criminal cases that apply social work and to formulate an ideal formulation for the application of social work that still guarantees effective and just recovery of victims' losses. This study uses a normative juridical method with a statutory and conceptual approach. Data were obtained through a literature study of primary, secondary, and tertiary legal materials that were analyzed qualitatively using descriptive-analytical techniques. The results of the study indicate that the victim's right to compensation remains inherent even though the perpetrator is sentenced to social work, so that criminal liability does not eliminate the perpetrator's civil responsibility. Therefore, the application of community service sentences needs to be integrated with the obligation to provide restitution or compensation, giving judges the authority to combine criminal and civil aspects in decisions, and implementing a restorative justice approach to achieve legal certainty, benefits, and justice for victims, perpetrators, and the community.

Keywords: Victim Loss Recovery, Civil Law, Criminal Law, Social Work, Restitution, Restorative Justice.

INTRODUCTION

In practice, the criminal law system in Indonesia still places more emphasis on imposing sanctions on perpetrators of criminal acts as the main objective of law enforcement (Shindu Prastu Qildi Wibowo Mukti & Abd. Wachid Habibullah, 2025). often resulting in victims being viewed only as those assisting in the evidentiary process in court, rather than as subjects entitled to restitution. Consequently, various victims' rights, particularly those related to restitution for the losses they suffered, have not received optimal attention as a crucial component of achieving justice.(Shindu Prastu Qildi Wibowo Mukti & Abd. Wachid Habibullah, 2025).

Attention to victims of crime is growing with the emergence of the concept of restorative justice, which places victims, perpetrators, and the community as important parts in resolving criminal cases. (Arief, 2016)Restorative justice is an approach in the criminal justice system that emphasizes efforts to restore peace and improve social relations that have been disrupted due to criminal acts. (Witjaksono et al., 2023)This approach emphasizes restoring social relationships and compensating victims for their losses rather than simply imposing criminal penalties on the perpetrator. Victims have the right to receive compensation for the material and immaterial suffering they experience as a result of a crime. However, law enforcement practices

in Indonesia still show that the mechanism for compensating victims for losses has not been implemented optimally. Many criminal decisions simply result in the conviction of the perpetrator without concretely fulfilling the victims' rights.(Achmad, 2025).

However, Indonesia's criminal law reform has begun to introduce community service as an alternative to imprisonment. Community service is seen as more humane because it aims to provide correctional assistance to offenders without requiring them to be placed in correctional facilities.(Zulfa, 2020). Furthermore, this type of punishment is expected to reduce the negative impact of overcrowding in correctional institutions, which has long been a serious problem in the Indonesian penal system. The introduction of community service also reflects a paradigm shift from a repressive approach to a corrective and rehabilitative approach. However, the application of community service still raises questions about the extent to which it can provide justice for victims.

From a civil law perspective, any act that causes loss to another party essentially gives rise to a legal obligation to provide compensation (Nusantara Literacy Team, 2020), implicitly constituting a provision regarding unlawful acts, as stipulated in Article 1365 of the Civil Code. Therefore, perpetrators of criminal acts are not only criminally responsible but also civilly liable for the losses suffered by the victim. The problem is that the application of community service penalties is often more oriented towards the perpetrator's development and social interests, resulting in less attention being paid to the aspect of reparation for the victim's losses. Consequently, victims must pursue separate civil lawsuits to obtain their rights.

The 2025 Criminal Procedure Code (KUHP) provides opportunities for victims to file combined claims for compensation in criminal cases. However, this mechanism is rarely used in practice due to various obstacles, including procedural and evidentiary issues, as well as a lack of public understanding of their rights (Zulfa, 2020), often resulting in ineffective compensation for victims' losses in the criminal justice process. Meanwhile, the application of community service as an alternative to criminal penalties has the potential to further distance victims from compensation for their losses if not accompanied by a clear civil accountability mechanism. Therefore, a more in-depth study of the relationship between community service and compensation for victims' losses from a civil law perspective is needed.

A criminal justice system that focuses solely on punishing perpetrators without considering the restoration of victims' rights has the potential to create societal inequality. Conversely, the application of community service penalties combined with a compensation mechanism can create a more just and responsive law enforcement model for victims' interests. Therefore, further studies are needed to determine how compensation for victims' losses is addressed from a civil law perspective in criminal cases involving community service penalties. Furthermore, it is crucial to examine the ideal formulation for the application of community service penalties that can guarantee effective and just compensation for victims' losses.

RESEARCH METHODS

The method used in this research is normative juridical, namely a legal research method that seeks to find legal rules, principles, and doctrines to answer the issues faced (Marzuki, 2023)related to how to recover victims' losses from a civil law perspective in criminal cases that apply community service penalties. The data used in this study were obtained from legal and non-legal literature. The approach used is a statute approach and a conceptual approach related to the legal issue being studied. The laws and regulations used in this study include the Criminal Code (KUHP), Criminal Procedure Code (KUHP), Civil Code (KUHPerdata), and other provisions related to community service penalties and victim loss recovery in the Indonesian criminal justice system.

The data analysis technique used in this study is qualitative analysis, which involves systematically reviewing and interpreting the obtained legal materials and relating them to the legal issues under study. Furthermore, these legal materials were analyzed using legal interpretation methods to gain a comprehensive understanding of the relationship between criminal and civil liability for victims of crime. The results of the analysis are then compiled descriptively and analytically to provide an overview of the legal issues under study and to find an ideal formulation for implementing community service punishment that still ensures effective and equitable restitution of victims' losses.

RESULTS AND DISCUSSION

1. Restoration of Victims' Economic Rights from a Civil Law Perspective in Criminal Cases Implementing Community Service Punishments

Restitution of victims' economic losses is a form of legal protection aimed at restoring victims' rights after a crime. From a civil law perspective, any act that causes harm to another party creates a legal obligation for the perpetrator to provide compensation, as stipulated in Article 1365 of the Civil Code (KUHPerdata), which states. This provision demonstrates that legal accountability extends beyond the criminal aspect, as a form of relationship between the perpetrator and the state, and also encompasses civil responsibility for victims who suffer losses. Therefore, criminalizing the perpetrator does not eliminate their obligation to compensate the victim for the losses suffered. This restitution is a manifestation of the principle of corrective justice, which aims to restore the legal balance between the perpetrator and the victim.

The development of the criminal justice system shows a paradigm shift that is no longer solely oriented towards punishing perpetrators but also pays attention to protecting the rights of victims. (Dewi et al., 2026) The Criminal Procedure Code (KUHP) reform aims to build a fairer criminal justice system by strengthening the principles of due process of law and protecting human rights. This reform is based on the fact that the current criminal procedure law still prioritizes the crime control model, resulting in the protection of individual rights, including those of victims, not being optimally implemented. This approach demonstrates that victim protection is an integral part of the goal of reforming Indonesia's criminal justice system. (Dewi et al., 2026).

The victim's right to recover economic losses is also in line with the concept of legal protection developed in modern criminal law. The concept of restorative justice positions the victim as a party who must receive attention through the recovery process, not simply as evidence in the criminal proceedings. This approach emphasizes resolving cases through dialogue, deliberation, and restoring relationships between perpetrators, victims, and the community. (Dian Rosita et al., 2024). Thus, the success of criminal case resolution is measured not only by the punishment imposed on the perpetrator but also by the fulfillment of the victim's right to restitution for the losses they suffered. This perspective demonstrates that victim restitution is integral to implementing a just criminal justice system.

However, the mechanism for recovering victims' economic losses still faces various obstacles. Victims often have to file separate civil lawsuits to obtain compensation, even though the losses arise from a criminal act that has already been decided by a criminal court. This situation makes the recovery process lengthier, requires additional costs, and potentially reduces victims' access to justice. From a criminal procedure perspective, this situation indicates that the criminal justice system is still more oriented towards resolving the perpetrator's criminal liability than resolving the losses suffered by the victim. As a result, the goal of legal protection for victims is not optimally achieved, even though the perpetrator has been found guilty by the court.

This issue becomes even more relevant when the punishment imposed is community service or probation. As an alternative form of punishment in the New Criminal Code, community service is essentially aimed at rehabilitating perpetrators through work that benefits the community. However, the implementation of community service does not automatically provide restitution for economic losses experienced by the victim. If the perpetrator only performs community service obligations without being burdened with the obligation to compensate for the losses, then what is restored is only the relationship between the perpetrator and the state and society, while the legal relationship between the perpetrator and the victim remains unresolved. Therefore, from a civil law perspective, the obligation to compensate for losses remains with the perpetrator, even if they have served community service.

From a civil law perspective, restitution for victims' economic losses must be viewed as a separate legal consequence and cannot be nullified by the imposition of community service. Criminal and civil liability have different protection objectives: the public and individual interests of the victim, respectively. Therefore, reforming the criminal justice system, oriented toward due process of law and restorative justice, also requires strengthening victim restitution mechanisms as part of the law enforcement goal. Therefore, community service must be integrated with victim restitution mechanisms to ensure legal certainty, benefit, and justice for perpetrators, victims, and the community in a balanced manner.

2. The Ideal Formula for Implementing Community Service Punishments that Still Guarantees the Effective and Just Restoration of Victims' Economic Rights

The application of social work as an alternative form of punishment is part of the development of a modern criminal system that places more emphasis on rehabilitation and recovery rather than just retribution.(Zulfa, 2020). Community service punishment is a response to various weaknesses of prison punishment, such as overcrowding in correctional institutions and the low effectiveness of prisoner development. Click or tap here to enter text.This change in the orientation of criminal justice demonstrates a paradigm shift from a repressive criminal justice system to a more humane and restorative system. From a restorative justice perspective, resolving criminal cases aims not only to punish the perpetrator but also to restore the relationships damaged by the crime.(Witjaksono et al., 2023).

The concept of restorative justice itself emphasizes dialogue, reconciliation, and restoration of the situation between the perpetrator, victim, and the community.(Dian Rosita et al., 2024)This approach views the goal of law enforcement not merely to inflict suffering on the perpetrator, but also to restore the social balance disturbed by the crime. Therefore, the application of community service should not only be oriented towards the interests of rehabilitating the perpetrator but should also pay attention to the real restoration of the victim's rights. The success of community service is not only measured by the perpetrator's fulfillment of their social service obligations but also by the extent to which the victim obtains redress for the losses they have experienced through the criminal justice process. Thus, victim recovery is a crucial element in realizing restorative justice that is oriented towards balancing the interests of the perpetrator, victim, and community.

Restitution of victims' economic losses is an important part of realizing substantive justice in the criminal justice system. (Fahrizal S. Siagian, 2025)Victims essentially have the right to receive compensation for material and immaterial suffering arising from the crime they experienced. However, criminal justice practices in Indonesia still tend to prioritize punishing the perpetrator as the primary focus of law enforcement (Hamzah, 2019), so the aspect of recovering victims' economic losses often receives insufficient attention. Consequently, even if the perpetrator is sentenced, the victim may not receive real restitution for the losses they suffered. This indicates that a criminal justice system that focuses solely on imposing criminal sanctions without being balanced by reparation mechanisms for victims has the potential to create inequality in justice in society because the victims' interests are not fully protected in the criminal justice process.(Harahap, 2026).

Every unlawful act that causes harm to another party from a civil law perspective essentially gives rise to a legal obligation to provide compensation, as stipulated in Article 1365 of the Civil Code. This provision emphasizes that perpetrators of criminal acts are not only criminally responsible for their actions but also have civil responsibility for the losses suffered by victims. Therefore, the application of community service should not ignore the aspect of restoring the victim's rights as part of the goal of law enforcement. The ideal formulation of community service should integrate the obligation to restore the victim's losses into the implementation of criminal law (Fahrizal S. Siagian, 2025), whether through restitution, compensation, or other forms of restitution tailored to the victim's circumstances and the perpetrator's capabilities. With this integration, community service not only serves as a means of rehabilitating the perpetrator but also serves as an instrument capable of providing protection and restoring the victim's rights more effectively and equitably.

The concept of restorative justice places the victim as the central party in resolving criminal cases.(Zulfa, 2009). Bagir Manan, as quoted in Dian Rosita, (Dian Rosita et al., 2024)states that the principle of restorative justice is built on the joint participation of the perpetrator, victim, and community in resolving a crime fairly. Furthermore, Liebmann explains that one of the main principles of restorative justice is the effort to repair the harm caused by the crime. (Liebmann, 2001)Based on this perspective, the implementation of community service sentences should ideally be accompanied by a dialogue mechanism and agreement between the perpetrator and victim regarding the form of reparation to be provided. Through this mechanism, victims are no longer positioned as merely passive participants in the criminal justice process but rather as subjects with the right to obtain real reparation for the losses they have experienced. Thus, this approach better reflects restorative justice than a criminal justice system that focuses solely on punishing the perpetrator.

In addition, it is necessary to strengthen the role of law enforcement officials in integrating aspects of punishment and victim restitution in every criminal case resolution. Law enforcement officials should not only focus on punishing the perpetrator but must also be able to act as facilitators in creating a just and balanced solution for both victims and perpetrators. As explained by Dian Rosita et al., the implementation of restorative justice must prioritize humanistic values, deliberation, and persuasive case resolution. Judges and

other law enforcement officials need to be given greater space to consider the obligation to restitution victims' losses in community service decisions. (Criminal Procedure Code, 2026) Through this approach, the criminal justice process serves not only as a means of punishment but also as an instrument for restoring the rights of victims harmed by criminal acts. Thus, the goals of law enforcement can be realized more comprehensively, not only in terms of legal certainty but also in terms of the benefit and justice for all parties.

Based on this description, the ideal formulation for implementing social work sentences must be directed at creating a balance between the development of the perpetrator and the restoration of the victim's rights. (Zulfa, 2009). The ideal formulation for the application of social work punishment can be emphasized through several forms of regulation and mechanisms, namely:

1. Community service punishment is accompanied by the obligation to retribute the victim. The judge not only imposes community service punishment on the perpetrator but also requires the perpetrator to pay compensation or restitution to the victim according to the losses incurred.
2. Victim recovery is included as a condition for implementing social work sentences. In this case, the implementation of social work sentences must be linked to efforts to restore the victim, whether in the form of an apology, compensation, or other forms of recovery.
3. Judges are given the authority to integrate criminal and civil aspects in decisions so that decisions regarding social work sentences do not only contain the type and duration of the sentence, but also contain the perpetrator's civil obligations towards the victim so that the victim does not need to file a separate civil suit;
4. There is a mechanism for monitoring the implementation of victim recovery. In this case, the state, through law enforcement officers or related institutions, needs to monitor the implementation of social work sentences while ensuring that the perpetrator actually carries out the victim's recovery obligations.
5. The restorative justice approach is used as the main basis. In this case, the resolution of criminal cases with community service must involve the victim, perpetrator, and community through dialogue or deliberation to achieve a just and balanced solution for all parties.

The formulation of the application of community service sentences is expected to create a punishment system that is more oriented towards balancing the interests of the perpetrator and the rights of the victim, so that community service is no longer understood merely as an alternative form of punishment to replace imprisonment, but also as a restorative instrument that provides legal protection for victims of criminal acts. The integration of criminal and civil liability in community service sentences is important so that victims can obtain effective, simple, and just compensation for losses without having to go through a separate civil lawsuit process. In addition, the application of a restorative justice approach through dialogue, deliberation, and the involvement of victims, perpetrators, and the community will strengthen the creation of a humane case resolution and be oriented towards the restoration of social relations. Therefore, strengthening regulations, the authority of judges, and the oversight mechanism for the implementation of community service sentences are necessary steps to realize a criminal justice system that not only focuses on punishing perpetrators but also ensures the restoration of victims' rights effectively and fairly.

CONCLUSION

From a civil law perspective, the restitution of losses to victims is a legal consequence of an unlawful act, as regulated by Article 1365 of the Civil Code. The victim's right to receive compensation, both material and immaterial, is a form of civil liability that remains attached to the perpetrator and is not removed by imposing community service. Therefore, in criminal cases that apply community service, the public legal relationship between the state and the perpetrator through punishment must remain distinct from the private legal relationship between the perpetrator and the victim, which gives rise to the obligation to provide compensation. Therefore, the application of community service must not override the victim's right to obtain compensation as part of legal protection and the realization of substantive justice.

The ideal formulation for implementing community service must integrate criminal and civil liability within a single case resolution system. This integration is realized by regulating restitution or compensation obligations as part of the community service sentence, making victim recovery a condition for implementing community service, giving judges the authority to integrate criminal and civil aspects in a single decision, strengthening the oversight mechanism for the implementation of victim recovery, and making restorative

justice the basis for case resolution. This formulation is expected to create a criminal justice system that is not only oriented towards perpetrator development and reducing the use of imprisonment but also guarantees the effective restoration of victims' rights, provides legal certainty, and realizes benefits and justice for victims, perpetrators, and society.

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