



**LPSK**  
Lembaga Perlindungan  
Saksi dan Korban

# ACCESS TO COMPENSATION: FROM THEORY TO PRACTICE

from Indonesia's Perspective

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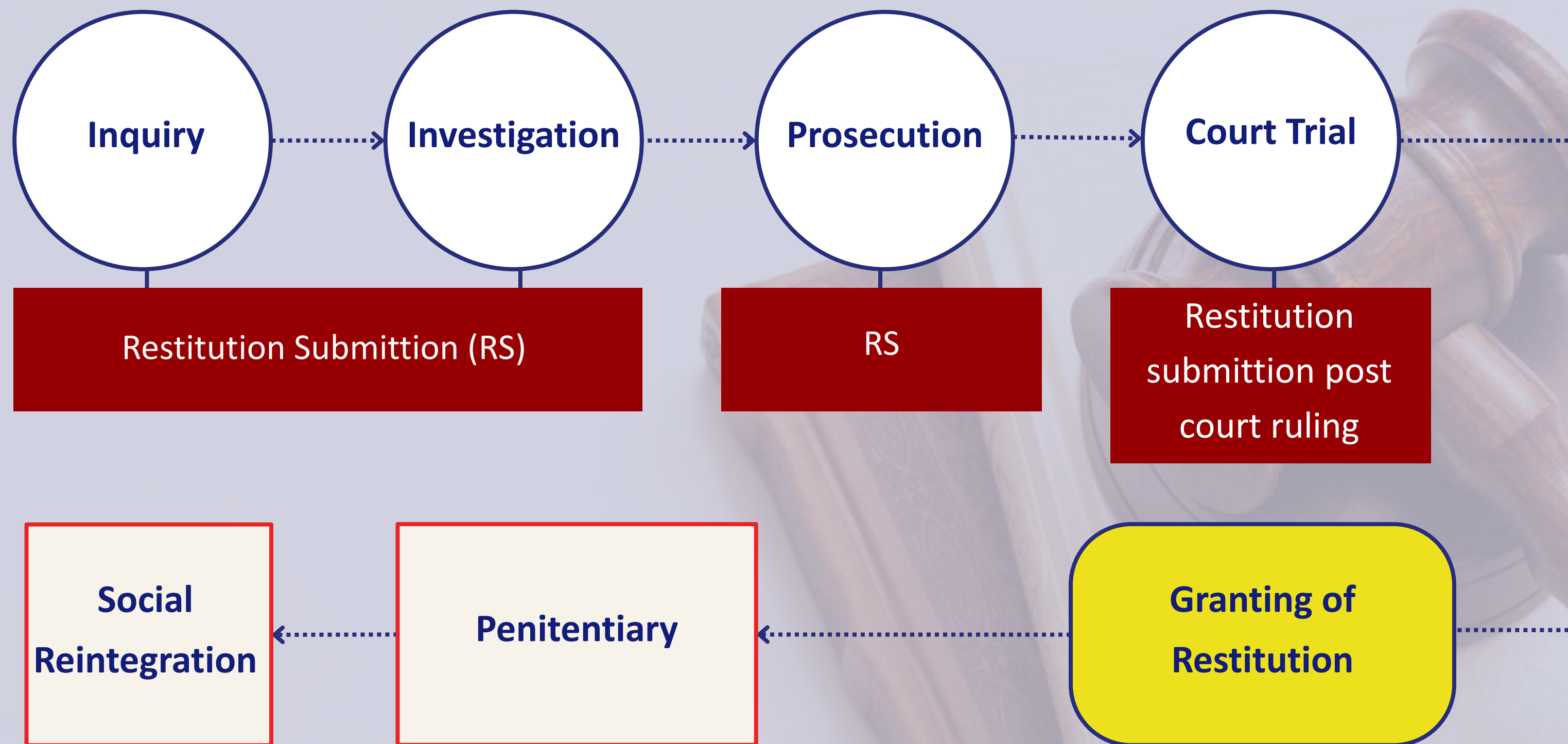
# Legal basic of Compensation/Restitution

- Law No. 31/2014 and No. 13/2006: on Witness and Victim Protection
- Law No. 21/2007: on Combating of Trafficking in Person
- Law No. 35/2014 and No. 23/2002: on Child Protection
- Law No 5/2018: on Combating of Terrorism
- Law No 26/2000: on Human Rights Court
- Law No. 12/2022: on Sexual Violence
- GR No. 43/2017: on Restitution for Child's Victim of Crime
- GR No. 35/2020 and No. 7/2018: on Compensation, Restitution and Assistance for Victim of Crime
- SC Rules No. 1/2022: on Procedures for Completion of Applications and Granting Restitution and Compensation to Victims of Crime





## Restitution Application Flow in Criminal Justice Process





## **The Detail Legal Basis** for Submission of Restitution in Context of Criminal Justice Process

- at the Investigation Stage: Article 5 Paragraph (2) GR No.43/2017
- at the Prosecution Stage: Article 7A Paragraph (4) Law no. 31/2014, Article 5 Paragraph (2) GR No. 43/2017, Article 20 Paragraph (2) GR No.07/2018, and Article 43 Law No. 21/2007
- Through the court decision procedure: Article 7A Paragraph (3) (5), Law no. 31/2014, Article 20 Paragraph (3) GR No.07/2018, Article 43 Law No. 21/2007



# RESTITUTION COMPONENTS

**LOSS OF WEALTH**



**SUFFERING CAUSE OF CRIMINAL ACTIONS**



**MEDICAL CARE COSTS**



**PSYCHOLOGICAL CARE COSTS**



**ANOTHER LOSS**



## Workers Compensation Information

EMPLOYEE \_\_\_\_\_ Date of \_\_\_\_\_  
Business \_\_\_\_\_ State \_\_\_\_\_  
/ Town \_\_\_\_\_  
DATE OF INJURY: \_\_\_\_\_

**FILING STATUS AND EXEMPTION**  
In order to determine your weekly benefit rate, we need to know:

### CURRENT EMPLOYMENT

To be certain you receive all benefits to which you are entitled, please list all employers you were working for more than one employer at the time of your injury.

Name of Employer \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

NOTE: Wage information for each concurrent employer must be provided.

**SIGNATURE OF INJURED WORKER OR REPRESENTATIVE**  
I hereby attest that the above information is true and correct.

Employee's Signature \_\_\_\_\_



## Challenging factor in receiving adequate Compensation/Restitution (1)

<p>Not informed about their eligibility to seek compensation</p>	<p>Mis- or Non-identification of victims</p>	<p>Lack of victim support mechanism</p>	
<p>There are no single factor</p> <p>Compensation not exactly same with restitution</p> <p>Person with low education and income background</p>	<p>Title as trafficked victims from police institution</p>	<p>Less or no knowledge about legal system</p> <p>Legal assistance, interpreter etc.</p>	



## Challenging factor in receiving adequate Compensation/Restitution (2)

Confiscating assets of perpetrators	State compensation scheme		
Perpetrator do not wish to pay restitution. Confiscation should based on clear rules.	Not available for trafficked victims. Future regulation.		



## Needs to be addressed/strengthened (1)

Attitudinal change of practitioners	State funded compensation scheme		
Practitioners's perspective and knowledge on Restitution.	Relevant to future law. It should be written in Law/Act.		





## Needs to be addressed/strengthened (2)

Asset recovery from perpetrators	Guidelines in computing compensation		
Legislation action is needed.	Assist to LPSK (Witness and Victim Protection Agency, Republic of Indonesia)		



## Needs to be addressed/strengthened (3)

Legal assistance to trafficked victims			
Train social worker or voluntary worker to enhance their own knowledge on legal aspect. LPSK has developed community based protection, namely SSK (Sahabat Saksi Korban) that contain voluntary worker come from civil society.			



# DYNAMICS AND UTILIZATION OF Restitution

## Utilization:

Restitution is needed because in general victims are members of low-income communities. Restitution is used by victims to carry out treatment, meet the basic needs of life, educate children, and start a business.

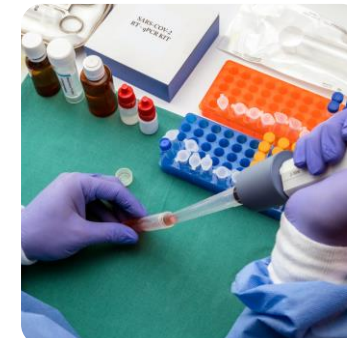
Basic needs



Business

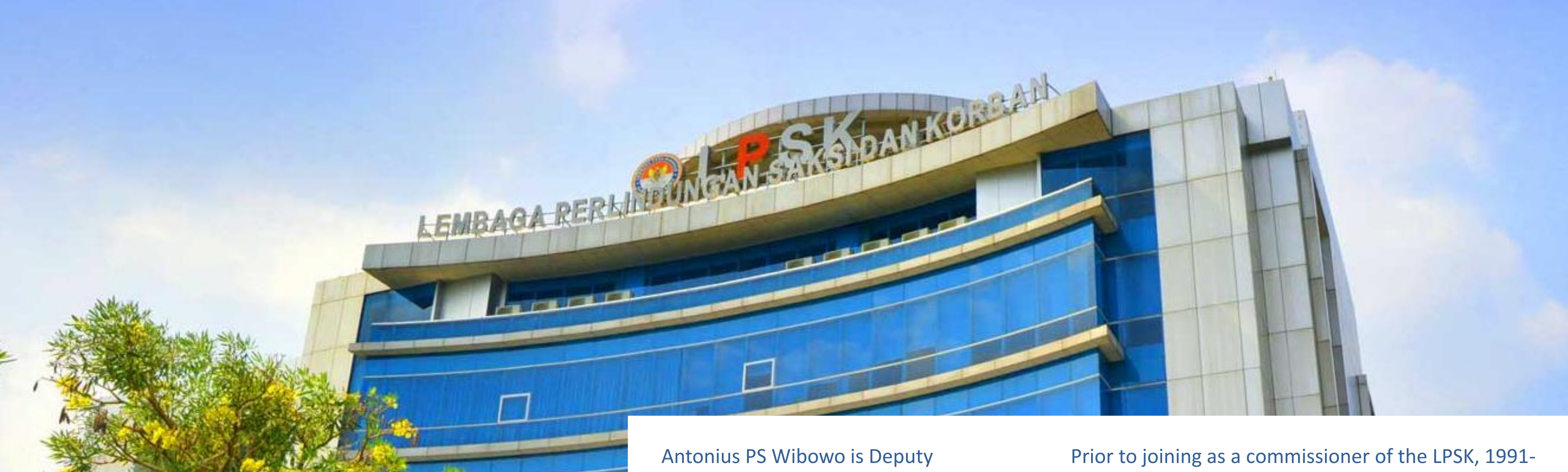


Treatment



Children's Education





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Antonius PS Wibowo is Deputy Chairman of the Witness and Victim Protection Agency, Republic of Indonesia (commonly called = LPSK). He is in charge (along with two Deputy Chairman of the LPSK) of the Bureau for the Fulfillment of the Rights of Witnesses and Victims.

Prior to joining as a commissioner of the LPSK, 1991-2019, he was an Associate Professor at the Faculty of Law of Atmajaya Catholic University, in Jakarta. He completed his law doctoral studies at the Justus Liebig University, Giessen, Germany. The areas of law he has studied, did teaching, researched and making academic publication are Criminal Law, International Criminal Law, Human Rights Law and Law on the Protection of Children and Women.



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