




## **Asset Restitution Reform to Ensure Legal Protection and Fairness for Investors**

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### **Abstract**

Emerging concerns in the legal domain are a direct result of the digital age's advancements in the economic sphere. Binary options' rise to prominence is a topic worthy of discussion, particularly with regard to the breadth of asset returns in such instances. Binary option victims are questioning the fairness of the state's claim to assets in light of the recent court ruling in the Indra Kenz and Doni Salmanan case. This research aims to help victims of binary options get their money back through restitution by analyzing the problem and offering remedies. The victims of binary option crimes will have their rights protected; that much is certain. Solutions to the problem of investor asset return can be found

by using normative methodologies in the examination of statutes, case studies, and concepts. This study finds that victims of illegal activities can regain their possessions through restitution, which also provides a sense of justice and guarantees legal protection for their rights. People can suffer materially, emotionally, and psychologically as a result of committing a criminal offense. Based on the priorities of legal protection and justice, this research is anticipated to provide a solution for law enforcement in the return of assets for binary option criminal offenses.

## Keywords

*Binomo, Return of Assets, Criminal Law*

## Introduction

The lightning-fast pace of globalization in this period is compelling people to abandon traditional ways of living in favor of more contemporary ones. The range and variety of investments have evolved in tandem with the development of new technologies and scientific understanding. In this era of rapid economic change brought about by globalization, trade across borders has significantly simplified.

Some people like the modern invention of online investing that has come about as a result of the rise of technology. The "millennial" generation is only one of many that is getting into the act of experimenting with this new innovation. In fact, many people are drawn to online investment owners because of the advantages they provide.<sup>1</sup> Plantation commodities, rubber, petroleum, bonds, stocks, and cryptocurrency are just a few examples of the many new investment opportunities that have emerged in recent years.<sup>2</sup>

One of the various investment alternatives accessible to individuals and companies with financial freedom when it involves investment

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<sup>1</sup> Busman Busman et.al., "Penerapan Big Data Pada Forex Trading Menggunakan Analisa Statistik Dengan Breakout Strategy," *Pseudocode* 4, no. 2 (1 September 2017): 137–43, <https://doi.org/10.33369/pseudocode.4.2.137-143>.

<sup>2</sup> Zulfatul Mukarromah, "Forex Online Trading (FOT) dalam Perspektif Hukum Ekonomi Islam (Telaah Kasus Para Pengguna FOT)". *At-Turost: Journal of Islamic Studies* 7, no. 1 (2020): 54-72. <https://doi.org/10.52491/at.v7i1.38>

activities is commodity futures trading.<sup>3</sup> A sort of option contract known as a "binary" option suggests that one has two (two) possible outcomes.<sup>4</sup>

By projecting the movement of an asset's value over a given time frame, a user of the platform can trade binary options using a binary system.<sup>5</sup> In actuality, binary choices are neither trading nor investing, as Rohmini Indah, the others, and Zaenal and Arifin point out; instead, they are more commonly perceived as a game of chance than as a prudent investment vehicle.<sup>6</sup>

Binary options comprise commodities or broker-provided solutions that allow investors to monitor and decide on their investments using mobile devices.<sup>7</sup> Through binary options transactions, investors can forecast changes in the price of derivatives, and including whether they will increase or decrease over a specified period of time. Investing a specific quantity of money allows investors to assess the expected gain or fall.<sup>8</sup> The investor will earn the specified profit if the projection is accurate; if it is incorrect, the investor will lose the money that was used to make the estimate.<sup>9</sup>

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<sup>3</sup> Ana Rokhmatussa'dyah and Suratman. *Investment Law and Capital Market*. Jakarta: Sinar Grafika, 2015.

<sup>4</sup> Amjad M. Husaini dan Muhammad Sohail, "Robotics-assisted, organic agricultural-biotechnology based environment-friendly healthy food option: Beyond the binary of GM versus Organic crops," *Journal of Biotechnology* 361 (Januari 2023): 41–48, <https://doi.org/10.1016/j.jbiotec.2022.11.018>.

<sup>5</sup> Ahmad Yunan Salsabilla Mafaza dan Dona Budi Kharisma, "The Legal Problems of Weakness Supervision of Binary Option in Indonesia," *International Journal of Law Policy and Governance* 2, no. 1 (2023): 26–31, <https://doi.org/10.54099/ijlpg.v2i1.601>.

<sup>6</sup> Rohmini Indah Lestari dan Zaenal Arifin, "Godaan Praktik Binary Option Berkedok Investasi dan Trading," *Jurnal Ius Constituendum* 7, no. 1 (2022): 19, <https://doi.org/10.26623/jic.v7i1.4875>.

<sup>7</sup> Jia-Hao Syu dkk., "An IoT-Based Hedge System for Solar Power Generation," *IEEE Internet of Things Journal* 8, no. 13 (2021): 10347–55, <https://doi.org/10.1109/JIOT.2021.3064384>.

<sup>8</sup> David M. Rothschild dan Rajiv Sethi, "Trading Strategies and Market Microstructure: Evidence from a Prediction Market," *SSRN Electronic Journal*, 2013, <https://doi.org/10.2139/ssrn.2322420>.

<sup>9</sup> Karyne B. Charbonneau, "Multiple fixed effects in binary response panel data models," *The Econometrics Journal* 20, no. 3 (2017): S1–13, <https://doi.org/10.1111/ectj.12093>.

Presently, players in the market have the ability to trade binary options directly using the Over Counter (OTC) market. These platforms include Olymptrade, Binomo, IQ Option, and others (Cox dkk., 2020). The issue surrounding binary choices is not unique to Indonesia; it exists in other nations as well. To protect clients from the murky nature of these actions, the European Security and Marketing Authority (ESMA) forbade binary options in Europe. Additionally, this binary option deal carries a high level of risk, is speculative and complex, and has the potential to result in big losses. For these reasons, the Austrian Financial Services Agency (FEMA) issued an advisory in Austria.<sup>10</sup>

In other countries, such as the United States, asset forfeiture laws partially achieve restitution for binary options fraud. Although this law helps to some extent, there are limits to its effectiveness in ensuring compensation for victims of fraud.<sup>11</sup> U.S. experience suggests that a more direct approach involving pretrial forfeiture and asset restrictions may be necessary for a more effective recovery. This would align the process with existing forfeiture standards and potentially address issues such as defendants' concealment of international assets.<sup>12</sup>

Instead, Japan has focused on tightening its anti-money laundering laws to combat not only binary options fraud but broader financial crimes, including those involving forced labor and human trafficking. By making profits from such crimes the predicate of money laundering, Japan aims to close the gap between illicit profits generated and

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<sup>10</sup> ESMA, "ESMA, ESMA Agrees to Prohibit Binary Options and Restrict CFDS To Protect Retail Investors," accessed from <https://www.esma.europa.eu/press-news/esma-news/esma-agrees-prohibit-binary-options-and-restrict-cfds-protect-retail-investors>.

<sup>11</sup> Panel on Modernizing the Nation's Crime Statistics dkk., *Modernizing Crime Statistics: Report 1: Defining and Classifying Crime*, ed. oleh Janet L. Lauritsen dan Daniel L. Cork (Washington, D.C.: National Academies Press, 2016), <https://doi.org/10.17226/23492>.

<sup>12</sup> Al Sentot Sudarwanto dan Dona Budi Kharisma, "Law enforcement against investment fraud: a comparison study from the USA and Canada with a case study on binary options in Indonesia," *Safer Communities* 22, no. 4 (2023): 235–53, <https://doi.org/10.1108/SC-11-2022-0047>.

compensation given to victims.<sup>13</sup> This approach reflects a broader strategy to prevent financial crime by increasing the risks associated with illicit profits, thereby securing better restitution outcomes.

Efforts in the United States and Japan to improve legal protections against fraud, particularly in the fight against binary options, involve a growing international focus on protecting investors. This global policy is reflected in Indonesia's proactive measures, such as those by the Commodity Futures Trading Supervisory Agency (BAPPEBTI) and the Department of Information and Communication.

In 2021, this authority took a significant step to clean up the digital trading environment by adding more than a thousand web pages that mark the boundary between legitimate trading and trading, in addition to establishing 137 illegal domains that promote unauthorized commodity futures trading. This point explains the joint efforts to understand the challenges facing other countries, such as those involving notorious fraudsters Indra Kenz and Doni Salmanan.<sup>14</sup>

Legal clarification on matters pertaining to the restoration of property in binary choice cases is necessary as a result of these issues. Investors who have lost money on binary options can be guaranteed legal protection and justice. How victims of binary options can get their money back. How can investors obtain protection from the law and justice? If it is possible to carry out the procedure of restituting assets through restitution, it should go without saying that the disputed legal questions concerning returns of assets in binary choice cases should be settled and that the highest emphasis for the asset return procedure should be given to the principles of fairness and legal protection, particularly for individuals who made losses on binary options.

So far, research literacy has solely addressed criminal culpability in binary options. Research by Fran Simangunsong and Ferdiansyah M. A. claims that binary options are punished in Article 378 of the penal

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<sup>13</sup> Yoshihiko Kadoya dkk., "Who Is Next? A Study on Victims of Financial Fraud in Japan," *Frontiers in Psychology* 12 (2021), <https://doi.org/10.3389/fpsyg.2021.649565>.

<sup>14</sup> Rahel Narda Chaterine, and Bagus Santosa. "Indra Kenz dan Doni Salmanan, Tersangka Penipuan "Binary Option" yang Diduga Lakukan Pencucian Uang", *KOMPAS*, March 10, 2022. <https://nasional.kompas.com/read/2022/03/10/06484811/indra-kenz-dan-doni-salmanan-tersangka-penipuan-binary-option-yang-diduga>.

code because they are regarded as a type of gambling. Section 55 of the Civil Code and Section 45A (1) of the Law on ITE.<sup>15</sup> The author Ramadhana, Andrew Chew, and Irwanda claim that binary options are misleading investments that are against Section 10 of the it, Pas28 section (1) of the UUIITE, their obligation under Sections 27 phrase (1), 28 (1), the 45A (1) of the ITE Law.<sup>16</sup> As stated by Moh. Iqbal Firdaus and Syamsul Fatoni, the Anti-Money Laundering Law's Article 3 governs the crime of laundering cash, including the practice of binary options trading in Indonesia. The trading of binary options is governed under Section 378 of the Legal Code on Deception, Section 27 (2), and Article 28 (1) of the ITE Law, as amended.<sup>17</sup> The legal defense that the government may provide to victims of illegal digital investment crime is governed by Hermawanti Kori et al., Article 378 of the Criminal Code, or KUHP, and Section 28(1) of Law Number 19 of 2016 regarding modifications to Law 11 of 2008 regarding Electronic Information and Transactions. Section 303 bis Subsection (1) of the penal code governs the measures that can potentially entangle the person who commits a gambling crime in the interim.<sup>18</sup> In the setting of online investment advertising, Yeni Triana et al. provide recommendations for regulatory improvements to ensure the greatest legal protection for investors. This research is expected to have a favorable influence on the creation of a legal structure safeguarding interests in the digital era.<sup>19</sup>

<sup>15</sup> Ferdiansyah M. A dan Frans Simangunsong, "Pertanggung Jawaban Pelaku Binary Option Terhadap Hukum Positif Di Indonesia," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 2, no. 2 (2022): 628–48, <https://doi.org/10.53363/bureau.v2i2.93>.

<sup>16</sup> Andrew Chew, Irwanda, and Widodo Ramadhana, "Pertanggungjawaban Pidana Terhadap Pelaku Penyebaran Promosi Investasi Menyesatkan Pada Platform Binary Option Dalam Perspektif UU ITE No. 19 Tahun 2016" *SIBATIK JOURNAL: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, dan Pendidikan* 2, no. 12 (2023): 3729–38.

<sup>17</sup> Moh. Iqbal Paradise dan Syamsul Fatoni, "Binary Option Affiliate Mode in Money Laundering," *International Journal of Law Dynamics Review* 1, no. 1 (2023): 26–40, <https://doi.org/10.62039/ijldr.v1i1.3>.

<sup>18</sup> Asriati Asriati dan Sumiyati Baddu, "Investasi Online Reksadana: Aspek Hukum dan Perlindungan Bagi Investor selaku Konsumen," *Pleno Jure* 10, no. 1 (2021): 38–53, <https://doi.org/10.37541/plenojure.v10i1.561>.

<sup>19</sup> Yeni Triana et.al., "Perlindungan Hukum Investor Dalam Tindak Pidana Teknologi dan Informasi Terhadap Iklan Tentang Investasi," *INNOVATIVE: Journal of Social Science Research* 3 (2023): 1162–70.

There is little discussion about the value of assets in binary options, particularly regarding the return of investors' money for legal protection and fairness towards those who have been deceived by binary option scammers. The author aims to provide investors with legal protection, justice, and an in-depth description of the return of assets through restitution, along with alternatives.

Based on this, it highlights the dilemma experienced by investors in the sphere of binary options, a sphere of investment that is often unsettling due to rampant fraudulent practices. Previous studies indicate the need to address legal loopholes to ensure justice and protection for victims. The implications of this study are not only relevant in a purely legal context but also provide important insights for the establishment of stricter policies and regulations in binary options trading. Thus, this study seeks to fill the literature void by examining more about asset restitution as one of the recovery mechanisms for victims, offering guidance for investors to navigate the associated legal complexities, and ultimately, helping to create a safer and fairer investment environment. It is expected that this discussion will lead to significant developments in legal practices and policies that support investor rights and strengthen measures to prevent and crack down on fraudulent practices in binary options.

Problem statements of this research is (1) How can a restitution mechanism be applied in the case of binary options scams to return assets to victims, and what are the legal challenges faced in the process? And (2) What is the role of restitution as a form of protection and justice for investors victims of binary options fraud, as well as its effectiveness in comparison with other legal mechanisms?

This study examines the issues surrounding restitution and offers strategies for giving victims of binary option investing their assets back. This study examines the issues surrounding restitution and offers strategies for giving victims of binary option investing their assets back, ensuring the protection of investors' rights who have fallen victim to binary option fraud. In order to find solutions for returning assets to investors, this research employs normative research through analysis of statutory, case study, and conceptual approaches. Normative legal research is the process of analyzing laws and cases to determine which laws are consistent with legal issues. Researchers primarily use conceptual and in-depth analyses, along with case studies and a statutory

approach, as tools in this research. Restitution can be used to return assets to binary option investors, ensuring legal protection of victims' rights and a sense of justice. Given the repercussions of committing a crime, one may suffer loss and suffering on a physical, psychological, and property level. Law enforcement is expected to utilize the findings of this research to restore assets in binary option crimes, prioritizing justice and legal protection.

## Binary Option Assets Return Liability

In the Indonesian moral system, "criminal responsibility" involves objectively condemning an action based on relevant legislation, with subjective focus on the law-abiding individual who may face repercussions for their deeds. The *mens rea* theory of guilt must be the foundation for the concept of culpability in criminal law. A person must fulfill two conditions in order to be classified as criminal: they must have a malevolent mindset (*mens rea*) and perform an act that is expressly prohibited or unlawful (*actus reus*).<sup>20</sup> In other words, everyone is entitled to equal treatment under the law, in addition to assurances, safeguards, and clarity about just laws.<sup>21</sup>

The UNCAC defines resources as any monetary gain derived from a criminal offense, encompassing any type of property, both tangible and intangible, along with any records or legal documents demonstrating possession or an interest in said property.<sup>22</sup>

When we talk about asset recovery, we're talking about several processes for assets that might have a connection to illegal activities. The process of recovering assets entails a number of procedures, including controlling, tracking, freezing, seizing, forfeiting, and making use of them.<sup>23</sup> Indra Kenz and Dhoni Salmanan are associates of a binary

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<sup>20</sup> Deni Setiawan et.al., "Green Restorative Justice: Environmental Enforcement and Justice," *Journal of Law and Sustainable Development* 12, no. 1 (2024): e2545, <https://doi.org/10.55908/sdgs.v12i1.2545>.

<sup>21</sup> Donald Albert Rumoke Frans Maramis, *Pengantar Ilmu Hukum* (Jakarta: PT Raja Grafindo Persada, 2014).

<sup>22</sup> Ridwan Arifin, "Negara Kawasan Asia Tenggara Berdasarkan United Nations Convention Against Corruption (UNCAC) dan ASEAN Mutual Legal Assistance Treaty (AMLAT)," *Jurnal Penelitian Hukum* 3, no. 1 (2016): 38–39.

<sup>23</sup> Lola Yustrisia, "Mekanisme Pengembalian Aset di Negara," *Sumbang 12 Journal* 01, no. 01 (2022): 23–44.

options platform, and they have obligations. The public prosecutor filed accusations against both of them under Article 45, subsection (1), and Article 28, subsection (1) of Law No. 19 of 2016 regarding changes to Law No. 11 of 2008.<sup>24</sup>

The concept of criminal responsibility in the Indonesian criminal law system is based on two main elements: *mens rea* (malicious intent) and *actus reus* (unlawful act). This confirms the importance of understanding that not every act that violates direct social norms can be considered a violation of criminal law unless it meets both criteria. The legal prosecution brought against Indra Kenz and Doni Salmanan under the ITE Law illustrates how the legal system seeks to crack down on activities that not only harm individuals but also disrupt public order and social justice.

Asset recovery in this context serves not only as a mechanism for returning material losses to the victim but also as a preventive means to reduce the incentive to commit similar crimes in the future. The UNCAC defines recoverable resources in a broad realm, providing a foundation for countries to take decisive action in pursuing and securing assets associated with criminal activity. The asset recovery process demonstrates the comprehensive approach needed to effectively address these issues by controlling, tracking, freezing, confiscating, seizing, and utilizing assets.

In conclusion, criminal liability in the Indonesian legal system emphasizes the need for strong evidence of malicious intent and unlawful acts. Cases related to binary options platforms and asset recovery efforts illustrate the complexities and challenges of enforcing justice as well as protecting victims' rights. It underscores the importance of a strong legal framework, interstate cooperation, and effective procedures in combating financial crime and ensuring justice and protection for all affected parties.

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<sup>24</sup> UU ITE, “Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008” (2016).

## The Complexity of Money Laundry in Binary Option Cases

The Comprehensive English-Indonesian Dictionary states that the verb "*laundry*" is the root of both the expression "*money is money*" and the concept of "*laundering*." "*Wash the laundry*."<sup>25</sup> Money laundering, on the other hand, is defined by the Black Law Dictionary as the process of investing or transferring funds obtained through extortion, drug sales, and other illicit means into authorized channels in order to identify the original source.<sup>26</sup>

The scope of money laundering is described in Law No. 8/2010's second article, paragraphs (1) and (2), and how it works.<sup>27</sup> In general, criminals employ a range of techniques to hide or mask the origins of their money, making it difficult for authorities to find these assets and grant permission for their unlimited use. This results in additional crimes being committed, including money laundering.<sup>28</sup>

Each jurisdiction's laws will specify the relationship between laundering of funds offenses and false investments. It is imperative that you refer to the applicable laws of your specific country or jurisdiction in order to fully understand the relationship between illicit financial crimes and fraudulent investments under the applicable legal system.<sup>29</sup> It is becoming harder and harder in some legalized nations to tell the difference between money laundering charges and scams like binary options. Some examples of nations experiencing this kind of ambiguity are those with specific laws governing money laundering and binary options trading, broad definitions of money laundering, or inadequate

<sup>25</sup> Pandoe Pramoe Kartika, "Data Elektronik Sebagai Alat Bukti Yang Sah Dalam Pembuktian Tindak Pidana Pencucian Uang," *Indonesian Journal of Criminal Law* 1, no. 1 (2019): 33–46, <https://doi.org/10.31960/ijocl.v1i1.146>.

<sup>26</sup> Ansori dan Gatot Subroto, "Peran Ppatk Dalam Mencegah Dan Memberantas Tindak Pidana Pencucian Uang," *Unira Law Journal* 1, no. 1 (2022): 34–48.

<sup>27</sup> Article 2 paragraph (1) and paragraph (2), "Article 2 paragraph (1) and paragraph (2) of Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering" (2010).

<sup>28</sup> Suwito et.al., "Contemplating the Morality of Law Enforcement in Indonesia," *Journal of Law and Sustainable Development* 11, no. 10 (25 Oktober 2023): e1261, <https://doi.org/10.55908/sdgs.v11i10.1261>.

<sup>29</sup> Chandra Ardiano dan Nur Rochaeti, "Analisis Yuridis Kriminologis Penggunaan Mata Uang Elektronik Bitcoin Sebagai Sarana Tindak Pidana Pencucian Uang," *Diponegoro Law Journal* 11, no. 1 (2022): 1–15.

regulation. Sometimes there is confusion about the relationship between money laundering claims and binary options fraud due to legal inconsistencies or a lack of regulation.<sup>30</sup>

The legal ambiguity surrounding binary options results in inadequate protection for investors or victims. If quantum options are found to be money laundering crimes, the state will recover the money in the binary option case. If we look at the consequences of the state's losses, there aren't any. The individuals that shed a lot of money were the binary options investors. The problem is that in order to provide investors in binary options with justice and protection, the government should mediate the matter.

The definition of compensation is outlined in full in Federal Regulation Number 44/2008, which is related to the Service for Settlement and Restitution, also known as Assistance to Witnesses and Victims. Article 4, paragraph 1, states, "Compensation is reparation provided by the authorities if the perpetrator fails to make the full reparation for which he is responsible."<sup>31</sup> The state's obligation to compensate victims for crimes committed by offenders is based on the failing-to-protect premise. This theory holds that the primary reasons for victimization are society's failure to eradicate crime and the incapacity of institutions to prevent crime. Moreover, victims' claim to state-provided compensation has two arguments. First, social justice and solidarity dictate compensation. Social justice and solidarity dictate that society should compensate victims of crime for the harm they have suffered, as they are essentially captives of society. In a broader sense, this idea holds that the government has to pay the victims because law enforcement officials were powerless to stop the crime. Second, it has been established that other types of remuneration are insufficient to appropriately repay individuals for their losses.<sup>32</sup>

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<sup>30</sup> Anang Shophan Tornado, "Penetapan Tersangka Investasi Bodong (Binary Option) dalam Perspektif Tindak Pidana Pencucian Uang," *Jurnal Sagacious* 10, no. 1 (2023): 15–26.

<sup>31</sup> Mahrus Ali dan Ari Wibowo, "Kompensasi Dan Restitusi Yang Berorientasi Pada Korban Tindak Pidana," *Yuridika* 33, no. 2 (2018): 260, <https://doi.org/10.20473/ydk.v33i2.7414>.

<sup>32</sup> Deni Setiawan, Muhammad Ramli, dan Noor Rahmad, "Kedudukan Rasio Decidendi Hakim Dalam Pemenuhan Hak Restitusi Kepada Korban kejahatan

In our analysis of the issues of money laundering and binary options fraud, we see difficulties in distinguishing between the two crimes in some jurisdictions, mainly due to legal vagueness and insufficient regulation. This results in insufficient protection for investors or victims, putting them in a very vulnerable position. Money laundering, as the process of disguising the origin of illegal funds through legitimate channels, is often intricately intertwined with investment scams such as binary options, creating major challenges in law enforcement and the protection of victims' rights.

The importance of compensation for victims, as provided for in the regulations in force, emphasizes the responsibility of the state to provide reparations to those who suffer from the failure of the system to prevent crime. The fail to protect theory, which supports the idea that society and its institutions are responsible for the crimes that occur, provides a solid basis for the victim's right to compensation. In other words, compensation is not only a matter of social justice and solidarity but also a recognition of the failure of crime prevention by the authorities.

In this context, the government and related institutions should reconsider the existing legal and regulatory framework to provide more effective protection for investors and strengthen asset recovery mechanisms for victims of fraud and money laundering. This includes clarifying the definition and boundaries of criminal offenses, strengthening cooperation across jurisdictions, and raising awareness and education for investors about the risks associated with digital investments. With a more comprehensive and responsive approach, it is hoped to prevent the occurrence of similar crimes in the future and provide proper justice to victims who have suffered harm.

## Return of Assets Through Restitution

Return of property through restitution is a program that deals with providing public funds to victims of wrongdoing. It's important to keep in mind that those are public funds, which may come from origins unrelated to the crime and are disbursed to fulfill the victim's specific needs. In criminal law, restitution refers to measures made to return the

victim to the same conditions before the victim suffered several losses as a result of becoming the target of crime. It is an often-used tactic to compensate a victim for their losses in court. Restitution is defined as "the act of performing an act of kindness or paying an equal amount for the loss or damage experienced by the victim."<sup>33</sup>

Restitution fulfills an array of functions. Restitution compensates the victim for lost damages and serves as a kind of punishment for the offender. Second, by warning others that they too would suffer repercussions for their conduct, the ability of restitution to establish a connection between the victim and the offender serves as a deterrent. Third, restitution forces the criminal to acknowledge the harm their actions have caused by making them pay a certain sum of money to the victim. In this case, the perpetrator is especially accountable for their deeds.

Restitution is more intimate than fines paid by the offender to the state because it directly compensates the victim and specifically addresses the damage suffered by the plaintiff as a result of the offender's actions. To achieve the aim of restoration, Burt Galaway presents the following four benefits of restitution: The court can avoid imposing a harsh sentence when restitution is required as part of probation; b. Repayment orders help the offender rebuild their self-esteem by holding them accountable for their actions; c. Rewards are an illegal punishment and are cheaper compared to jail; and d. Restitution can provide the victim with financial and psychological fulfillment. Restitution can provide the victim with emotional and financial fulfillment.<sup>34</sup>

There is an important paragraph in the Declaration on the possibility of restitution. It says this: In addition to other criminal sanctions, governments should review their laws, policies, and regulations to consider the prospect of reparation as an extra form of penalty for crimes. Imposing restitution in addition to other penalties could make it easier for judges to consider the suffering of the victims. Article 6b of Resolution 40/34, "Declaration of the Basic Concepts of

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<sup>33</sup> Christina Bagenda dan Cicilia Hellena Carbonilla, "The Urgency of Using YouTube Channels as Loan Collateral: Orientation and Limitations from a Progressive Legal Perspective," *Indonesian Journal of Innovation Studies* 25 (2023): 1–15, <https://doi.org/10.21070/ijins.v25i.976>.

<sup>34</sup> Burt Galaway, "Crime Victim and Offender Mediation as a Social Work Strategy," *Social Service Review* 62, no. 4 (1988): 668–83, <https://doi.org/10.1086/644581>.

Justice for Victims of Illegal Action and Use of Power," was adopted by the UN General Assembly on December 15, 1985.<sup>35</sup>

Restitution in the context of criminal law is an important mechanism that not only serves as a means of compensation for victims but also as a form of responsibility and punishment for perpetrators of crimes. By focusing on the return of the victim's condition to its original status before the crime occurred, restitution plays a crucial role in the victim's recovery process, both financially and psychologically. Furthermore, restitution establishes a direct link between the perpetrator and the victim, forcing the perpetrator to acknowledge and take responsibility for the impact of his or her actions, thus providing an educational impact and preventing future crimes.

The application of restitution, as expressed in the UN Declaration, shows the importance of considering restitution in addition to other criminal sanctions, providing an opportunity for the judiciary to recognize and take into account the suffering of victims in greater depth. It signifies the international recognition of the value of restitution in achieving justice for victims. Through restitution, victims are given the opportunity to feel justice firsthand, support their recovery, and, at the same time, teach the perpetrator a lesson about the real consequences of his actions. Therefore, restitution not only enriches the legal framework by providing a more personalized and restorative alternative to punishment but also affirms the commitment of the judicial system to protecting the rights and well-being of victims. To achieve this goal, the government and the judiciary must continuously evaluate and strengthen restitution practices, ensuring effective implementation and the provision of expected benefits to victims of crime.

## **Restitution and Legal Protection and Justice for Investors**

In almost every nation on Earth, the idea that victims have suffered some kind of loss as a consequence of criminal conduct is acknowledged as true. The safeguarding of human rights and the

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<sup>35</sup> M. C. Bassiouni, "International Recognition of Victims' Rights," *Human Rights Law Review* 6, no. 2 (2 2006): 203–79, <https://doi.org/10.1093/hrlr/ngl009>.

upholding of victims' rights are two sides of the same coin. "People's rights are a vital component of the concept of human rights," claims Zvonimir-Paul Separovic, which was quoted by She the Nawawi Arief. As such, the two are interdependent. Put another way, defending victim rights is essential to guaranteeing the defense of human rights.<sup>36</sup>

The Netherlands is one country that took the responsibility for paying reparations. When the state started paying victims of violent crimes, this happened in 1977. The Criminal Injury Compensation Board (CICB) was founded in the UK in 1964 and similar measures were implemented there as well. The government compensated individuals of violent crimes under this program; by 1992, 19,771 people had received payouts more than 35 million pounds.<sup>37</sup>

Compensation provisions are stated in Singapore's Civil Procedure Code under Article 40(1)(b) of the Rules of Criminal Procedures (Cap 68), which states, "general law allowing the courts to make compensation orders." Section 5401 clearly requires a motion to be filed before the court can issue a ruling for payment of reparation. Therefore, upon motion, the court has the power to order compensation. The only court with the power to order reparations is the one that found the inmate guilty of the offense.<sup>38</sup> This clause shows that the court has the authority to award damages. The court has the authority to determine how compensation should be awarded. This, of course, provides victims with the legal certainty to seek their rights.

In the binary option cases of Quotex and Binomo, the perpetrator may choose to employ a restitution mechanism or provide compensation to the victims to make up for the losses they suffered. This is in accordance with the witness and the Child Protection Agency (LPSK). Through the restitution system, which enables law

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<sup>36</sup> Umar Sholahudin, "Hukum dan Keadilan Masyarakat (Analisis Sosiologi Hukum terhadap Kasus Hukum Masyarakat Miskin 'Asyani' di Kabupaten Situbondo)," *Dimensi* 9, no. 1 (2016): 31–45.

<sup>37</sup> Sugeng Wibowo Saputro, "Upaya Paksa Bagi Pelaku Yang Tidak Melaksanakan Restitusi Terhadap Anak Korban Tindak Pidana," *Badamai Law Journal* 5, no. 1 (2020): 54, <https://doi.org/10.32801/damai.v5i1.10002>.

<sup>38</sup> Yi-Sheng Ng, "Raffles restitution: Artistic responses to Singapore's 1819 colonisation," *Journal of Southeast Asian Studies* 50, no. 4 (2019): 599–631, <https://doi.org/10.1017/S0022463420000089>.

enforcement to collect the perpetrator's assets, the victim may get recompense.

The reality that the state compensates victims indicates, philosophically speaking, that it fails to sufficiently protect and secure them. Law enforcement officials working for the state often fail to put an end to crimes that cause harm to victims. The shift in the paradigm of retribution from one that prioritizes revenge to one that prioritizes restorative justice is what leads to restitution. Restitution is one tactic the legal system uses to address the unfulfilled interests and expectations of victims. Restitution actually has a minor impact on the struggle for victims' rights. Through restitution, offenders are held accountable for the damages incurred by victims.<sup>39</sup>

Governmental Regulation No. 44 of 2008 regarding the Provisions about Compensation, Restitution, and Support to Witnesses and Victims governs the process for giving compensation or restitution to victims of illegal acts. This regulation is an application of Law No. 13 of 2006. The Witness and Victim Security Agency is responsible for putting the victim assistance, restitution, and compensation systems into action.

If it proves difficult, there are alternative ways to compensate victims of widespread fraud, like the state buying government securities.<sup>40</sup> The two categories of securities are referred to as state Sharia assets (SBSN) and government securities (SBN). In general, SUN can be divided into state bills issued by the Treasury (SPN) with a duration of up to 12 months and government bonds (ON) with an expiration date of more than a year. There are two categories of government-issued ONs based on the monetary denomination: ONs denominated in rupees and ONs priced in foreign currencies. ONs can be classified into two groups based on the type of interest rate: those with a fixed interest rate and those with variable interest rates. The government also distributes Zero Coupon (ZC) ONs, which are ONs issued without interest. Meanwhile, the 2008 introduction of State Sharia Notes

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<sup>39</sup> Joseph L. D. Kennedy et.al., "Long-Term Effectiveness of a Brief Restorative Justice Intervention," *International Journal of Offender Therapy and Comparative Criminology* 63, no. 1 (2019): 3–17, <https://doi.org/10.1177/0306624X18779202>.

<sup>40</sup> Kurtubi, Muhammad. "Child Playing Online Game in the Sadd Al-Zari'ah's Perspective." *NUSANTARA: Journal of Law Studies* 1.1 (2022): 9-20.

(SBSN) came with a fixed rate of interest and Rupiah denomination.<sup>41</sup> State assets, often known as bonds, can act as a go-between, paying back victims of fraud and giving the state access to the funds that the thieves were able to steal.

Recognizing the harm suffered by victims due to criminal acts is a crucial cornerstone in safeguarding human rights and the rights of victims. The practice of compensation and restitution by states, as seen in the examples of the Netherlands, the United Kingdom, and Singapore, demonstrates a commitment to the restoration of victims' rights and the enforcement of restorative justice. In the case of binary options scams such as Quotex and Binomo, restitution and compensation mechanisms can be effective means of recovering the victim's losses and enforcing the perpetrator's liability. This is in line with the principle of restorative justice, which prioritizes recovery over retribution.

The provision of compensation and restitution by the state also reflects the recognition of the failure of the legal protection system to prevent crime. This requires critical reflection and improvements in the law enforcement and victim protection systems. In the context of mass fraud, the use of state financial instruments such as SBSN and SBN can be an innovative alternative to facilitate compensation to victims while strengthening state asset recovery mechanisms.

As a suggestion, there needs to be an improved legal framework and stronger policies to support restitution and compensation for victims, including clarifying implementation mechanisms and ensuring accessibility for victims to file claims. In addition, the importance of public education and awareness of investment risks and digital fraud must be increased as a preventive measure to reduce the number of victims in the future. Finally, interagency collaboration and increased capacity of law enforcement agencies in identifying, seizing, and managing the proceeds of crime will strengthen the restitution and compensation systems and establish justice for victims.

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<sup>41</sup> Nurma Audina Audina, "Perlindungan Hukum Terhadap Korban Pelanggaran HAM berat (Tinjauan Hukum Nasional dan Hukum Internasional)," *Legalite: Jurnal Perundang Undangan dan Hukum Pidana Islam* 5, no. 1 (2020): 14–29, <https://doi.org/10.32505/legalite.v5i1.1464>.

## Conclusion

Then this study concludes that funds provide a solution to the problem of returning assets to victims of binary option investors through restitution under criminal law. Restitution becomes a means to provide protection and justice for victims of binary option investors. The consequences of a criminal offense can cause a person to experience loss and suffering both physically, psychologically, and financially. Therefore, it is imperative for the state to establish a mechanism that enables investors to reclaim their lost rights. The state should not deprive the rights of victims of binary option investors by falsely claiming that binary options are involved in the crime of money laundering. The mechanism for providing compensation and restitution to victims of criminal acts has been regulated in Government Regulation No. 44 of 2008 concerning the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims, which is the implementation of Law No. 13 of 2006. Witness and Victim Protection Agency, which implements the mechanism for providing compensation, restitution, and assistance to victims

It is hoped that this study can provide insight into the knowledge needed by victims of binary investors to get their rights through the concept of restitution. This study aims to serve as a stepping stone for law enforcers, enabling them to provide assistance to victims of binary option investors through the concept of restitution. With the losses suffered by the victims, the state is obliged to provide protection and justice for victims of binary option investors.

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