

# ADDITIONAL CRIMINAL RESTITUTION IN THE HANDLING OF GENERAL CRIMINAL CASES BY THE PROSECUTOR'S OFFICE

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## Keywords

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## ABSTRACT

The provision of restitution to victims of criminal acts is considered not optimal in its implementation with various problems such as from the regulatory aspect and at the level of implementing relevant stakeholders in the implementation of prosecutions. The results of this study will be presented by describing the data obtained through literature studies analyzed by quantitative methods. The study shows that there is a need for an arrangement that contains a substitute crime if the defendant or convicted person is not able to pay a replacement crime as a norm that becomes the legal basis for public prosecutors and judges in prosecuting and deciding cases. The problem arises due to the lack of comprehensive regulations regarding criminal charges in lieu of the payment of compensation, the non-regulation of criminal substitutes for the payment, and the nonregulation of the amount of the criminal substitute. The ideal arrangement in a criminal prosecution that is carried out comprehensively and correctly by the relevant parties is expected to provide legal certainty, justice, and expediency.

## INTRODUCTION

At this time the development of the type and modus operandi in criminal acts is growing along with the times, the perpetrators of criminal acts also come from various age levels, regardless of young or old age. The method used by the perpetrator in committing a criminal act can also be viewed as a sadistic way, causing both material, immaterial, and deep trauma losses to the victim. So that in carrying out law enforcement, law enforcement officials not only focus on how to investigate, prosecute, and provide verdicts for perpetrators but also in the process need to pay attention to how the law enforcement process provides a sense of justice, benefit, and legal certainty for victims.

That when viewed from the violent criminal acts committed by Mario Dandy, lately it has become media attention and has become national news. In his prosecution, the public prosecutor has demanded imprisonment for 12 (twelve) years and pay restitution of Rp120,000,000,000 (one hundred twenty-five billion). But then several problems arise such as the status of Mario Dandy who is still a student and still depends on his economic needs to his parents, the next problem is that Mario Dandy's father, Rafael Alun Trisambodo, has now been determined to be a suspect by the Corruption Eradication Commission in corruption crimes and has frozen accounts by the Financial Transaction Analysis Reporting Center (PPATK) and has been confiscated against his property by investigators of the Corruption Eradication Commission. So it is impossible for Mario Dandy to be able to meet the restitution of the victim, while the prosecutor will confiscate the execution to meet the restitution payment can be made against assets that have been confiscated by investigators. The reason is that the law regulating the protection of

witnesses and victims does not regulate the substitute crime of restitution, in addition to the internal regulations of the Prosecutor's Office, both in the prosecution guidelines and guidelines on access to justice for women and children in facing criminal cases, it does not regulate substitute crimes if the defendant cannot pay restitution.

The mechanism for providing compensation for victims and their families in criminal cases is known as restitution, which has currently been regulated and spread in several laws and regulations, such as Law Number 13 of 2006 concerning the protection of witnesses and victims, Law Number 22 of 2022 concerning Criminal Acts of Sexual Violence, Government Regulation Number 35 of 2020 concerning amendments to Government Regulation Number 7 of 2018 concerning the Granting of Compensation, Restitution, and Assistance to Witnesses and Victims, Supreme Court Rules on Procedures for Resolving Applications and Granting Restitution and Compensation to Victims of Criminal Acts. In addition, in the case of special criminal acts regulated in tax cases, restitution is also regulated. In tax crimes, restitution is an application for the return of excess tax payments made by taxpayers to the state. Restitution will arise in the event of an overpayment of tax as reported in the Tax Return (SPT) or in the event of an error in collection or withholding that may cause an overpayment of tax (Suyanto, 2016).

Restitution is compensation given to victims or their families by perpetrators or third parties (Ali et al., 2022; Bawono, 2021; Kusyandi, 2023; Sitompul & Maysarah, 2021; Wardhani & Mulyanto, 2023). Victims of criminal acts are entitled to restitution in the form of: (1) Indemnity for loss of wealth or income; (2) Compensation for damages incurred as a result of suffering directly related to the criminal act; and/or; (3) Reimbursement of medical and/or psychological treatment expenses.

When viewed from its designation, the state has tried to provide protection and recovery to victims and their families who suffered losses as a result of criminal acts. Protection for victims of criminal acts and fulfillment of rights for victims of criminal acts in Indonesia have been regulated in several laws and regulations. Regulations related to the protection of victims of criminal acts have been regulated in Law Number 31 of 2014 concerning the Protection of Witnesses and Victims. This protection is an effort to fulfill rights and provide assistance by providing a sense of security to witnesses and / or victims which must be carried out by the Witness and Victim Protection Agency (LPSK) or other institutions in accordance with the provisions of laws and regulations (Azzahra, 2023).

This restitution application can be done by a mechanism either before or after a court decision that obtains permanent legal force through the Witness and Victim Protection Agency (LPSK). If the request for restitution is submitted before a court decision that has obtained permanent legal force, the mechanism carried out is for the Witness and Victim Protection Agency (LPSK) to submit restitution to the public prosecutor to be included in its demands. In the implementation of this restitution, in addition to the Witness and Victim Protection Agency (LPSK), the role of the public prosecutor is very important and its position is clear in the laws and regulations, because in addition to containing the application for restitution in its demands, the public prosecutor as the executor also implements court decisions containing the provision of restitution.

That in Law Number 12 of 2022 concerning Sexual Violence Criminal Acts, there are also regulations regarding reconstitution. In its arrangement, it has arranged ways for investigators and public prosecutors to be able to confiscate the property of criminal offenders to get guarantees that victims will get their restitution rights. As at the investigation stage, investigators are authorized in this law to be able to confiscate the property of the perpetrator of the crime to be used as collateral for providing restitution for the victim. Similarly, at the prosecution stage, the Public Prosecutor has the authority to be able to confiscate at the prosecution stage and after a court decision to be able to confiscate the execution of the convict's property to be used as a restitution for the victim. Then this law also regulates the mechanism regarding substitute crimes, if the convicted person cannot pay or the confiscated property does not meet the restitution costs, the convict is subject to substitute imprisonment not exceeding the basic criminal threat (Faizah & Hariri, 2022). The regulation in the law is a justification for law enforcement officials to take the necessary actions to be able to meet the amount of restitution to be given to victims of sexual violence.

If there is a offense or criminal act in a law that does not provide for additional crimes in the form of restitution, it will be a legal problem for the public prosecutor to demand additional crimes in the form of restitution. The application of additional penalties that are not stipulated in the law can be a justification as if the public prosecutor has committed abuse of power.

In the Mario Dandy case, the public prosecutor applied a substitute sentence to Mario Dandy if he could not pay the restitution penalty with an additional sentence of 7 years in prison. Mario Dandy was charged with the criminal offense of molestation charged with First Primair Article 351 paragraph (1) Jo. Article 55 paragraph (1) 1st Subsidiar Criminal Code Article 353 paragraph (2) Jo Criminal Code. Article 55 paragraph (1) 1st Criminal Code or Second Article 76C Jo. Article 80 paragraph (2) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHP) does not recognize any additional penalties in the form of restitution payments. In general criminal cases, guidelines for prosecuting additional crimes in the form of restitution at the Prosecutor's Office focus on child-related crimes, trafficking, gross human rights violations, terrorism, and racial and ethnic discrimination (Syam et al., 2023).

In addition to the Mario Dandy case, there is an obscenity case against that which occurred in the jurisdiction of the Depok District Court committed by the defendant Syahril Parlindungan. In court decision number 473/Pid.Sus/2020/PN.Dpk., the defendant Syahril has been legally and conclusively proven guilty of the crime of inducing children to commit lewd acts, sentenced the defendant Syahril to imprisonment for 15 (fifteen) years and a fine of Rp200,000,000 (two hundred million Rupiah) provided that if the fine is not paid it is replaced with imprisonment for 3 (three) months and the defendant is sentenced to pay restitution to the child victim YJG in the amount of Rp6,524,000 (six million five hundred twenty four thousand Rupiah) provided that if restitution is not paid it is replaced by imprisonment for (three) months and pay restitution to the child victim of BA in the amount of Rp. 11,520,639 (eleven million five hundred twenty thousand six hundred thirty nine Rupiah) provided that if restitution is not paid it is replaced by imprisonment for 3 (three) months. In the judgment, if observed, there is an obligation given to the defendant in the form of paying restitution to the child victim YJG and child victim BA with each different amount of restitution. However, in a substitute crime if the defendant does not pay restitution to each victim's child, the defendant carries out imprisonment for 3 (three) months each. The question that arises is what is the basis for the panel of judges in determining the amount of imprisonment that must be served by the defendant if he does not pay restitution, for a much different amount of restitution but the panel of judges applies the same amount of imprisonment which is 3 (three) months.

According to researchers, this arises because there is no calculation formula that can be a guide for judges in determining the amount of substitute crime if the defendant does not pay restitution, as happened to the public prosecutor. Unlike the calculation of the amount of restitution to be paid by the defendant, the procedure for calculating it has been regulated by the Witness and Victim Protection Agency (LPSK) as an institution authorized by law to calculate the amount of restitution. The procedure for calculating restitution has been regulated in the Regulation of the Witness and Victim Protection Agency Number 1 of 2010 concerning Standard Operating Procedures for Requesting and Implementing Restitution. So through this regulation, the Witness and Victim Protection Agency (LPSK) has a reference in calculating the amount of restitution that will be imposed on the accused. Logically, when the amount of restitution to be paid by the defendant to the victim who suffered both material and immaterial losses has regulatory provisions, then the substitute penalty imposed on the defendant if he does not pay the restitution sounded both in the charge letter by the public prosecutor and the court decision by the panel of judges should not be done haphazardly.

Based on the explanation, this study sees a legal vacuum in the regulation of the implementation of charges against additional crimes in the form of restitution in handling general criminal cases. The research aims to study additional criminal restitution in the handling of general criminal cases by the prosecutor's office. This study's contribution is identifying a legal gap in the regulation of restitution as an additional penalty in general criminal cases and aims to examine how the prosecutor's office handles this issue.

## **METHODS**

This research is a normative juridical research so that the data from this study is obtained from primary legal materials and secondary legal materials. The legal research approach applied in this study is using a legal research approach (statute approach) and a conceptual approach (conceptual approach). The results of this study will be presented by describing the data obtained through literature studies analyzed by quantitative methods. The literature study method is used to obtain information or

information about how restitution and criminal arrangements in lieu of restitution are regulated both in laws and regulations internally at the Ministries/Institutions that organize restitution such as the Witness and Victim Protection Agency (LPSK) and the institution that organizes prosecutions, namely the Prosecutor's Office.

## RESULTS

### Implementation of Additional Criminal Charges of Restitution

Victims of criminal acts are parties who suffer and are harmed due to violations of the law. According to Bambang Waluyo, a victim is a person who has suffered physical or mental suffering, property losses or resulted in death for misdemeanor acts or attempts committed by other criminal offenders. (Waluyo, 2011) But usually the victim is only given the capacity as a victim witness in a criminal justice process, repressive actions committed against criminal perpetrators are considered an act of retaliation for their actions to the victim. This is because the criminal justice system is organized to try perpetrators of criminal acts, not to provide services for the benefit of victims of criminal acts because criminal acts are the actions of perpetrators against the state. The nature of crime in the discipline of criminology is detrimental to all parties who are victims including the perpetrators, the losses in question are material and non-material losses (Syahira, 2023).

The legal approach that prioritizes retaliation to perpetrators by providing severe punishments in the form of imprisonment for a long period of time or even giving the death penalty has indeed dominated the paradigm of law enforcement for many years since Law Number 1 of 1946 concerning Criminal Law Regulations was enacted. This paradigm actually does not cause recovery for victims of criminal acts other than a sense of satisfaction if the perpetrators of criminal acts are convicted with severe punishments. However, from a material point of view, victims of criminal acts do not get recovery for the losses they suffer, so that due to the times and legal needs in society, there has been a paradigm shift in legal politics in the formulation of legal norms for criminal provisions in laws and regulations. There are at least 5 (five) types of crimes that regulate providing restitution to victims, namely serious human rights violations, trafficking in persons, racial and ethnic discrimination, child-related crimes, sexual violence elimination crimes, and other crimes in accordance with the decision of the Witness and Victim Protection Institute.

However, the provision of restitution to victims of criminal acts is considered not optimal in its implementation with various problems such as from the regulatory aspect and at the level of implementing relevant stakeholders in the implementation of restitution. Some of the issues that the researchers highlighted and raised as objects in this study were the implementation of additional criminal charges of restitution carried out by the public prosecutor and the absence of arrangements regarding substitute crimes if the perpetrator is unable to pay restitution so as to realize fair demands and provide benefits for victims. The implementation of restitution that is not optimal makes the lack of certainty of restitution rights to victims because losses due to criminal acts must be requested by victims, even often there is ignorance to victims about the period of payment of restitution from criminal offenders to victims since the judge's decision was handed down. Restitution itself should be a legal protection in an effort to restore the victim's condition or get compensation costs both material and immaterial suffered by victims both physically and mentally charged to perpetrators due to criminal acts (Permatasari et al., 2019). Romli Atmasasmita explained that in the Middle Ages when primitive law still applied to society in the world, personal reparation or a kind of compensation payment was applied by someone who had committed a crime or offender or his family to victims who had been harmed as a result of the crime.

Restitution as the principle of recovery in its original state is an attempt to ensure that the victim of a crime must be returned to the original condition before the crime occurred. (Krisnamurti, 2021) Restitution in laws and regulations is interpreted as compensation given to victims or their families by criminal offenders or third parties (Erwin et al., 2023). The restitution is given in the form of (Soekotjo, 2022): (1) compensation for loss of wealth or income; (2) compensation for damages incurred as a result of suffering directly related to the criminal act; (3) Reimbursement of medical and/or psychological treatment expenses. The mechanism for submitting a request for restitution can be requested either before or after a court decision that has obtained permanent legal force through the Witness and Victim Protection Agency (LPSK). If the request for restitution is requested before a court decision that has obtained permanent legal force, the Witness and Victim Protection Agency (LPSK) submits Restitution to the public prosecutor to be included in its claim, but if the request for restitution is requested after a

court decision that has obtained permanent legal force, the Witness and Victim Protection Agency (LPSK) submits its request for restitution to the court for determination or contained in the court ruling.

The stages of implementing the application for restitution to the Witness and Victim Protection Agency (LPSK) are carried out as follows: (1) The application shall be submitted in writing in Indonesian on sufficient stamped paper to the court through the LPSK; (2) The request for restitution shall at least contain: (a) Identity of the applicant; (b) Description of the criminal offence; (c) Identity of the perpetrator of the crime; (d) Description of actual losses suffered; and (e) The form of restitution requested, accompanied by supporting documents as stipulated in the provisions of laws and regulations; (3) LPSK shall check the completeness of the application for Restitution within a maximum period of 7 (seven) Days from the date the request for Restitution is received; (4) In the event of incompleteness of the application, the LPSK notifies the applicant in writing to complete the application; (5) The applicant must complete the application within a maximum period of 14 (fourteen) days from the date the applicant receives notification from the LPSK; (6) In the event that the application is not completed within a period of 14 (fourteen) days, the applicant shall be deemed to withdraw his application; (7) In the event that the request for restitution is declared complete, the LPSK shall immediately conduct a substantive examination.

The Public Prosecutor in carrying out the handling of general criminal cases is guided by the Attorney General's Guidelines Number 24 of 2021 concerning the Management of Criminal Cases. Guidelines for handling general criminal cases are a reference in the implementation of case handling in the field of general crimes starting from the advanced investigation stage for cases of forest destruction, pre-prosecution, prosecution, examination in court proceedings, legal remedies, and the implementation of court decisions that have permanent legal force, including the completeness of case handling administration. The provisions regarding the handling of general criminal cases in this guideline are regulated to realize professional, quality, integrity, and humane case handling for fair and beneficial legal certainty, by prioritizing the dominus litis of the public prosecutor.

The public prosecutor in carrying out the prosecution, must be able to describe the circumstances and factors affecting the criminal prosecution. Circumstances and influencing factors in filing criminal charges are carried out by considering aggravating and mitigating circumstances, the age of the offender, physical and spiritual conditions, and other factors that may affect criminal charges. In conducting the prosecution, the public prosecutor considers the facts in the case file, the legal facts that developed in the trial, and factors that may affect the claim such as mitigating or aggravating causes for the defendant. If in these considerations a conflict is found between legal certainty, justice or expediency, the public prosecutor submits a claim by prioritizing justice or expediency. This is expected to be a guide for the public prosecutor in conducting prosecutions.

In the verdict of a criminal case in the South Jakarta District Court Number 297/Pid.B/2023/PN Jkt.Sel dated September 5, 2023 on behalf of Mario Dandy Satriyo Alias Dandy, the defendant was proven to have violated Article 355 paragraph (1) of the Criminal Code Jo. Article 55 paragraph (1) 1 of the Criminal Code because he had committed severe persecution with a plan in advance. In this case, the public prosecutor charged the defendant with an additional crime in the form of restitution, which in essence demanded the following:

So that the panel of judges of the South Jakarta District Court who examined and tried this case decides:

1. Declaring the Defendant Mario Dandy Satriyo alias Dandy has been legally and conclusively proven guilty of the crime of participating in committing Severe Persecution with premeditation as Article 355 Paragraph (1) of the Criminal Code Jo Article 55 Paragraph (1) 1st of the Criminal Code in the First Indictment of the Primair Public Prosecutor.
2. Sentenced Defendant Mario Dandy Satriyo alias Dandy to imprisonment for 12 (twelve) years reduced as long as Defendant Mario Dandy Satriyo alias Dandy is in temporary detention with an order that Defendant Mario Dandy Satriyo alias Dandy remain detained.
3. Charge Defendant Mario Dandy Satriyo als Dandy, Witness Shane Lukas Rotua Pangondian Lumbantoruan alias Shane, and Child Witness AGH (each in a separate case file) together in a balanced manner by adjusting the role and level of guilt resulting in losses to pay restitution to the Child victim Crystalino David Ozora Als Wareng in the amount of Rp 120,388,911,030.00 (one hundred twenty billion three hundred eighty-eight million nine hundred eleven thousand three tens of Rupiah) provided that if the Defendant is unable to pay it is replaced by imprisonment for 7 (seven) years.

Against this claim, the panel of judges of the South Jakarta District Court in its judgment decided: (1) Declaring the defendant Mario Dandy Satriyo Alias Dandy has been legally and conclusively proven guilty of committing the act, "Committing Severe Persecution with premeditation"; (2) Sentenced the Defendant Mario Dandy Satriyo alias Dandy to imprisonment for 12 (twelve) years; (3) Stipulate that the length of arrest and the period of detention that the defendant has served shall be deducted entirely from the sentence imposed; (4) Stipulate the defendant remains in custody; (5) Burden the defendant Mario Dandy Satriyo als Dandy, pay restitution to the child victim Crystalino David Ozora Als Wareng in the amount of Rp25,140,161,900 (twenty-five billion one hundred forty million one hundred sixty-one thousand nine hundred Rupiah); (6) Stipulates 1 (one) unit of Rubicon Wrangler 3.6 at Jeep L.C.HDTP No.Pol B 2571 PBP in 2013 black color Frame No.1C4HJWJG0DL597380 and Engine No.DL597380 an. Ahmad Saefudin Address Gg. Jati Mampang Prapatan RT.1/1 South Jakarta along with the keys and STNK belonging to the defendant were sold in public/auction and the proceeds were paid to reduce some of the restitution to the victim's son David.

According to Article 10, the Criminal Code regulates the types of crimes that can be imposed on defendants, consisting of the main crimes: 1) death penalty, 2) imprisonment, 3) imprisonment, 4) fines, 5) cover-up and additional penalties in the form of 1) deprivation of certain rights, 2) confiscation of certain goods, 3) announcement of the judge's decision, however, there is no additional penalty of restitution. Additional penalties for restitution are regulated in several laws including Law Number 23 of 2002 concerning Child Protection as amended by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2003 concerning Child Protection, Law Number 15 of 2018 concerning amendments to Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism into Law, Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons, Law Number 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination, Law Number 12 of 2022 concerning Sexual Violence.

The restitution arrangement in the criminal code is actually only regulated in the new criminal code, namely Law Number 1 of 2023 concerning the Criminal Code which will come into effect 3 (three) years after its promulgation. However, it became something strange because the panel of judges of the Depok District Court Number 297/Pid.B/2023/PN Jkt.Sel dated September 5, 2023 on behalf of Mario Dandy Satriyo Alias Dandy finally granted the request or demand of the public prosecutor and now the case has permanent legal force.

In its decision on page 184, the panel of judges considered the following "that as restitution is damage given to the victim or his family by the perpetrator of the crime or a third party. Restitution is regulated in the provisions of Law Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children Victims of Criminal Acts, and Government Regulation Number 7 of 2018 concerning the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims and Supreme Court Regulation Number 1 of 2022 concerning Procedures for Settling Applications and Provision of Restitution and Compensation to Victims of Criminal Acts. As has been proven, David's child victim was seriously injured as the defendant's act, then based on the provisions as mentioned above, in addition to the defendant being sentenced to him, he was also ordered to pay restitution to which David's child victim was entitled. Given the Defendant's role in causing the victim's serious injury, it is only fair that the Defendant is responsible for the restitution charged."

Against the consideration of the panel of judges, it did not mention the criminal provisions proved by the public prosecutor, namely Article 355 paragraph (1) Jo. Article 55 paragraph (1) 1 of the Criminal Code as the basis for granting restitution rights to victims. Because in the provisions of the article there is no regulation regarding additional crimes in the form of restitution, in this case the panel of judges considers child victims as subjects entitled to receive restitution as stipulated in Law Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Criminal Acts, and Government Regulation Number 7 of 2018 concerning the Granting of Compensation, Restitution, and Assistance to Witnesses and Victims and Supreme Court Regulation Number 1 of 2022 concerning Procedures for Resolving Applications and Granting Restitution and Compensation to Victims of Criminal Acts which is the basis for judges in considering the obligation to pay restitution by the Defendant to David's child victim to provide a sense of justice for the child victim for the suffering experienced both physically and Psychic.

Regarding the calculation of the restitution value charged to the Defendant, the panel of judges gave the following considerations "taking into account the calculation of restitution as calculated by the Witness and Victim Protection Agency (LPSK) with LPSK Letter Number: R-1307/5.1 HSP/04/2023 dated April 4, 2023 amounting to Rp120,388,911,030 (one hundred twenty billion three hundred eighty-eight million Nine hundred eleven thousand thirty Rupiah) based on; (1) Indemnity for loss of wealth; (2) Reimbursement of medical and/or psychological treatment costs; (3) Indemnity for suffering as a result of a criminal offence.

Against the calculation from the Witness and Victim Protection Agency (LPSK), the panel of judges considered that there were several components that should not be included in the amount of restitution, including the component of compensation for loss of wealth for transportation and consumption, specifically consumption was calculated at Rp30,000 x 3 meals x 3 people (father, mother, and child) Rp270,000/day x 41 = Rp11,070,000 even though it is reasonable for 1 meal to be calculated at Rp30,000 but it is not appropriate if the victim's child is in care so it should be Rp180,000 x 2 people (mother and father) = Rp180,000 x 41 days = Rp7,380,000.

In addition, the calculation of the Witness and Victim Protection Agency is also based on the projected cost of medical recovery from Mayapada Hospital. That from the projected cost of medical recovery from Mayapada Hospital of Rp2,187,120,000 where further according to the Witness and Victim Protection Agency (LPSK) because the life expectancy of residents of the Special Capital Region of Jakarta is 71 (seventy-one) years, considering the age of the child victim is 17 (seventeen) years, so that the number 54 (fifty four) is found which comes from a reduction of 71 (seventy one) life expectancy minus 17 (the age of the child victim David), then Rp2,187,120,000 multiplied by 54 (fifty-four) so that Rp118,104,480,000 is obtained the value of compensation for suffering as a result of criminal acts. The calculation cannot be accepted by the panel of judges because the calculation of compensation for suffering as a result of criminal acts cannot simply be calculated from the projected cost of medical recovery from Maya Hospital during the month of examination and is directly multiplied by 54 (fifty-four) obtained from the deduction of 71 (seventy-one) life expectancy minus 17 (the age of David's child victim) because it is impossible to need treatment costs for the child victim It can be ascertained that the number is the same for the next 54 (fifty-four) years. For this reason, the panel of judges considered the testimony of expert Dr. Jeremiah Tatang in cases such as that experienced by David's child victim, the chance or hope of recovery is 5% so that it requires continuous attention and care, and given the condition of David's victim child, the level of dependence with people around him is needed temporarily and it takes a long time. In this regard, the panel of judges considered that David's child victim needed a guarantee of care and a guarantee of life needs support in the face of uncertainty in the recovery of his health.

Furthermore, the panel of judges also considered the amount of restitution which is the right of David's child victim can be replaced with imprisonment if it is not paid as demanded by the public prosecutor, in its consideration the panel of judges considered that it would be unfair if restitution which is the right of the victim's child to be replaced with imprisonment if the defendant restitution was not paid by the defendant, or replaced with imprisonment considering the replacement of restitution with imprisonment or Confinement will actually eliminate and close the right of David's victims to get compensation, especially in the field of civil law, so it is not appropriate what the public prosecutor said about replacing restitution with imprisonment. The amount of restitution charged to the defendant which is the right of David's child victim if the defendant is unable to pay remains attached to the defendant, and does not rule out the possibility that one day the defendant is able to resolve it, as well as to David's child victim with this restitution it is possible to file a new lawsuit civilly if there are other costs incurred in addition to the costs specified in the restitution in question later day (vide Article 9 letter b of Supreme Court Regulation Number 1 of 2022 concerning Procedures for Resolving Applications and Granting Restitution and Compensation to Victims of Criminal Acts). So in his ruling, the evidence of the Rubicon car No.Pol B 2571 PBP was sold/auctioned and the proceeds were paid to reduce part of the restitution.

On the basis of these considerations, the panel of judges saw from the principle of expediency and justice for the benefit of David's child victims who experienced such physical and psychological suffering and the possibility of recovering as they were originally only 5%, giving the right in the form of restitution to David's child victims, even though in the provisions of Article 355 paragraph (1) Jo. Article 55 paragraph (1) 1 normatively does not regulate restitution, but the panel of judges still considers granting rights in the form of restitution to David's child victims by referring to Law Number 31 of 2014

concerning amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Criminal Acts, and Government Regulation Number 7 of 2018 concerning the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims and Supreme Court Regulation Number 1 of 2022 concerning Procedures Completion of Applications and Granting Restitution and Compensation to Victims of Criminal Acts.

In this case, the judge has the discretion to use his authority in exploring, following, and understanding legal values and a sense of justice that lives in society, so that even though the article evidenced by the public prosecutor does not regulate additional crimes in the form of restitution, based on the facts in the trial, the panel of judges is of the view that the imposition of restitution is considered necessary to provide a sense of justice and benefit for the child victim. Another similar case and in the end was also granted by the judge was the criminal case of obscenity Number 473 / Pid.Sus / 2020 / PN.Dpk dated January 6, 2021 an. Defendant Syahril Parlindungan Martinus Marbun als Kaka AI in the Depok District Court with the following charges:

So that the panel of judges of the Depok District Court who examined and tried this case decided: (1) Declaring the defendant Syahril Parlindungan Martinus Marbun Als. Kaka Ai is guilty of committing a criminal act of committing violence or threatening violence, coercing, deceit, committing a series of lies, or persuading children to commit or allow obscene acts to be done, committed by educators or education staff, along with several acts that must be viewed as independent acts so that they constitute several crimes, as referred to in article 82 paragraph (2) Jo article 76 E Law Number 35 In 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection Jo article 65 paragraph (1) of the Criminal Code in the First Indictment; (2) Criminal Conviction against the defendant SYAHRIL PARLINDUNGAN MARTINUS MARBUN Als. KAKA AI with imprisonment for 11 (eleven) years reduced while the defendant is in temporary detention with an order to remain detained and a fine of Rp. 200,000,000 (two hundred million Rupiah) subsidair 3 (three) months confinement. Additional Criminal; (1) Payment of Restitution to the child victim ISIAIAH JONAYA GABRIEL in the amount of Rp. Rp. 6,524,000,- (six million five hundred twenty four thousand Rupiah) Subsidair 3 months imprisonment; (2) Payment of Restitution to the child victim BASILIUS ANDREW amounting to Rp. 11,520,639,- (eleven million five hundred twenty thousand six hundred thirty-nine Rupiah) Subsidair 3 months criminal confinement.

Against this decision, the panel of judges took all considerations from the public prosecutor in applying the article that was proven to be violated by the defendant, because in that case the defendant was proven to have violated the provisions as stipulated in Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, where in the law there are arrangements regarding restitution as stipulated in Article 71D of Law Number 35 Year 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection. So that the imposition of restitution on the lawsuit and court decision is appropriate. The provision of restitution for victims of child protection crimes can be interpreted as a form of legal protection for children as victims in terms of regulation, because the articles have formulated the protection of children's rights as victims in Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection. This emphasizes the need to toughen criminal sanctions and fines for perpetrators of sexual violence against children to have a deterrent effect and encourage concrete actions to restore physical, psychological, and social children.

If observed in the complaint, the Public Prosecutor added additional penalties to the defendants in the form of restitution payments to YJG victim children amounting to Rp. 11,520,639 (six million five hundred twenty-four thousand Rupiah) Water subsidies for 3 months of confinement and to BA victim children in the amount of Rp. 1,520,639 (eleven million five hundred twenty thousand six hundred thirty-nine Rupiah) Water subsidies for 3 months of confinement. Then in the additional restitution crime, the public prosecutor applies a substitute sentence if the defendant does not pay restitution with imprisonment for 3 (three) months. In applying the amount of restitution to be paid by the defendant, a calculation has been made by the Witness and Victim Protection Agency (LPSK), then the calculation is then reported to the public prosecutor to be included in the prosecution.

The question arises as to how the public prosecutor determines the amount of imprisonment that must be served by the defendant as a substitute crime if the defendant does not pay restitution. In the complaint, the public prosecutor determines a substitute sentence in the form of imprisonment for 3 (three) months for each amount of restitution to be paid by the defendant, namely to the child victim



YJG amounting to Rp. 11,520,639 (six million five hundred twenty four thousand Rupiah) and to the child victim BA amounting to Rp. 1,520,639, - (eleven million five hundred twenty thousand six hundred thirty-nine Rupiah). With different amounts of restitution why the same imprisonment is imposed, what is the benchmark for public prosecutors in determining the length of the substitute crime that must be served. Meanwhile, in determining the amount of restitution carried out by the Witness Protection Agency (LPSK), it is carried out through calculations based on losses suffered by victims along with treatment or other financing spent on victim recovery. Although in the decision of the case on behalf of the defendant Syahril, the panel of judges agreed with the public prosecutor in determining the substitute crime if the defendant did not pay restitution with imprisonment for 3 (three) months, but still this was not based on the rules that became the basis for determining the amount of the substitute crime.

Unlike the Mario Dandy case, the public prosecutor demanded a substitute sentence in the form of imprisonment for 7 (seven) years if the defendant did not pay restitution. Meanwhile, in the decision of the court of first instance, the panel of judges of the Depok District Court in its ruling did not consider a substitute crime if the defendant did not pay restitution. In the Regulation of the Witness and Victim Protection Agency Number 1 of 2010 concerning Standard Operating Procedures (SOP) for Application and Implementation of Restitution, it is explained that the calculation of restitution is calculated based on actual losses suffered by victims and/or their families due to criminal acts. The loss must be actually suffered by the applicant and is included in the type of loss that can be covered through the restitution mechanism which includes: medical expenses and counseling costs, loss of income or profits that can be calculated, funeral and burial costs, transportation costs during the process of applying for restitution, loss of happiness in life, due to suffering experienced, replacement costs or repairs of assets and property, and other additional costs that can be proven for use. The form of restitution requested by the applicant can be in the form of money or tangible goods from the perpetrator.

The calculation of restitution carried out by the Witness and Victim Protection Agency (LPSK) is a calculation based on real losses or costs incurred (real costs) experienced or incurred by the applicant. Meanwhile, in the perspective of the public prosecutor, the calculation of substitute criminal if the defendant does not pay restitution costs does not have a standard pattern or mechanism. In Guideline Number 24 of 2021 concerning the Handling of General Criminal Cases, specifically, there is no regulation regarding substitute criminal parameters if restitution is not paid by the Defendant. In general, the Guidelines a quo only regulate the things that the public prosecutor does in applying restitution such as from the examination of restitution applications, proving restitution applications, implementing restitution decisions. The things that the public prosecution does in proving restitution in evidence at trial are: (1) loss of wealth or income; (2) damages for suffering as a result of a criminal offence; (3) Medical and/or psychological treatment costs; and/or; (4) Other losses suffered by female victims as a result of trafficking crimes.

The regulation on the restitution mechanism in the Prosecutor's Office as explained does not explain how the substitute criminal mechanism is if the defendant does not pay restitution, so it is natural that in its implementation there is a non-uniformity in applying additional criminal restitution in the charge letter submitted by the public prosecutor.

### **The Ideal Arrangement of Substitute Criminal Charges in the Form of Restitution that provides legal certainty, justice and expediency**

Additional criminal charges and sentences of restitution are now practiced by public prosecutors in the preparation of charges as well as by judges in court decisions. However, there is no uniformity in applying substitute criminal methods if the defendant does not pay the restitution fee charged to the defendant through a court decision.

According to Guideline Number 24 of 2021 concerning the Handling of General Criminal Cases, it only regulates procedures for examining restitution applications, proving restitution applications and implementing restitution decisions. The provisions of the Code a quo have not provided for the mechanism for calculating the amount of substitute criminal if the defendant does not pay restitution. Other implementing laws and regulations including provisions issued by the Supreme Court have not provided the same rules.

In general, Guideline Number 24 of 2021 concerning the Handling of General Criminal Cases. In the Guidelines a quo, it regulates the circumstances and factors affecting criminal prosecution, the material of the criminal prosecution plan, and the provisions of the criminal prosecution. It is fully described as follows: (1) The public prosecutor shall file a free claim (vrijspraak) in the event that: (a)

the guilt of the accused is not validly and convincingly proven; (b) the criminal act charged is not validly and convincingly proven due to non-fulfillment of the elements of the criminal act; and/or (c) Non-fulfillment of 2 (two) valid evidence because the evidence submitted before the court has no evidentiary power or was obtained unlawfully; (2) The public prosecutor shall file a claim for release from all legal claims (ontslag van rechtsvervolging) in the event that based on the legal facts at the trial the act charged against the accused is proven, but the act does not constitute a criminal offense; (3) In the event that the public prosecutor submits a claim free from the lawsuit as referred to in number 2, the public prosecutor in his claim shall still prove the act charged to the accused and describe the reasons why the act, although proven, is not a criminal offense, including the following; (a) There is a justifying reason that erases his unlawful nature or the existence of a forgiving reason that eradicates the guilt so that the act committed by the accused does not constitute a criminal offense; (b) The acts committed by the accused do not fall within the realm of criminal law; and/or; (c) There are changes in laws and regulations that decriminalize or eliminate the unlawful nature of the acts charged; (4) The public prosecutor submits criminal charges on condition that in the event that the criminal act committed by the defendant deserves to be prosecuted for a maximum of 1 (one) year imprisonment or imprisonment, supervision of criminal implementation provided that the prosecutor can run, and based on legal facts at trial; (a) the defendant is committing a criminal offence for the first time; (b) the loss and suffering of the victim is not too great; (c) the defendant has paid damages to the victim; (d) imprisonment does not benefit the defendant to change into a better citizen in the future; (e) the defendant is the backbone of the family; (f) the defendant's profession is urgently needed in his area of residence or work environment; (g) the criminal act committed is not related to professional ethics; and/or (h) there has been peace between the accused and the victim; (5) Criminal charges with conditions as referred to in number 4 do not apply to crimes that are threatened with imprisonment of 5 (five) years or more or threatened with a special minimum sentence; (6) The public prosecutor's claim is inadmissible in the event that there are circumstances; (a) there has been a court decision which has obtained permanent legal force against the defendant in the same case (ne bis in idem); (b) the defendant dies; or (c) the authority to prosecute criminal expungement due to expiration; (7) In the event that the public prosecutor makes a claim for acquittal, the claim of release from any lawsuit, or the claim of the public prosecutor is inadmissible, against the seized evidence is demanded: (a) returned to the person or to them and to whom it was confiscated, or to the person or to whom it is most entitled; or (b) seized for use for the benefit of the negata or for destruction, in the event that confiscated objects are prohibited or prohibited from circulation; (8) In the case of money laundering, in the event that the defendant dies before the verdict is handed down and there is sufficient evidence that the defendant has committed a money laundering offence, the public prosecutor submits that the public prosecutor's claim is inadmissible and the seized property evidence is demanded to be confiscated for the state; (9) In the event that the defendant has been sentenced to imprisonment for a maximum of 15 (fifteen) years or 20 (twenty) years due to the circumstances as stipulated in the law or sentenced to death or life imprisonment, then the defendant is found guilty again for a crime or other offense committed before the criminal verdict (delict left behind), the defendant/convict may still be prosecuted with imprisonment; (10) The charge for imprisonment referred to in number i) shall be filed provided that the crime need not be served unless the court of last instance or the judge examining the judicial review, imposes; (a) acquittal; (b) the judgment of release from all legal claims; (c) The public prosecutor's claim is inadmissible (due to nebis in idem or expiration); or (d) a lighter imprisonment of not more than 20 (twenty) years. Or the President grants clemency or amnesty to the convict; (11) In the event that the defendant/Child is detained but the public prosecutor submits a claim for acquittal, a claim for release from all legal claims, the public prosecutor's claim is inadmissible, a criminal charge other than the death penalty or imprisonment, or demands action, the public prosecutor in his suit also requests the judge/panel of judges to order the release of the defendant/child from custody; (12) Taking into account the legal facts at the trial, in the event that there are circumstances contrary to legal certainty and justice or expediency, the public prosecutor shall file a claim with the priority of justice or expediency; (13) The circumstances referred to in number 12 shall be described by the public prosecutor in the opinion of the public prosecutor on the criminal prosecution plan; (14) The leader shall consider the opinion of the public prosecutor referred to in number 13 and describe it in the opinion of the leader on the criminal prosecution plan; (15) In the event that the leader referred to in number 14 agrees with the public prosecutor, the public prosecutor lists the consideration of justice or expediency as referred to in number 12 in the charge letter as aggravating or mitigating circumstances;

(16) In the event that the accused is a witness of the perpetrator who cooperates (justice collaborators) and has provided substantive cooperation in uncovering terrorism, narcotics, money laundering, trafficking in persons, or other organized crimes that have caused serious problems and threats to the stability and security of society, the public prosecutor may prosecute criminally on condition that; (17) Criminal charges against children are adjusted to the type of crime or action as stipulated in the law governing the juvenile criminal justice system by applying the guidelines for juvenile criminal prosecution as follows: (a) criteria for criminal prosecution or action; (b) the formulation of criminal charges or actions; and (c) the manner in which the criminal judgment or Act is executed; (18) In the event that the public prosecutor in its prosecution will return evidence used to commit a criminal offence that has economic value to witnesses or third parties in good faith, the public prosecutor must convey its consideration in the criminal prosecution plan by attaching supporting evidence or legal facts; (19) In the event that the public prosecutor files a claim free from the lawsuit, the public prosecutor in his lawsuit is still obliged to prove the act charged to the defendant and describe the reasons why the act, although proven, is not a criminal offense.

In accordance with the Guidelines a quo, there is no regulatory mechanism regarding the amount of imprisonment or substitute for fines or restitution not paid by the defendant. The norm only stipulates that if the court decision does not grant part or all of the request for restitution submitted by the public prosecutor in his lawsuit, the public prosecutor can file a legal remedy against restitution considering that restitution is a right to reparation for victims of criminal acts that requires the perpetrator to compensate the victim's suffering/loss in a criminal case (penal character). The Attorney General as the sole owner of the prosecutorial authority and the highest public prosecutor in Indonesia should be able to take on the role of filling the gaps in the prosecution arrangement. The Attorney General can regulate law enforcement policies related to this restitution arrangement so that it can be a guide and parameter for prosecutors to work professionally, accountably, and have legal certainty in carrying out prosecutions.

The Prosecutor's Office as a government institution whose function is related to the judicial power that exercises state power in the field of prosecution and other authorities based on the law, must be able to see the phenomena and dynamics of legal development that exist in society, because in the development of law that is in the community the existence of positive law is always left behind. So it is natural that considering the phenomenon in the implementation of restitution, the Prosecutor's Office encourages the legislature to improve restitution arrangements in laws and government regulations and compile internal regulations as a guide for prosecutors in implementing restitution claims.

The researcher considered that the provision regarding substitute crime if the defendant does not pay restitution must have arrangements, especially in the internal regulations of the Prosecutor's Office. This can at least be used as a reference and benchmark for the public prosecutor in determining the amount of substitute crime for the accused. The absence of this arrangement, according to researchers, results in the restitution process not running optimally so that it does not have a significant impact on victims, so that the restitution process does not provide benefits and a sense of justice that victims deserve. Comprehensive restitution arrangements accompanied by implementation carried out in accordance with laws and regulations are expected to provide proportionate punishment for defendants.

The types of criminal acts that can be subject to restitution have a special character, both from the qualification of the criminal act and the procedural law. In handling cases, the skills and professionalism of law enforcement officials, especially prosecutors, are needed in carrying out their functions as dominus litis and as public prosecutors in proving criminal acts and guilt of defendants and filing criminal charges. Criminal charges accompanied by additional criminal restitution need to be prepared with a special approach, taking into account the qualifications of the type of crime, the qualifications and roles of the accused, and casuistic circumstances comprehensively and proportionately. With this approach, it is hoped that criminal prosecution of cases that can be subject to restitution can meet the principles of justice and expediency. To realize the policy, it is necessary to regulate in the prosecution guidelines regarding criminal substitutes for additional restitution crimes.

In comparison, the Witness and Victim Protection Agency (LPSK) in determining the amount of restitution comes from calculations issued for the benefit of victim recovery and/or losses suffered by victims. The loss must be actually suffered by the applicant and is included in the type of loss that can be covered through the restitution mechanism which includes: medical expenses and counseling costs, loss of income or profits that can be calculated, funeral and burial costs, transportation costs during the

process of applying for restitution, loss of happiness in life, due to suffering experienced, replacement costs or repairs of assets and property, and other additional costs that can be proven for use. So that it should be in determining the amount of substitute crime to be applied by the public prosecutor to the defendant also based on variables or components regulated in the regulations. In proving criminal acts and criminal responsibility of the accused, the public prosecutor must prove criminal acts (*actus reus*) and guilt (*mens rea*) on the defendant. Then by considering the facts in the trial in order to explore mitigating and aggravating factors to be accommodated in the complaint. This has been regulated in Guideline Number 24 of 2021 concerning the Handling of General Criminal Cases, which is a guide for public prosecutors in finding benchmarks for determining the severity or absence of criminal charges for defendants. Meanwhile, as a determinant of the additional criminal amount, restitution comes from calculations carried out by the Witness and Victim Protection Agency (LPSK) as previously described. Then in determining the amount of criminal substitute for restitution, researchers can provide simulations that can be a reference for the Prosecutor's Office in regulating arrangements regarding criminal charges in lieu of restitution as follows:

**Table 1.** Criminal Prosecution in Lieu of Restitution

1	2	3	4
Life/imprisonment: 15 Years – 20 Years	Prison: 10 years – 15 years	Prison: 5 years – 10 years	Prison: 1 month - 5 years
Restitution: 500 million Rupiah ≤	The book: 100 million – 500 million Rupiah	The book: 10 million Rupiah – 100 million Rupiah	The book: ≤ 10 million Rupiah
Criminal substitute confinement: 9 months – 1 year of confinement	Criminal substitute confinement: 6 months – 9 months confinement	Criminal substitute confinement: 3 months – 6 months confinement	Criminal substitute: 1 day – 3 months confinement

With the simulation in the table, it can be a benchmark that criminal arrangements in lieu of restitution can be regulated into prosecution guidelines in general criminal cases. Restitution arrangements must be formulated comprehensively against various types of criminal acts that cause suffering to victims, considering that currently restitution is only regulated to victims of certain crimes such as terrorism, trafficking, child protection, and violence against women.

In Law Number 1 of 2023 concerning the Criminal Code, it has regulated compensation, in the Criminal Code a quo compensation can be interpreted as restitution, the regulation regarding compensation in the Criminal Code a quo is not limited to being imposed on criminal acts of terrorism, trafficking in persons, child protection crimes, and violence against women. However, because the law is still in effect in 2025, there is a regulatory vacuum before the law takes effect. In practice, additional criminal charges of restitution are only seen as limited to law enforcement having entitled, the victim has given the victim the right to restitution, but it returns to the issue of what if the defendant or convicted person is unable to pay the amount of restitution money charged to him. In public prosecutors' demands and in court decisions, charges or judgments can be found that do not contain substitute crimes if the defendant or convicted person is unable to pay restitution. Against this problem, the law does not provide benefits for victims.

The problem arises due to the absence of comprehensive regulations regarding criminal charges for restitution, the non-regulation of criminal substitutes for restitution in several criminal provisions governing restitution is a difficulty for public prosecutors and judges in prosecuting and deciding cases. So there is a need for an arrangement that contains a substitute crime if the defendant or convicted person is unable to pay restitution as a norm that becomes the legal basis for the public prosecutor and judge in carrying out the restitution. If there is a comprehensive regulation regarding the criminal substitute for restitution, the law is expected to provide benefits for victims. The Prosecutor's Office as a law enforcement agency that has a central position can initiate filling the legal void by compiling guidelines regarding additional criminal restitution with clear benchmarks.

The scheme in the table as described above can at least be used as a reference for how to apply a substitute crime if the defendant does not pay restitution, there is a substitute criminal gradation for the principal crime and restitution applied. Restitution arrangements in the criminal law system that

are carried out comprehensively and implemented correctly by the relevant parties are expected to be able to provide a sense of justice for victims of criminal acts. However, the fact that there are charges and verdicts in a criminal court that contains restitution does not provide a sense of justice for victims of criminal acts. This is because in the letter of charge made by the public prosecutor, or the court decision decided by the panel of judges, there is no provision regarding substitute crime if the defendant is unable to pay restitution. So that restitution is normatively only a mechanism provided by the state to restore the victim's condition for losses suffered as a result of a criminal act, but de facto the victim does not get recovery if the defendant is unable to pay the restitution.

Against these problems, the normative law must provide justice for victims. Therefore, between the imposition of criminal penalties on perpetrators of criminal acts, there must be a conformity, so that between the objectives of granting criminal sanctions can be achieved, the judge in imposing criminal sanctions must pay attention to the conditions of victims and perpetrators of criminal acts. In the process of drafting legal regulations to achieve these legal objectives, priority must be determined from these three basic values. This is understandable because sometimes, the law to achieve justice will clash with expediency and legal certainty, and vice versa legal certainty can sometimes also ignore justice and expediency. The order of priorities taught by Radbruch is: first Legal Justice; second Legal Expediency; and third, new Legal Certainty. With the establishment of the order of priority as above, it is hoped that the legal system can resolve conflicts from the three legal values above.

## CONCLUSION

In Indonesia, the implementation of restitution in criminal justice training is not optimal due to a legal vacuum in criminal provisions and internal regulations. The Prosecutor's Office, as the prosecution institution, has no benchmark for determining the appropriate substitute crime if a defendant does not pay restitution. This is because there is no regulation for criminal substitutes from restitution in the guidelines for prosecuting general crimes. The provision of restitution is currently limited to certain criminal acts such as gross human rights violations, terrorism, trafficking in persons, racial and ethnic discrimination, crimes related to children, and sexual violence. The ideal arrangement for criminal prosecution in lieu of restitution should provide legal certainty, justice, and expediency. Comprehensive regulation on restitution, both in criminal provisions and implementing regulations at Ministries/Institutions, especially the Prosecutor's Office, is expected to provide legal certainty in the implementation of prosecutions and provide a sense of justice and benefit for victims of criminal acts.

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