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A Legal Analysis of the Prosecutor's Authority in Ensuring the Right to Restitution for Child Victims of Sexual Violence

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Abstract

This study investigates the role of the public prosecutor in ensuring the right to restitution for children who are victims of sexual violence within Indonesia's criminal justice system. Although the right to restitution for child victims is normatively guaranteed under the Child Protection Law, the Law on Sexual Violence Crimes, and related Government Regulations, the active participation of the prosecutor as dominus litis is essential for its implementation. The findings show that prosecutors are responsible for including restitution claims in the indictment or sentencing demand, ensuring that restitution is granted in court decisions, and coordinating the tracing and sale of the defendant's assets to guarantee the execution of restitution. However, prosecutors continue to face several challenges in carrying out this responsibility. These include offenders who are unable or unwilling to pay, unclear technical regulations, and limited understanding of restitution procedures. As a result, restitution orders are often not fully enforced, thereby preventing victims' rights to recovery from being effectively fulfilled. Therefore, there is a need to strengthen prosecutorial capacity, promote more active enforcement from the prosecution stage through execution, and establish clear guidelines for handling restitution claims in cases involving child victims of sexual violence as part of broader child protection efforts.

INTRODUCTION

Sexual violence has become increasingly prevalent in Indonesia over the past few years. The Cirebon City DP3APPKB (Office of Women's Empowerment, Child Protection, Population Control, and Family Planning) reported an increase in cases of violence against children across all categories in 2024. In 2024, the number of cases of violence against children reached 48. According to data from the Cirebon City DP3APPKB, of the 48 cases of violence against children in 2024, sexual violence was the most frequent category, with 28 cases. In addition, there were 14 cases of psychological violence, five cases of physical violence, and one case of neglect. In 2025, there were 29 cases of sexual violence, 18 cases of abuse, and 13 cases of violence against children. In 2025, 12 cases of sexual violence had been transferred to the prosecutor's office.

The term "violence" refers to all forms of unacceptable behavior that harm a person or community, either mentally or physically. Violence against children threatens their physical and mental health. Violence against children can take many forms, including, among others, serious neglect of children's basic needs and the use of physical force by adults in threatening situations.

One of the biggest obstacles to protecting human rights in Indonesia is the prevalence of violence against children. Because of their high vulnerability, victims of crime, particularly

children, are entitled to full legal protection, including the right to claim compensation and the restoration of their rights as victims.

Children are vulnerable individuals who do not yet have the full capacity to make viable choices for their own survival. In principle, children cannot always think independently, quickly, and responsively when facing problems in their lives. Because children are created by God as social beings with the right to life, parents, society, and the government are responsible for protecting children's lives and providing support for every aspect of their development, including education, health, and other necessities of life to which children are entitled.

The victims of such crimes are often children. In principle, children are an important part of the next generation (Annisa, 2020; Erdianti et al., 2022; Yanto et al., 2020). They are also significant as bearers of the values of the nation's struggle for independence and as potential human resources who can contribute to national development. Any act that physically, psychologically, or mentally harms a child may constitute violence against children. Sexual violence against children may include threats, coercion, or forcing a child to engage in inappropriate sexual acts, which is fundamentally unlawful and violates the child's dignity and freedom.

No one has the authority to deny a child the fundamental right to be protected from physical or sexual abuse. In accordance with Law No. 35 of 2014, which amends Law No. 23 of 2002, everyone is responsible for protecting children from all forms of violence that may adversely affect their welfare, development, and survival.

A child who is a victim of a crime has the right to adequate care and rehabilitation from the legal authorities. Victims may receive compensation as a form of rehabilitation. In particular, Government Regulation No. 43 of 2017 regulates compensation as a form of recovery for victims of unlawful acts, including sexual violence against children. Financial and emotional losses, as well as compensation for physical and mental suffering, are components of restitution. The payment of compensation to the victim or the victim's family is considered a form of recovery when it is carried out by the perpetrator or a third party, in accordance with Article 1 point 11 of Law No. 31 of 2014 concerning the Protection of Witnesses and Victims. This recovery may be carried out as follows: Loss of property, Medical treatment costs, Psychological loss, Rehabilitation costs, Or other losses due to criminal acts.

Essentially, this concept is intended to restore the victim's condition as it was at the time of the incident, as far as possible.

Law of the Republic of Indonesia Number 20 of 2025 concerning the Criminal Procedure Code. Article 178 paragraph (1) The victim is entitled to restitution. Paragraph (2) states that the compensation referred to in paragraph (1) may include: Compensation for loss of property or income; Compensation for suffering directly related to criminal acts; and/or Reimbursement of medical and/or psychological treatment costs.

The existence of the Restitution PP helps children victims of crime so that they can apply for restitution for the sake of justice. The perpetrator can be held accountable for what he did to his victim because of this. Article 3 of Government Regulation Number 43 of 2017 concerning the implementation of restitution for children who are victims of violence, namely:Compensation for material losses; Punishment for emotional distress caused by criminal acts; or Financial support for therapeutic services (psychological and/or medical.

The victim or his or her representative may seek compensation by filing a formal written application that includes details of the loss, proof of the victim's identity, and other supporting documents. The application should be filed before the court makes a decision during the investigation or prosecution. Notification to the victim of his or her right to compensation and the provision of assistance in the application procedure is the responsibility of the investigator or public prosecutor. In relation to the Criminal Code Article, as stated in Article 179 First Paragraph of Law No. 20 of 2025, "Investigators, prosecutors, and judges are obliged to notify victims and institutions that carry out their duties and functions in the field of witness protection and victim protection, in accordance with the provisions of the law regarding the right to compensation." After reviewing all the documents and evidence of the trial, the judge will make a decision on damages. Under the supervision of the prosecutor, restitution is carried out after the verdict becomes final and binding. Victims' rights are sought to be restored through the compensation system (Come on et al., 2023). Recovery for losses experienced by victims does not only touch on financial aspects, but also concerns social justice and legal balance. There are several main objectives of implementing this policy: Ensure the restoration of victims' rights in a proper and humane manner, Fostering public trust in the legal system, and Reduce the continued impact of the victim's trauma (Basni, 2024).

Law No. 13 of 2006 concerning the Protection of Witnesses and Victims, as amended by Law No. 31 of 2014 concerning the Amendment of Law No. 13 of 2006 concerning the Protection of Witnesses and Victims (also known as the "Law on the Protection of Witnesses and Victims"), regulates compensation, among others in Article 1 number 11 and Article 7A. Government Regulation No. 43 of 2017 concerning the implementation of restitution for children who are victims of crime (also known as "Regulation on Witness and Victimization"). The Government on Restitution for Children") presents a number of challenges that hinder the rights of victims in the restitution process. One of the problems that often arises is at the stage of restitution execution, which often depends on the willingness and ability of the perpetrator to fulfill the obligation to pay restitution to the victim (Ismayana, 2025).

The rights of children victims of violence include rehabilitation, compensation, and rehabilitation. However, there is no evidence that victim protection is effective when these rights are implemented. As a result, victims often do things secretly, especially in cases of sexual violence against children. The victims experience psychological problems due to the trauma they experienced from an early age.

Often law enforcement actions in the criminal justice system do not really consider the rights of victims. The criminal law enforcement process mainly concentrates on imposing criminal sanctions on perpetrators as a form of accountability for their actions. In its ruling, the Panel of Judges tends to prioritize the maintenance of order and the interests of the community in general.

The criminal justice process in general focuses more on proving the criminality committed by the perpetrator, especially related to whether or not the elements of the criminal act are fulfilled according to the criminal term. This condition shows that the criminal procedure law is more directed at the search for material truth as the right and objective truth, while the safety of child victims has not been optimally accommodated (Ismayana, 2021).

In practice, child victims are often required to repeatedly recount traumatic experiences during investigations and trials, confront perpetrators, and undergo legal proceedings without

adequate psychological support, even when the perpetrator ultimately receives severe punishment. This situation is contrary to Article 28B paragraph (2) of the 1945 Constitution of Indonesia, which guarantees that every child has the right to be protected from violence and discrimination. This constitutional provision requires the state to protect and restore the welfare of affected children in addition to punishing the perpetrators (Ismayana, 2025).

Children who commit crimes are given top priority by law. Few policies exist to ensure the safety of minors who are directly or indirectly involved in criminal investigations. The legislators' ignorance of victimology is evident here, especially in relation to the legal protections clearly afforded to minors. However, this is often overlooked because they believe that the public prosecutor, who represents the state when the child is prosecuted, is protecting their rights.

Problem Formulation

1. What is the authority of the prosecutor in guaranteeing the restitution rights of children victims of sexual violence at the Cirebon City District Attorney's Office?
2. What are the obstacles for prosecutors in exercising the authority to guarantee the restitution rights of victims' children in sexual violence cases at the Cirebon City District Attorney's Office?

Research Objectives

1. To identify and analyze the responsibility of the prosecutor's office to ensure the restorative rights of children who are victims of sexual violence, both in the criminal law enforcement process and the implementation of court decisions.
2. To identify and investigate the challenges faced by prosecutors in carrying out their responsibilities to guarantee the rights of children who are victims of sexual violence. to evaluate how laws such as the Government Regulation on Restitution for Children and the Law on the Eradication of Sexual Violence against Children are applied to protect children who are victims of sexual violence in an effective way.

Research Benefits

Theoretical Benefits

This study is useful as a reference source or literature review for future researchers who want to explore the topic of the authority of prosecutors and the protection of the rights of victims of sexual violence. Enriching the study of the concept of authority as a public prosecutor in relation to the constitutional rights of child victims.

Practical Benefits

To consider when evaluating related laws, such as Government Regulation Number 43 of 2017, so that the implementation of restitution is no longer constrained by complicated procedures or non-compliance by the perpetrator. Increase legal awareness of the rights of child victims of sexual violence to physical, mental, and material recovery through mechanisms regulated by law. Increase knowledge and understanding of the juridical implementation of child protection in the relevant jurisdictions, especially in Cirebon.

METHOD

Types of Research

This study employed a normative juridical approach by examining relevant laws and court decisions related to the prosecutor’s authority in ensuring restitution for child victims of sexual

violence. The legal materials analyzed included Law No. 35 of 2014 concerning Child Protection, Law No. 12 of 2022 concerning Sexual Violence Crimes, particularly Article 31 paragraph (1), and Government Regulation No. 43 of 2017 concerning the Implementation of Restitution for Children Who Are Victims of Criminal Acts.

Research Approach

With a theoretical lens, the researcher examines the Indonesian Prosecutor's Office and the rights of child victims (KIH), as well as the role of the prosecutor as a public prosecutor. The study uses a literature research strategy in which researchers study, review, and analyze material relevant to the research topic as part of the research process.

Research Data Sources

The data used in this study came from the legal literature and from interviews with prosecutors to examine execution. This approach is equipped with a type of analytical descriptive research to systematically outline the authority and the effectiveness of its implementation.

Legal Material Analysis

The data will be analyzed by qualitative techniques and presented in a descriptive normative manner.

RESULTS AND DISCUSSION

The authority of the prosecutor in guaranteeing the restitution rights of children victims of sexual violence at the Cirebon City District Attorney's Office

The Attorney General's Office functions as a process manager (Dominus litis) because there is no other institution authorized according to the Criminal Code to decide on whether a case should be brought to court.

The only institution that has the authority to prosecute a person in court is known as a "dominus litis" as a result, prosecutors are required to understand and understand the procedure for filing a claim for damages, which is essential to protect the rights of children as victims of crime. According to the Prosecutor, it is primarily responsible to protect the rights of children as victims of crime by seeking to accurately consider the claim for damages in the indictment, the Prosecutor authorized to investigate the case in accordance with P-16 may advise the investigator to offer the victim to demand compensation for the offense committed by the victim's child (Adha, 2023).

The prosecutor will follow up by coordinating with investigators, LPSK, victims and related parties to immediately complete a letter from LPSK whose contents explain related to the nominal amount of losses suffered to the victim and deserve to be paid by the suspect, which the letter is needed to calculate the amount of restitution payments that must be paid by the defendant. In addition, the prosecutor is also active in these conditions if it has entered the prosecution stage or when the file has been declared complete and will be handed over for trial (Nathasya, 2024).

Regarding the duty of the prosecutor's office to protect victims of crime, especially children, in maintaining their right to restitution in accordance with Article 14 of Government Regulation No. 43 of 2017 concerning the Implementation of Restitution for Children Victims of Crime, the prosecutor's office and prosecutors are obliged to inform the victim about the right of children who are victims of sexual violence to obtain restitution as well as about the procedure for filing an application before and/or during the crime (Ma'rifat et al., 2024).

Government Regulation Number 43 of 2017 concerning the Implementation of Compensation for Victims of Crime stipulates that every child who is a victim of crime is entitled to restitution. Supreme Court Regulation Number 3 of 2017 concerning Guidelines for the Implementation of Compensation for Victims of Criminal Law Violations is another regulation that regulates the granting of compensation claims by prosecutors. It is explained that the prosecutor is responsible for asking for compensation for victims during the legal process, both at the prosecution stage and after the verdict is handed down. Prosecutors must ensure that victims are given the opportunity to obtain restitution rights as part of the recovery.

Article 95 of Law No. 31 of 2014 concerning the Protection of Witnesses and Victims states that victims who are witnesses in cases can apply for compensation to the court, and the prosecutor's office is responsible for assisting and encouraging victims to apply for compensation. Overall, although the law gives the right to compensation to the victim, the prosecutor can apply for compensation within the framework of an indictment. The public prosecutor must play an active role in ensuring that the victim's right to restitution has been fulfilled as part of the victim's right to obtain compensation for losses caused by sexual violence (Pramesti & Ambarwati, 2025).

Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection Article 71D paragraph (1) which **reads:**

"Every child who is a victim as referred to in Article 59 paragraph (2) b, d, f, h, i, and j has the right to submit to the court the right to restitution which is the responsibility of the perpetrator. "

In this case, according to Article 179 First Paragraph of Law No. 20 of 2025, "Investigators, prosecutors, and judges are obliged to inform victims as well as institutions that carry out their duties and functions in the field of witness protection and victim protection, in accordance with the provisions of the law regarding the right to restitution" The Prosecutor's Office is responsible for informing victims of their rights to compensation.

The perpetrator can be sentenced to imprisonment and a fine according to the child protection law. In this case, restitution is clearly different from a fine because a fine is a punishment that must pay a certain amount of money, but the purpose and consequences are different: the fine enters the state through non-tax state revenue (PNBP), while restitution becomes the victim's right.

This application must be submitted before a decision of legal force is made. LPSK can also submit an application for compensation to the prosecutor's office so that this is listed in the indictment (Nathasya, 2024). Based on the LPSK application, the prosecutor included the request for compensation in its indictment and consulted with related parties. Especially LPSK regarding the amount of losses caused by the actions of the perpetrators. This decision was later written in the indictment. From the investigation stage, the prosecutor's office must actively carry out this task, collaborate with investigators and communicate with LPSK. Because damages are ultimately imposed on the defendant, the prosecutor must talk to the defendant about the defendant's ability to pay in order for damages to be awarded to the victim.

Although the victim may be entitled to compensation as a result of the court ruling, this is by no means guaranteed. This is due to the lack of firm measures to ensure that criminals face the consequences of not paying the necessary compensation. The only law that allows the use of force is Law Number 21 of 2007. If a convicted person does not pay damages as ordered

by the court, the convict's property can be sold by the Public Prosecutor. The victim, his loved ones, or his heirs will receive the money afterwards. If the offender does not have enough assets to pay, the sentence can be reduced to no more than one year in prison.

The Public Prosecutor is not obliged to include damages in the indictment, especially if there is no coercive action. Few public prosecutors were willing to include damages in their indictments because of this lack of responsibility, and even fewer managed to convince a judge to accept it. The reason is that the rules governing compensation are not uniform (Adha, 2023).

Obstacles faced by prosecutors in guaranteeing the restitution rights of children victims of sexual violence at the Cirebon City District Attorney's Office

One of the shortcomings in the Child Protection Act is that victims of child abuse do not have access to free legal aid and cannot contact legal counsel at any time during the process. The absence of witnesses other than the victim, the psychological burden of witnesses on their evidence, and the limited knowledge of witnesses about the delivery of testimony are examples of technical obstacles faced by investigators. Improved laws and regulations and adequate support for child victims are needed because these challenges can affect the quality of legal protection. It is different if the child commits a crime, every stage of the process. Law enforcement must notify suspected or charged children and their families that they are entitled to legal care, the cost of which is covered by the state for those who cannot afford it. Although rehabilitation, rehabilitation, or compensation is necessary for children who are victims of violence, judges are not authorized by the Child Protection Act. However, this is important for the recovery of the victims. Another problem is the rudimentary legal system, which causes victims to often not receive adequate protection, while perpetrators sometimes even receive protection.

The prosecutor's office tried to prosecute the perpetrators, but faced problems such as unclear legal classification of cases, indetailed child protection laws, insufficient evidence, and unclear victim statements.

In addition, the lack of legal awareness causes cases of sexual violence to often be resolved informally due to solidarity, tolerance or lack of supporting facilities, Society and the social environment are essential in many cases, but they often exacerbate the situation, especially for children with economic or intellectual limitations. The high level of violence perpetrated by the social environment or the elderly indicates a lack of social control in society (Harahap et al., 2024).

If the perpetrator is unable to pay compensation, there are several actions that can be taken after speaking with the prosecutor. First, the perpetrator can be sentenced to imprisonment. In accordance with the Law on Sexual Violence (TPKS Law No. 12 of 2022)

Article 33 paragraph (7): "If the confiscated property of the convict as intended in paragraph (5) is insufficient for the cost of restitution, the convict shall be subject to a substitute prison sentence not exceeding the threat of the principal criminal "

Second, with asset tracking, asset tracking to agencies, for example, to BPN whether or not BPN has land or house if the perpetrator has assets, these assets can be confiscated or taken. Agencies such as the National Land Agency (BPN) receive data on land and building ownership, as well as motor vehicle ownership data from Samsat, such as Samsat, we ask for data on whether the defendant has a motorcycle or not. The perpetrator can also be given the

option to pay in installments if they involve family members. If there are no assets that can be seized and the perpetrator is uncooperative, a civil lawsuit is the last option.

With regard to the enforcement of the right to restitution for children who are victims of sexual violence, this is related to the willingness or ability of the perpetrator to fulfill his or her obligation to provide restitution to children who are victims of sexual violence. Since there are no strong regulations governing this right, the implementation of these rights ultimately depends on the perpetrator's awareness of the consequences of criminal acts against children who are victims of sexual violence. Here, the perpetrator is responsible, both as an individual and as a third party who is willing to fulfill the perpetrator's obligation to pay compensation to victims of sexual violence.

Compensation is a form of rehabilitation of perpetrators and taking social responsibility. In this case, the meaning of compensation does not lie in how well he or she supports the victim, but rather in how the perpetrator learns about the criminal law consequences of his actions towards the victim (Adha, 2023).

Children who are victims of violence have the right to compensation, according to Indonesian law. They cannot directly claim this right, however. Before they can defend their rights, many steps must be taken. Only at the stage of court proceedings can the court award damages only if the perpetrator is found guilty and sentenced. Perpetrators of sexual violence against children must serve the sentence after their case is examined in court and they receive punishment commensurate with their actions. This is different from victims of sexual violence. Not only do victims experience trauma or psychological distress, but they are also unlikely to return to normal life because the trauma and psychological distress they experience is also a disgrace to the victim and his family (Bau, 2026).

After an interview with the public prosecutor, one of the obstacles faced by the prosecutor was the confiscation of assets. Regarding the confiscated goods and assets of the defendant that are insufficient to pay restitution to the victim. If the assets are there, they can be confiscated. If there is none, what do you want to confiscate. Therefore, coordination with investigators is needed for the restitution of how much is requested. In order to know the ability of the suspect/defendant to restitute or to pay fines.

The lack of coercive authority based on the Child Protection Law, the Law on the Protection of Witnesses and Victims, and its Implementing Regulations, namely Regulation Number 7 of 2018 and Regulation Number 43 of 2017, is another reason why the Right of Restitution has not been paid. Currently, there is no framework that regulates what happens when the perpetrator fails to make compensation as stipulated in these regulations and regulations. In the case of sexual violence against children, the Right to Restitution is a form of restorative justice that aims to return the victim to the original position before the crime occurred. While it may be unrealistic to expect the victim's condition to return to pre-incident levels, the implementation of this restitution can be helpful.

Studies have shown that prosecutors play an important role as dominus litis, or case controllers, in guaranteeing the right to compensation for children who have been victims of sexual abuse. This obligation includes providing information to victims about restitution rights from the investigation stage, working with LPSK to calculate losses, and recording the value of restitution in the letter of demand. The results of the research conducted are in line with the findings of Agnes Michella Kapugu et al. (2024) in her journal entitled "Analysis of the

Position of the Prosecutor as a Public Prosecutor on the Fulfillment of Restitution Rights for Child Victims of Crime." emphasized that the Public Prosecutor is responsible for notifying the right of restitution in writing and assisting the submission process before a court decision is made.

The Restorative Justice Theory, which emphasizes the restoration of the victim's condition, is associated with restitution in this study. In line with Irene Marlen Dira Tome (2024) research on restitution at the Atambua District Court. Both agreed that law enforcement, including prosecutors, should seek to fulfill the right to restitution as a form of accountability for perpetrators. However, there are some obstacles that hinder the exercise of the right to restitution, such as criminals who are unable to pay compensation, lack of adequate legal force, and difficulties in supervising the defendant's property. Jurnal Kapugu et al. also emphasized that even if the judge decides on restitution, it is often not possible when the suspect does not have sufficient financial funds. In addition, current regulations, such as the Child Protection Act, are still insufficient to regulate the "forced effort" mechanism in cases where the perpetrator refuses to pay**.**

CONCLUSION

The right to restitution for child victims of sexual violence is guaranteed through the role of the public prosecutor, starting from the investigation stage to the execution of court decisions. Normatively, the Child Protection Law, the Law on Sexual Violence Crimes, and the regulation on the implementation of restitution recognize the right to restitution for child victims. However, in practice, the prosecutor’s duties still tend to be limited to criminal prosecution, while the restoration of victims’ rights receives less attention.

Many restitution judgments are not fully enforced due to several issues, such as unclear regulations and limitations in tracing the defendant’s assets. In accordance with the prosecutor’s duties, the prosecutorial role has not yet fully shifted toward protecting victims’ rights. To make restitution an effective remedial instrument, prosecutors must be strengthened through technical training and clear guidelines, supervision of the determination and enforcement of restitution decisions, and optimization of the seizure and sale of offenders’ assets. Prosecutors are expected to ensure that the right to restitution is not only stated in court judgments but also fulfilled in practice through a child-oriented approach to cases of sexual violence.

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