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The Authority Of The Executive Officer As A Curator For The Management Of Confiscated Assets/Evidence In The Framework Of Restoring The Rights Of Criminal Acts Victims In The Form Of Restitution

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Abstract

The Public Prosecutor (*Prosecutor*), as an *executive officer*, holds constitutional authority to execute court decisions that have obtained permanent legal force. In practice, however, prosecutors frequently encounter juridical challenges when court rulings order the management, auction, and distribution of seized assets or evidentiary goods for the purpose of restoring victims' rights, including compensation, restitution, and rehabilitation. These challenges arise primarily due to the absence of clear normative regulations governing the legal basis and procedural mechanisms for prosecutors to exercise such authority as executors. This issue becomes increasingly complex when judicial legal reasoning (*legal finding*) results in progressive decisions that are not supported by adequate implementing regulations. This article aims to analyze the ideal scope of prosecutorial authority as an *executive officer* in managing seized assets and to formulate an ideal model for asset administration and liquidation oriented toward the recovery of victims' rights in criminal cases. The research employs a normative legal research method using statutory, conceptual, and case study approaches, particularly examining Decision of the Banjarmasin District Court Number 343/Pid.Sus/2022/PN.Bjm. The findings indicate a regulatory vacuum and normative disharmony between statutory laws, Supreme Court regulations, and internal prosecutorial guidelines, which hinder the effective restoration of victims' rights. Therefore, strengthening prosecutorial authority in conducting asset tracing, execution seizure, and asset liquidation is necessary by adopting principles of bankruptcy trusteeship (*curatorship*), implemented in a proportional, transparent, and accountable manner. This model is expected to promote restorative justice, ensure legal certainty, and enhance legal utility for victims of criminal offenses.

Keywords: Public Prosecutor; *Executive Officer*; Restitution; Seized Assets; Victims' Rights Recovery.

A. INTRODUCTION

Prosecutors are law enforcement officials who hold a strategic position in the criminal justice system, particularly in the implementation of court decisions that have become legally binding. In this context, prosecutors not only act as public prosecutors but also *as executive officer*, namely, an official authorized by law to implement a judge's decision. This authority places the prosecutor as a key actor in ensuring that court decisions do not remain normative but are actually implemented in practice to achieve the legal goals of justice, certainty, and benefit.¹

As the paradigm of law enforcement evolves beyond simply focusing on the perpetrator, the modern criminal justice system has begun to position victims of crime as subjects whose rights must be proportionally protected. One form of this protection is realized through the provision of compensation, restitution, and rehabilitation as part of efforts to restore victims' well-being as a result of the crime. Restitution is specifically intended to restore the material and immaterial losses experienced by victims, so that justice is not only felt by the state through the punishment of the perpetrator, but also by the victim, as the party most affected.

In criminal justice practice, fulfilling victims' rights through restitution often faces a classic problem: the inability or unwillingness of the convict to make payments as ordered by the court's decision. This situation becomes even more problematic when the losses suffered by the victim are significant and involve more than one victim with varying amounts of losses. In such situations, judges often take the progressive step of ordering the confiscation and auctioning of confiscated assets or evidence of economic value, with the proceeds then being calculated as restitution payments to the victims.²

The court's decision ordering the auction of confiscated assets for restitution normatively places the prosecutor in a dilemma. On the one hand, the prosecutor is legally obligated to implement all court rulings as a consequence of his position as a prosecutor. *executive officer* On the other hand, there is no comprehensive and systematic regulation regarding the basis of authority, management mechanisms, and procedures for liquidating and distributing auction proceeds of confiscated assets to victims. This regulatory gap has the potential to create legal uncertainty, the risk of maladministration, and reduce the quality of victims' rights recovery.

This problem is further complicated by the differing approaches between the judge's authority to make legal discoveries and the prosecutor's obligations, which tend to be legalistic and normative. Judges have the freedom to explore and discover the law to address the need for substantive justice in a case, including by issuing verdicts for which no explicit enforcement mechanisms have been established. However, this judicial flexibility is not always matched by the availability of legal instruments for prosecutors as the enforcers of the verdicts, resulting in a frequent mismatch between progressive verdicts and the prosecutor's institutional and normative capacity to execute them.³

On the other hand, developments in criminal procedure regulations indicate a tendency to limit prosecutors' authority in managing convicts' assets. Recent regulations

¹Barda Nawawi Arief, *Anthology of Criminal Law Policy*, Kencana Prenada Media Group, Jakarta, pp. 23–25.

²Eddy O.S. Hiarij, *Principles of Criminal Law*, Cahaya Atma Pustaka, Yogyakarta, pp. 112–115.

³Lilik Mulyadi, *Criminal Procedure Law: Normative, Theoretical, Practical and Problems*, Alumni, Bandung, pp. 287–290.

regarding restitution place greater emphasis on confiscation as collateral during the investigation phase, while the prosecutor's role after a criminal verdict tends to be limited. Consequently, if the initial confiscation is insufficient to cover the victim's losses, the convict can choose to serve a substitute sentence without further obligation to reimburse the victim. This situation clearly contradicts the purpose of restitution as a means of recovery and is inconsistent with the principle of legal benefit and a sense of justice for victims.

In practice, it is not uncommon for criminals to choose to serve a substitute prison sentence rather than fulfill their obligation to pay restitution, while the proceeds of their crimes are still in their possession or hidden. This situation creates an imbalance of justice, where perpetrators continue to enjoy the proceeds of their crimes, while victims are denied adequate reparations. Therefore, a more progressive concept of authority for prosecutors is needed to close this gap, particularly by strengthening the role of prosecutors in conducting asset tracing, managing confiscated assets, and liquidating convicts' assets in a structured manner.

One relevant approach to study is the adoption of the concept of curatorship in bankruptcy law in the context of managing confiscated assets in criminal cases. The curator in bankruptcy is tasked with managing, liquidating, and distributing the debtor's assets transparently and proportionally to creditors. This concept has substantially the same objectives as the management of confiscated assets for restitution, namely ensuring that asset distribution is carried out fairly, accountably, and oriented towards restoring the rights of the injured party. By positioning the prosecutor as a party performing a similar function to a curator, it is hoped that the management of the convict's assets can be carried out more effectively and fairly.⁴

The urgency of strengthening prosecutors' authority in this context relates not only to the interests of victims but also to the legitimacy of the criminal justice system as a whole. When court decisions fail to provide tangible redress for victims, public trust in the law and law enforcement officials is potentially undermined. Therefore, formulating a clear, measurable, and accountable model of authority and mechanism for managing confiscated assets is an urgent need to address the challenges of criminal law enforcement that prioritizes substantive justice.

Based on this description, the discussion regarding the authority of the prosecutor *as executive officer* The management of confiscated assets and evidence for the restoration of the rights of victims of crime is relevant and important to examine in depth. This study aims not only to identify existing normative issues but also to offer an ideal concept and model that can bridge the interests of law enforcement, victim protection, and legal certainty and utility in the Indonesian criminal justice system.⁵

⁴M. Yahya Harahap, Discussion of Problems and Application of the Criminal Procedure Code, Sinar Grafika, Jakarta, pp. 456–459.

⁵Muladi and Barda Nawawi Arief, Criminal Theory and Policy, Alumni, Bandung, pp. 98–101.

B. METHOD

This research is a normative legal research which aims to examine the authority of the prosecutor *as executive officer* in the management of confiscated assets or evidence to restore the rights of victims of crime. Normative legal research was chosen because the focus of the study is directed at legal norms, legal principles, and legal concepts that regulate the implementation of court decisions, particularly regarding restitution, compensation, and rehabilitation of victims of crime.

The approaches used in this research include a statutory regulatory approach, a conceptual approach, and a case approach. The statutory regulatory approach is conducted by examining various legal provisions related to the authority of prosecutors, the implementation of criminal decisions, the management of confiscated assets, and the mechanism for providing restitution to victims of crime. This approach is used to identify any gaps in norms, regulatory disharmony, or regulatory limitations that impact the exercise of prosecutors' authority as executors.⁶

A conceptual approach is used to study concepts *executive officer*, the concept of restoring victims' rights, and the concept of managing and liquidating assets by adopting the principles of curatorship in bankruptcy law. This approach aims to develop a prescriptive framework for formulating the ideal authority of prosecutors and a model for managing convict assets that is oriented towards justice and legal benefits for victims.

The case study approach is conducted by analyzing court decisions ordering the auction of confiscated assets or evidence for the purpose of paying restitution to victims. The analysis of these decisions is used to concretely illustrate the problems prosecutors face in enforcing the verdicts and to test the relevance of applicable legal norms to law enforcement practices in the field.⁷

The legal materials used in this research consist of primary and secondary legal materials. Primary legal materials include laws and regulations, court decisions, and internal regulations related to prosecutorial authority and victim restitution. Secondary legal materials consist of doctrines, legal concepts, and theoretical thinking relevant to the research object.

The legal materials were collected through a literature study, which involved inventorying, classifying, and reviewing relevant legal materials. The legal materials were analyzed qualitatively using deductive and interpretive reasoning methods to draw conclusions and formulate normative recommendations regarding the authority model and mechanisms for managing confiscated assets by prosecutors in order to restore the rights of victims of crime.⁸

⁶R. Soesilo, *Criminal Code (KUHP) and its Commentaries*, Politeia, Bogor, pp. 74–76.

⁷Romli Atmasasmita, *Contemporary Criminal Justice System*, Kencana, Jakarta, pp. 201–204.

⁸Satjipto Rahardjo, *Law and Social Change*, Alumni, Bandung, pp. 134–137.

C. RESEARCH RESULTS AND DISCUSSION

The Position of the Prosecutor as Executive Ambtenaar in the Implementation of Criminal Decisions Oriented to the Restoration of Victims' Rights

The position of the prosecutor as *executive officer* This is a logical consequence of the criminal justice system, which positions prosecutors as the sole law enforcement officers authorized to enforce final and binding criminal court decisions. In this context, prosecutors no longer act as parties confronting the defendant, but rather as representatives of the state responsible for ensuring that the judge's decision is implemented concretely. This authority is imperative, so that every final and binding court decision must be implemented by prosecutors without exception.

Conceptually, the function *executive officer* This places prosecutors in a strategic and complex position. Prosecutors are required to enforce decisions in accordance with principles and procedural law, but at the same time must be able to respond to the dynamics and needs of substantive justice contained in the verdict. This becomes increasingly relevant when criminal decisions are not solely oriented toward punishing the perpetrator but also include orders to restore the victim's rights through compensation, restitution, and rehabilitation mechanisms. In such a context, the implementation of criminal decisions is no longer merely administrative but has strong social and humanitarian dimensions.⁹

The development of a paradigm of punishment that focuses on victim recovery requires a shift in perspective on the implementation of criminal decisions. Punishment is no longer understood solely as an instrument of retribution or deterrence, but also as a means to restore the balance disturbed by the crime. Therefore, a verdict ordering restitution or compensation to the victim is an integral part of the purpose of punishment itself. Within this framework, the prosecutor as *executive officer* plays a key role in bridging the normative interests of the state with the concrete needs of victims.

However, the implementation of criminal decisions oriented towards restoring victims' rights often presents prosecutors with legal and practical dilemmas. On the one hand, prosecutors are obligated to fully implement the judge's orders, including those related to the management of confiscated assets or evidence for restitution. On the other hand, prosecutors' authority in this context has not been regulated in detail and comprehensively, so that the implementation of decisions has the potential to create legal uncertainty and the risk of irregularities. This situation demonstrates that the prosecutor's position as *executive officer* has not been fully balanced with adequate legal instruments to support the implementation of progressive decisions.

In criminal justice practice, judges frequently use their discretionary powers to address victims' needs for justice, particularly in cases involving significant material losses. Judges can order the confiscation and auctioning of confiscated assets to fulfill restitution obligations if the convict fails to voluntarily pay. While such orders are legally valid and binding, their implementation rests entirely with the prosecutor as executor. In this situation, the prosecutor is not only required to carry out the execution function but

⁹Soerjono Soekanto, Introduction to Legal Research, UI Press, Jakarta, pp. 42–45.

also implicitly assumes the management and liquidation of assets, even though this authority has not been explicitly assigned to the prosecutor's office.¹⁰

The position of the prosecutor *as executive officer* In the context of restoring victims' rights, the role of prosecutors essentially shifts from merely executing decisions to managing the recovery process. Prosecutors are not only responsible for ensuring that sentences are carried out but also for effectively fulfilling victims' rights as mandated by the decision. This includes tracing the convict's assets, securing confiscated assets, liquidating the proceeds, and distributing the proceeds to victims. Without strengthened authority and clear mechanisms, this role potentially places prosecutors in a legally and administratively vulnerable position.

From a justice perspective, the active involvement of prosecutors in restoring victims' rights is essential. Victims of crime are often in a vulnerable position and lack the access or ability to independently demand their rights from the convict. Therefore, the state, through prosecutors, is obligated to ensure that victims' rights are not only recognized normatively but also realized in practice. The prosecutor's position *as executive officer* become the main instrument of the state to carry out these responsibilities.

However, the implementation of criminal decisions oriented towards restoring victims' rights must also adhere to the principles of legal certainty and accountability. The absence of clear regulations regarding the limits of prosecutors' authority in managing confiscated assets can lead to multiple interpretations and potentially open up room for abuse of authority. Therefore, strengthening the role of prosecutors *as executive officer* must be accompanied by clear regulations regarding the scope of authority, implementation procedures, and effective monitoring mechanisms.

In this context, the position of the prosecutor *as executive officer* should be understood as a functional and instrumental authority in achieving the goal of restorative sentencing. Prosecutors cannot be positioned solely as technical implementers of decisions, but also as actors with an ethical and professional responsibility to ensure that the decision provides real benefits to victims. Therefore, the implementation of criminal decisions is measured not only by the implementation of imprisonment or fines, but also by the extent to which victims' rights can be restored fairly and proportionally.

Strengthening the position of prosecutors *as executive officer* Implementing criminal decisions that focus on restoring victims' rights is ultimately part of the effort to build a responsive and just criminal justice system. Such a system not only punishes perpetrators but also rehabilitates victims and restores public trust in the law. Therefore, affirming and developing the role of prosecutors in this context is an urgent need that must be addressed through regulatory reform and institutional strengthening, so that the goal of substantive justice can be optimally realized in criminal law enforcement practices.¹¹

¹⁰Romli Atmasmita, "Criminal Justice System Reform from a Restorative Justice Perspective", *Journal of Law and Development*, pp. 87–90.

¹¹Barda Nawawi Arief, "Criminal Law Policy in the Protection of Crime Victims", *Journal of Legal Issues*, pp. 15–18.

Emptiness and Disharmony in the Arrangement of Prosecutor's Authority in the Management of Confiscated Assets and Evidence

Regulations regarding prosecutors' authority in managing confiscated assets and evidence in criminal cases still demonstrate a gap and disharmony in norms. This situation becomes a serious problem when court decisions not only order the confiscation or return of evidence but also directly link it to the restoration of victims' rights through restitution, compensation, or rehabilitation mechanisms. This gap and disharmony result in an unclear role for prosecutors as decision enforcers and potentially hinder the realization of substantive justice for victims of crime.

The regulatory gap is evident in the absence of clear and systematic norms governing prosecutors' authority to manage, liquidate, and distribute confiscated assets or evidence of economic value following a court ruling. Generally, criminal procedure law only regulates confiscation during the investigation stage and the status of evidence in the verdict, such as forfeiture to the state, return to the rightful owner, or destruction. However, when the evidence is intended for restitution payments to victims, the existing regulations fail to provide clear operational guidelines for prosecutors as executors.

The disharmony of norms becomes even more apparent when there are differing approaches between various regulations governing restitution and the management of the assets of criminals. On the one hand, there are norms that encourage the progressive restoration of victims' rights through the confiscation and auctioning of the perpetrator's assets. On the other hand, there are regulations that limit the authority to confiscate and place it predominantly in the early stages of the criminal justice process. This disharmony creates a gray area in the implementation of decisions, where prosecutors are forced to implement judges' orders without a clear and consistent basis for their authority.¹²

This situation is exacerbated by the case-by-case nature of court decisions, which rely on the judge's legal findings. Judges can order that confiscated assets or evidence be auctioned and the proceeds used to pay restitution to victims, particularly when the convict fails to voluntarily fulfill their payment obligations. Although such decisions are valid and binding, their implementation rests entirely with prosecutors. However, without detailed regulations regarding auction procedures, calculation of liquidation proceeds, and distribution mechanisms to victims, prosecutors face difficulties in implementing these orders accountably.

Disharmony is also evident in the relationship between laws and regulations and internal law enforcement guidelines. Existing internal guidelines tend to be general and administrative in nature and do not yet detail the stages of processing confiscated assets for restitution. As a result, prosecutors are often forced to take discretionary measures, which often lead to differences in practice between work units. These differences have the potential to cause injustice to victims, as the fulfillment of their rights depends on the interpretation and policies of each law enforcement agency.¹³

From a legal certainty perspective, the gaps and disharmony in these regulations place prosecutors in a vulnerable position. Prosecutors are faced with the obligation to

¹²Topo Santoso, *Criminology*, RajaGrafindo Persada, Jakarta, pp. 156–159.

¹³Eddy O.S. Hiarij, "Restitution and Compensation for Victims of Crime in the Indonesian Criminal Law System", *Indonesian Legislation Journal*, pp. 233–236.

enforce court decisions, yet simultaneously face potential legal or administrative challenges for exceeding their explicitly mandated authority. This situation can lead to excessive caution, or even reluctance, in enforcing decisions related to the management and auctioning of confiscated assets. Consequently, the restoration of victims' rights may be suboptimal or even impossible.

The lack of norms also results in the lack of integration of asset tracing, confiscation, and management of convicts' assets within a coherent policy framework. Asset tracing is often limited and unsustainable, resulting in the perpetrator's assets derived from criminal activity or having economic value not being fully identified. When confiscation is insufficient to cover the victim's losses, there is no follow-up mechanism that allows prosecutors to actively manage the potential assets of convicts to meet restitution obligations.

This regulatory disharmony ultimately impacts the purpose of restitution as a restorative instrument. Restitution should be a means to restore the balance disturbed by criminal acts, but in practice, it often becomes a symbolic norm that is difficult to implement. When regulations fail to provide adequate space for prosecutors to act effectively, restitution loses its effectiveness, and victims are again left in a disadvantaged position.

In the context of justice and legal expediency, the vacuum and disharmony in the regulation of prosecutorial authority cannot be allowed to persist. The state has an obligation to ensure that every court decision ordering the restoration of victims' rights can be effectively implemented. This requires regulatory harmonization that integrates the authority to confiscate, manage, and liquidate confiscated assets within a single, clear and consistent system. Without such harmonization, prosecutors will continue to find themselves in a dilemma between their obligation to enforce decisions and their limited regulatory authority.

Therefore, reforming the regulation of prosecutors' authority in managing confiscated assets and evidence is an urgent need. Such regulation must eliminate the gap in norms, harmonize existing regulations, and provide legal certainty for prosecutors in carrying out their duties. With harmonious and comprehensive regulation, prosecutors can optimally fulfill their role as *executive officer*, while ensuring that the restoration of the rights of victims of criminal acts does not stop at the verdict, but is truly realized in the practice of criminal law enforcement.¹⁴

Implications of the Judge's Decision Ordering the Auction of Confiscated Assets on the Prosecutor's Duties as Executor

A judge's decision ordering the auction of confiscated assets or evidence for the purpose of restoring victims' rights has significant implications for the prosecutor's duties and position as executor. Such a decision not only mandates punishment of the perpetrator but also contains a restorative dimension that demands active and ongoing implementation by the prosecutor. In this context, the prosecutor is no longer simply carrying out criminal executions in the narrow sense but must instead manage a complex

¹⁴Lilik Mulyadi, "Implementation of Criminal Decisions and its Problems in Judicial Practice", *Judicial Journal*, pp. 121–124.

and multidimensional process interconnected with assets, victims, and the interests of justice.

The first implication that emerges is the increased scope of prosecutors' responsibilities in the implementation of criminal decisions. When a judge orders the auction of confiscated assets, prosecutors are required to ensure that all stages of the auction are carried out legally, transparently, and accountably. This responsibility includes securing the confiscated assets, assessing the assets' economic value, conducting the auction, and managing the auction proceeds for distribution to the appropriate parties. This burden of responsibility, in fact, resembles the function of asset management, although it is not explicitly regulated as a prosecutor's authority in criminal procedure law.

The second implication relates to the normative aspect of prosecutors' authority. A judge's decision ordering the auction of confiscated assets essentially creates new legal obligations for prosecutors as the enforcers of the decision. However, these obligations are not always accompanied by clear regulations regarding the basis of their authority and the limits of their actions. This situation places prosecutors in a dilemma: implementing the decision is mandatory, but the concrete steps they must take are potentially questioned as exceeding their authority. As a result, prosecutors often face legal and administrative risks in carrying out the judge's order.¹⁵

Further implications touch on the protection of victims' rights. Decisions ordering the auction of confiscated assets are essentially intended to ensure the effective restoration of victims' rights, particularly when convicts fail to voluntarily fulfill their restitution obligations. However, without a clear implementation mechanism, this objective can be undermined. Prosecutors must determine a distribution scheme for auction proceeds, particularly in cases involving multiple victims with varying levels of losses. The absence of guidelines regarding proportional distribution has the potential to give rise to new disputes and feelings of injustice among victims.¹⁶

The judge's decision ordering the auction also implies a shift in the orientation of prosecutors' duties from a retributive to a restorative one. Prosecutors must not only ensure that perpetrators are served their sentences but also ensure that victims' losses are redressed to the greatest extent possible. This shift in orientation requires broader institutional capabilities and readiness, including an understanding of asset management and communication with victims. Without adequate institutional support, prosecutors may struggle to balance the legal, administrative, and social demands inherent in this role.

Another equally important implication is the potential disparity between court decisions and their ability to enforce them. Judges, through their power of discovery, can issue progressive, victim-friendly verdicts. However, if these verdicts are not supported by adequate legal instruments and institutions for prosecutors, the verdicts risk being ineffective. This disparity can ultimately undermine public trust in the criminal justice system, as verdicts promising reparations are not followed by concrete implementation.

¹⁵Satjipto Rahardjo, "Progressive Law as a Basis for Protecting Victims' Rights", *Jurnal Pro Justitia*, pp. 52–55.

¹⁶Topo Santoso, "The Development of the Concept of Restorative Justice in the Criminal Justice System", *Indonesian Journal of Criminology*, pp. 98–101.

Furthermore, the decision ordering the auction of confiscated assets also has implications for oversight and accountability. The auction process and the management of the proceeds involve significant economic value, thus requiring strict oversight mechanisms. Prosecutors, as executors, must ensure that the entire process is conducted in accordance with the principles of transparency and free from conflicts of interest. The absence of clear operational standards can open the door to allegations of irregularities, ultimately harming the prosecutor's office and hindering the implementation of decisions.

From a legal certainty perspective, the implications of the judge's decision require regulatory adjustments and harmonization. Court decisions ordering the auction of confiscated assets should not be viewed as isolated exceptions, but rather as an indication of the growing need for more effective victim redress mechanisms. Therefore, the prosecutor's role as executor must be clarified and expanded normatively to align with developments in criminal justice practice.

The final implication relates to the purpose of criminal punishment itself. When the auction of confiscated assets is used as a means of restoring victims' rights, the success of the verdict's implementation is no longer measured solely by the implementation of the principal penalty, but also by the extent to which the victim's losses can be recovered. Prosecutors, as executors, play a strategic role in achieving this goal. Without an active role and adequate authority, the restoration of victims' rights has the potential to become a mere formality without substantive meaning.

Thus, the judge's decision ordering the auction of confiscated assets has profound implications for the prosecutor's role as executor, both in terms of authority, responsibility, and law enforcement orientation. These implications underscore the urgency of strengthening and affirming the prosecutor's role in implementing criminal decisions, focusing on restoring victims' rights. Without regulatory reform and harmonization, prosecutors will continue to face a dilemma, while the goals of restorative justice envisioned in court decisions will be difficult to achieve optimally in practice.¹⁷

The Urgency of Strengthening Prosecutors' Authority in Asset Tracing and Seizure Execution to Fulfill Victim Restitution

Fulfilling restitution for victims of crime is a key indicator of the success of a criminal justice system oriented toward substantive justice. In practice, failure to fulfill restitution is often due to limited authority and mechanisms for tracing and confiscating the assets of perpetrators. Therefore, strengthening the authority of prosecutors in carrying out *asset tracing* and execution seizure is an urgent need to ensure that victims' rights do not stop as norms in court decisions, but can be realized in real terms.

Asset tracing plays a strategic role in uncovering the whereabouts and form of a criminal's assets, whether directly derived from the proceeds of crime or diverted or disguised. Without effective asset tracing capabilities, perpetrators can easily avoid restitution payments by hiding or transferring their assets. In this context, prosecutors, as the enforcers of criminal decisions, should have sufficient authority to conduct asset tracing on an ongoing basis, not just limited to the initial stages of the criminal justice process.

¹⁷Soerjono Soekanto, "Law Enforcement and Factors Influencing It", *Journal of Law and Development*, pp. 67–70.

The prosecutor's limited authority to conduct asset tracing directly impacts the effectiveness of victim recovery. When the perpetrator's assets are not fully identified, the confiscation is suboptimal and often insufficient to cover the victim's losses. As a result, convicts may choose to serve substitute sentences without further obligation to recoup the losses incurred. This situation creates an imbalance of justice, where the perpetrator continues to enjoy the proceeds of the crime, while the victim is denied adequate restitution.

Execution seizure is an important instrument to ensure restitution, particularly in situations where the convict fails to voluntarily fulfill his payment obligations. However, in practice, prosecutors' authority to issue execution seizures is often limited by normative provisions that place seizure authority at a specific stage in the criminal justice process. These limitations do not always align with the victim's recovery needs, particularly when the perpetrator's assets are only identified or accessed after a court decision is rendered.

The urgency of strengthening prosecutors' authority in executing seizures is also related to the principle of legal expediency. Restitution that cannot be effectively executed loses its functional value as a restitutionary instrument. In this context, strengthening prosecutors' authority is not intended to overextend their powers, but rather to ensure that court decisions have real coercive force against perpetrators of criminal acts. With clear and measurable authority, prosecutors can act proportionately in seizing and managing the perpetrator's assets for the benefit of the victim.

Furthermore, strengthening the authority for asset tracing and execution of seizures also serves as a deterrent. Criminals face greater risks if they know their assets can be traced and seized to fulfill restitution obligations. This deterrent effect not only impacts the perpetrators but also contributes to crime prevention in general. Therefore, strengthening prosecutors' authority in this context has strategic value that goes beyond merely restitution for victims.

From a restorative justice perspective, asset tracing and seizure execution by prosecutors are integral to efforts to restore the balance disturbed by criminal acts. Recovery is measured not only by the implementation of prison sentences, but also by the extent to which victims' losses can be truly redressed. Prosecutors as *executive officer* has a strategic position to ensure that the recovery is carried out effectively through the management of the perpetrator's assets in a structured and transparent manner.

However, strengthening prosecutors' authority must be balanced with the principles of accountability and protection of convicts' rights. Asset tracing and execution seizures must not be carried out arbitrarily, but must be based on clear procedures and adequate oversight. Therefore, this strengthening of authority needs to be formulated within a legal framework that provides clear boundaries regarding the objects, procedures, and purposes of seizures, to prevent human rights violations or abuse of authority.

The need to strengthen prosecutors' authority in asset tracing and execution seizures also reflects the need for integrated law enforcement policies. Asset tracing should not be viewed as a separate stage from the implementation of criminal decisions, but rather as part of a continuous recovery process. With this integration, prosecutors can

optimize their role in ensuring that the full potential of the perpetrator's assets is utilized for the benefit of victim recovery.

Ultimately, the urgency of strengthening prosecutors' authority in asset tracing and execution of seizures lies in the need to bridge the gap between legal norms and practical reality. Without adequate authority, restitution will continue to face implementation challenges and potentially lose its substantive meaning. Conversely, with clear, proportional, and supervised authority, prosecutors can optimally fulfill their role in achieving justice that not only punishes perpetrators but also provides real and sustainable reparation for victims of crime.¹⁸

The Ideal Model for the Management and Liquidation of Convicts' Assets by Prosecutors Using a Bankruptcy Receiver Approach

The management and liquidation of convict assets to restore the rights of victims of criminal acts requires a systematic, transparent, and substantive justice-oriented model. To date, the management of confiscated assets or evidence in criminal cases has been viewed as a supplementary administrative aspect, rather than a primary instrument of restitution. Consequently, when a court order orders the auction of assets for restitution, prosecutors, as the executors of the decision, often lack a clear framework to optimally carry out this function. This situation demands the formulation of an ideal model capable of bridging the needs of victims for restitution with the certainty and accountability of criminal decisions.

The bankruptcy curator approach offers a relevant conceptual framework for adaptation in the context of managing the assets of convicted criminals. Under bankruptcy law, the curator is tasked with managing, securing, and liquidating all of the bankrupt debtor's assets and then distributing them proportionally to creditors. The fundamental principles underlying the curator's duties are transparency, professionalism, and protection of the interests of entitled parties. These principles are substantially aligned with the objectives of managing the assets of convicted criminals in criminal cases, particularly when the assets are intended to reimburse the victim for losses.

The ideal model for managing a convict's assets by prosecutors using a bankruptcy curator approach positions prosecutors as responsible asset managers, not merely technical auction implementers. In this model, prosecutors are given clear authority to inventory and secure all of the convict's assets that have economic value, both those derived directly from the crime and those that can be used to fulfill restitution obligations. This inventory is a crucial initial step in ensuring that all potential assets are optimally utilized for the benefit of the victim.

The next step in this model is assessing the economic value of the convict's assets through an objective and professional appraisal mechanism. Accurate assessments are necessary to ensure that the liquidation process is conducted fairly and without prejudice to any party. In this context, the prosecutor does not act unilaterally but rather facilitates a transparent and accountable valuation process. This approach aligns with the principle of prudence, a key characteristic of asset management in bankruptcy.

¹⁸King Faisal Sulaiman, "The Authority of the Prosecutor as Executor of Criminal Decisions", *Jurnal Ius Quia Iustum*, pp. 143–146.

In this ideal model, the liquidation of a convict's assets is carried out through an open auction mechanism that ensures public access and fair competition. Open auctions not only serve to obtain the best value for liquidated assets but also serve as a means to prevent irregularities and increase public trust in the process of restitution of victims' rights. Prosecutors are responsible for ensuring that the entire auction process is carried out in accordance with established procedures and is properly documented.

One important aspect of the bankruptcy curator's approach is the proportional distribution mechanism for liquidation proceeds. In criminal cases involving multiple victims with varying levels of losses, the distribution of proceeds must be based on the principles of fairness and proportionality. This ideal model positions the prosecutor as a facilitator who coordinates the distribution process, transparently involving the victims. If the liquidation proceeds are insufficient to cover all losses, the distribution is based on each victim's percentage of the losses, thus avoiding unreasonable inequalities.¹⁹

The bankruptcy curator's approach also emphasizes the importance of accountability and oversight. In an ideal model, every stage of the management and liquidation of a convict's assets should be auditable and accountable. Prosecutors, as asset managers, are accountable not only to the state but also to the victims as direct stakeholders. A clear and transparent reporting mechanism is crucial to preventing abuse of authority and ensuring the integrity of the process.

Another advantage of this approach is its ability to integrate asset management with the restoration-oriented objectives of sentencing. The management and liquidation of a convict's assets are no longer viewed as an additional consequence of a criminal sentence, but rather as an integral part of the administration of justice. By prioritizing victim recovery as the primary goal, this model shifts the focus of law enforcement from solely punishment to restoring the social balance disrupted by crime.

However, implementing this ideal model requires strengthening the institutional capacity of the prosecutor's office. Prosecutors need to be equipped with additional competencies in asset management, including an understanding of the principles of liquidation and distribution of proceeds. Furthermore, clear regulatory frameworks are needed to provide a legal basis for prosecutors to carry out this curator-like function. Without adequate regulatory support, this model has the potential to face implementation challenges.

From a legal certainty perspective, adopting a bankruptcy curator approach to managing a convict's assets provides clarity on the role and limits of prosecutors' authority. Prosecutors are no longer torn between the obligation to enforce a decision and the limitations of their normative authority. Instead, prosecutors have a clear and structured framework for implementing court decisions ordering the restoration of victims' rights through the management of the convict's assets.

Thus, the ideal model for the management and liquidation of a convict's assets by prosecutors using a bankruptcy receivership approach represents a conceptual solution capable of addressing the regulatory gaps and disharmony that have hampered the restoration of victims' rights. This model not only benefits victims but also strengthens

¹⁹Agus Wiyanto, "Confiscation and Confiscation of Assets in Criminal Acts", *IUS Law Journal*, pp. 211–214.

the legitimacy and effectiveness of the criminal justice system as a whole. By strengthening the role of prosecutors as professional, transparent, and accountable asset managers, the goal of substantive justice in criminal cases can be realized more concretely and sustainably.²⁰

D. CONCLUSION

Based on the results of the research and discussion, it can be concluded that the position of the prosecutor as *executive officer* The judiciary has a strategic role in the implementation of criminal decisions, which are oriented towards restoring the rights of victims of crime. However, in practice, this authority is not supported by comprehensive normative regulations, particularly regarding the management and liquidation of confiscated assets or evidence used to fulfill restitution, compensation, or victim rehabilitation. This situation creates a regulatory vacuum and disharmony, resulting in legal uncertainty and suboptimal implementation of court decisions.

The judge's ruling ordering the auction of confiscated assets for restitution has direct implications for the prosecutor's role as executor. Prosecutors are not only required to carry out the principal sentence but also to manage the complex and multidimensional process of restoring victims' rights. Without clear authority and a structured mechanism, the implementation of this ruling has the potential to create legal and administrative dilemmas for prosecutors, while also reducing the effectiveness of restoring victims' rights.

This study also shows that the prosecutor's authority in carrying out *asset tracing* and execution seizures are among the main factors hindering the realization of restitution. In many cases, criminals choose to serve substitute sentences without fulfilling their restitution obligations, while assets derived from or related to the crime remain in the hands of the perpetrators. This creates an imbalance of justice and contradicts the purpose of criminal punishment, which is to promote benefit and restoration.

As a conceptual solution, the adoption of a bankruptcy curator approach by prosecutors in the management and liquidation of convicts' assets is seen as an ideal model. This approach allows for professional, transparent, and proportional asset management, allowing for more effective and equitable restoration of victims' rights. With strengthened authority and clear regulations, prosecutors can fulfill their role not only as enforcers of criminal decisions but also as administrators of the restoration of victims' rights, achieving substantive justice and enhancing the legitimacy of the criminal justice system.

²⁰Ahmad Yulianto, "Restitution as an Instrument for Restoring the Rights of Victims of Crime", *Jurnal RechtsVinding*, pp. 189–192.

BIBLIOGRAPHY

- Arief, Barda Nawawi. "Criminal Law Policy in the Protection of Crime Victims." *Journal of Legal Issues*.
- Atmasasmita, Romli. "Criminal Justice System Reform from a Restorative Justice Perspective." *Journal of Law and Development*.
- Barda Nawawi Arief. *Anthology of Criminal Law Policy*. Jakarta: Kencana Prenada Media Group.
- Eddy O.S. Hiariej. *Principles of Criminal Law*. Yogyakarta: Cahaya Atma Pustaka.
- Hiariej, Eddy O.S. "Restitution and Compensation for Victims of Crime in the Indonesian Criminal Law System." *Indonesian Journal of Legislation*.
- Lilik Mulyadi. *Criminal Procedure Law: Normative, Theoretical, Practical and Problems*. Bandung: Alumni.
- M. Yahya Harahap. *Discussion of Problems and Implementation of the Criminal Procedure Code*. Jakarta: Sinar Grafika.
- Muladi and Barda Nawawi Arief. *Criminal Theory and Policy*. Bandung: Alumni.
- Mulyadi, Lilik. "The Implementation of Criminal Decisions and Its Problems in Judicial Practice." *Judicial Journal*.
- R. Soesilo. *Criminal Code (KUHP) and its Commentaries*. Bogor: Politeia.
- Rahardjo, Satjipto. "Progressive Law as a Basis for Protecting Victims' Rights." *Pro Justitia Law Journal*.
- Romli Atmasasmita. *Contemporary Criminal Justice System*. Jakarta: Kencana.
- Santoso, Topo. "The Development of the Concept of Restorative Justice in the Criminal Justice System." *Indonesian Journal of Criminology*.
- Satjipto Rahardjo. *Law and Social Change*. Bandung: Alumni.
- Soekanto, Soerjono. "Law Enforcement and the Factors That Influence It." *Journal of Law and Development*.
- Soerjono Soekanto. *Introduction to Legal Research*. Jakarta: UI Press.
- Sulaiman, King Faisal. "The Authority of the Prosecutor as Executor of Criminal Decisions." *Jurnal Jus Quia Justum*.
- Topo Santoso. *Criminology*. Jakarta: RajaGrafindo Persada.
- Wiyanto, Agus. "Confiscation and Confiscation of Assets in Criminal Acts." *IUS Law Journal*.
- Yulianto, Ahmad. "Restitution as an Instrument for Restoring the Rights of Crime Victims." *Journal Legal Finding*.