

Sistem Eksekusi Restitusi bagi Terpidana yang Tidak Bersedia Membayar Restitusi Sesuai dengan Prinsip Restitutio in Integrum = Restitution Execution System For Convictions Who Are Not Willing To Pay Restitution In Accordance With The Principle Of Restitutio In Integrum

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Abstrak

Penelitian ini dilakukan dengan tujuan untuk memberikan pemahaman dan penjelasan mengenai eksekusi restitusi dan kaitannya dengan prinsip restitutio in integrum. Tulisan ini menggunakan metode penelitian doktrinal, analisis kasus, dan komparasi. Prinsip restitutio in integrum merupakan pengembalian keadaan seperti semula sebelum terjadinya tindak pidana. Permasalahan yang dibahas dalam penelitian ini adalah terkait akibat hukum bagi terpidana yang tidak bersedia membayar restitusi dan kesesuaian eksekusi restitusi dengan prinsip restitutio in integrum. Restitusi di Indonesia diberlakukan, baik untuk tindak pidana umum, maupun tindak pidana khusus. Restitusi dalam tindak pidana umum diatur dalam Undang-Undang Perlindungan Saksi dan Korban, sementara tindak pidana khusus diatur dalam Undang-Undang Pemberantasan Tindak Pidana Perdagangan Orang, Undang-Undang Pengadilan HAM, Undang-Undang Pemberantasan tindak pidana terorisme, Undang-Undang Sistem Peradilan Pidana Anak, dan Undang-Undang Tindak Pidana Kekerasan Seksual yang masing-masing memiliki peraturan pelaksanaannya kecuali Undang-Undang tindak pidana kekerasan seksual. Restitusi merupakan salah satu hak korban untuk mendapatkan ganti rugi agar bisa memulihkan keadaan korban seperti sebelum terjadinya tindak pidana sesuai dengan prinsip restitutio in integrum. Oleh karena itu, dari awal proses peradilan hingga eksekusi, ketentuan terkait restitusi harus bisa mencerminkan prinsip restitutio in integrum.

.....This research was conducted with the aim of providing an understanding and explanation regarding the execution of restitution and its relationship to the principle of restitutio in integrum. This paper uses doctrinal research methods, case analysis, and comparison. The principle of restitutio in integrum is the return to the situation as it was before the crime occurred. The problems discussed in this research are related to the legal consequences for convicts who are unwilling to pay restitution and the suitability of the execution of restitution with the principle of restitutio in integrum. Restitution in Indonesia is applied to both general criminal offenses and specific criminal offenses. Restitution in general criminal offenses is regulated in the Law on Witness and Victim Protection, while specific criminal offenses are governed by the Law on the Eradication of Trafficking in Persons, the Law on Human Rights Courts, the Law on the Eradication of Terrorism, the Law on the Juvenile Justice System, and the Law on Sexual Violence Crimes, each of which has its own implementing regulations except for the Law on Sexual Violence Crimes. Restitution is one of the rights of victims to receive compensation in order to restore the victim's situation to what it was before the commission of the crime, in accordance with the principle of restitutio in integrum. Therefore, from the beginning of the legal process to execution, provisions related to restitution must reflect the restitutio in integrum principle.