

LICS 2026

Topic: Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children

Compensation Regarding Victims of the Criminal Act of Trafficking in Humans According to Law Number 21 Of 2007 Concerning the Eradication of the Criminal Act of Trafficking in Humans

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Abstract. *Compensation towards victims of crime criminal compulsory human trafficking given by the perpetrator action criminal offenses which are giving restitution to the victim who needs to given in accordance with the time that has passed determined by law. The purpose of doing it study This is for know how is it change make a loss towards victims of crime criminal human trafficking and how implementation giving restitution to the victim's party did not filled until beyond the time limit as arranged in Constitution Number 21 of 2007 Concerning Eradication Action Criminal Human Trafficking. Study This use approach normative juridical. The type and source of data uses secondary data in the form of regulation legislation, books, documents, data and literature. The data collection method uses Library Research and Legislation. Data analysis method using analysis descriptive. Research result show that Implementation giving restitution to the victim's party did not filled until exceeding the time limit of 14 (four) days twelve) days counted since he informed the decision that has been get strength law remain. Court as give letter warning in a way written to giver restitution, for quick fulfil obligation give restitution to the victim or expert.*

Keywords: *Compensation; Criminal; Human; Trafficking.*

1. Introduction

Human trafficking is form crime outside ordinary (extraordinary crime) that causes impact wide to dignity, rights and welfare human beings. Victims of human trafficking do not only experience suffering physical and psychological, but also losses significant economic consequence exploitation carried out by the perpetrator. Therefore that, the effort for give change loss to victims is very important as form recovery right as well as as step for return the condition of the victim as close as possible Possible to condition originally. In normative, protection for victims

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of human trafficking in Indonesia has arranged in Constitution Number 21 of 2007 concerning Eradication Action Criminal Human Trafficking. One of the form protection the is the victim's right to get restitution, namely change losses that must be paid by the perpetrator on material and/ or immaterial losses suffered by the victim. However, in in practice, fulfillment right restitution This Still Far from hope. Many decisions court related action criminal human trafficking is not load order payment restitution, and procedures submission restitution is also assessed Still complicated and lacking socialization to the victim.¹

Compensation towards victims of crime criminal compulsory human trafficking given by the perpetrator action criminal offenses which are giving restitution to the victim who needs to given in accordance with the time that has passed determined by law. Other obstacles faced in implementation restitution is ambiguity technical procedure in submit demands change loss, low victim's awareness of their rights, as well as limitations source Power human beings among apparatus enforcer law for fight for right victim restitution. Conditions This cause many victims choose For No submit demands restitution, because worry the process extend suffering or results obtained No worth it with losses experienced. At the level international, the victim's right to get change loss recognized in various instrument law, such as The Palermo Protocol (2000) which regulates about prevention, eradication and punishment to human trafficking, especially women and children. Indonesia as a state party has ratify Protocol this and is obliged for adopt the provisions to in law national.² Although in a way juridical base law Already available, reality on the ground show existence gap big between legal norms with implementation. One of the reason mainly is Not yet existence mechanism simple, fast, and cheap that can used by the victim to demand right restitution. Restitution often viewed as burden addition in the legal process, not as an integral part of the judicial process criminal. Efforts For repair situation This has start done through a number of initiatives, including: push harmonization between Constitution Number 21 of 2007 with Constitution Number 31 of 2014 concerning Witness and Victim Protection. The Witness and Victim Protection Agency (LPSK) also plays a role. important in help victims of human trafficking to submit application restitution. However, the challenge big Still blocking, especially in matter socialization to victims, training to apparatus enforcer law, and creation regulation more implementers detailed and applicable.³

¹ Agus Hasanudin, Sh. A.21211010, *Implementation Provision Restitution in Tppo Case in System Justice Criminal*, Nestor Magister Hukum Journal, vol. 2, no. 2, 2015. p.

² Sulistiani, L, *Problems of Victims' Rights to Restitution in Criminal Acts Regulated by the Criminal Code and Outside the Criminal Code*. 2022, DOI : 10.23920/ jbmh.v 7i1.948. Accessed June 25, 2026

³ Hidayati, M, *Eradication and Prevention Efforts Human Trafficking Through International Law and Indonesian Positive Law*, Journal of Law, 1, 2012, 163 -175.

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Enforcement law is characteristics main thing in life nation and state, because That protection law to the victim crime is one of state obligations in enforcement law. Related with matter Muladi said that the victims of crime need protected because: first, society considered as something a form of institutionalized trust system (system of institutionalized trust). Trust This integrated through the norms that in ek - spresikan di instructure institutions like police, prosecutors, courts and so on. The occurrence of crime on the victim's self will meaningful destruction system trust the so that arrangement law criminal and other laws concerning the victim will functioning as means system restore trust Second, the existence of argumentation contract social and social solidarity because of the country may it is said monopolize all over social reaction to crime and prohibition actions which is personal. Therefore that, if there are victims of crime then the state must pay attention the needs of victims with method improvement service and arrangement rights. Third, protection the victim who usually associated wrongly One objective criminalization, namely settlement conflict. With settlement the conflict that caused by existence action criminal will restore balance and bring a sense of peace in public.⁴

Protection law for the victims crime especially victims of crime criminal human trafficking in form giving change losses (restitution) are regulated in Law of the Republic of Indonesia No. 21 of 2007 concerning Action Criminal Human Trafficking (UUPTPO), namely in Article 48 paragraphs (1) and (2) which state that; Article (1), every victim of an act criminal human trafficking or expert his heirs entitled get restitution. Article (2) restitution as intended in Article (1) is in the form of change loss above. Loss riches or income; suffering; costs for action maintenance medical and/ or psychological; and/ or Loss others that suffered by the victim as due to trade people. Settings about protection law towards crime victims human trafficking is divided in a number of regulation legislation Good which is of a nature general or specifically, namely Code of Law Criminal Code (KUHP), Law RI No. 21 years 2007, Law of the Republic of Indonesia No. 23 of 2002 concerning Child Protection, Republic of Indonesia Law No.13 of 2006 concerning Witness Protection and Victims. At the level Coordinating Ministry and the Ministry of State has done various effort concrete related with prevention trading humans, as as stated by the government confirm that Indonesia will do business earnestly in fighting and eradicating trading human. With the creation and implementation of Law of the Republic of Indonesia No. 21 years 2007, expected prevention and enforcement law to action criminal human trafficking can more effective, because has arrange in a way clear and firm about action criminal human

⁴ Muladi, 1997, *Victim Protection in System Justice Criminal, as loaded in gathering Essay on Human Rights, Politics and Systems Justice Criminal Law*, Diponegoro University Publishing Agency, Semarang, p. 172

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trafficking like give threat punishment which are more heavy as well as threat other to perpetrator action criminal human trafficking.

Restitution according to article 1 number 13 Law of the Republic of Indonesia No. 21 of 1945 2007 is payment change loss charged to perpetrator based on decision court powerful law still on loss material and/ or immaterial losses suffered by the victim or expert his heirs. During This protection law to crime victims not enough noticed in enforcement law. The following some decisions court in case action criminal human trafficking describe lack of attention from law enforcement against the loss and suffering of the victim, namely to right victim restitution.⁵

2. Research Methods

Study This use approach normative juridical. The type and source of data uses secondary data in the form of regulation legislation, books, documents, data and literature. The data collection method uses Library Research and Legislation. Data analysis method using analysis descriptive. Data collection techniques were carried out through search literature, documentation, and record keeping content in a way systematic from various source academic. Data obtained Then analyzed use technique analysis content analysis, with stages data reduction, data presentation, and withdrawal conclusion.

2. Results and Discussion

Human trafficking is crime injurious weight right basic humans and causes multidimensional impact on victims, both in a way physical, psychological, and economy. In frame return dignity and rights of victims, Indonesian law provides guarantee on right for get restitution and compensation. One of them base the law poured out in Constitution Number 21 of 2007 concerning Eradication Action Criminal Human Trafficking, as well as supported by several regulations implementer others. However, even though in a way normative framework law has available, implementation right restitution for the victims still meet various obstacles at the level practical. Empirical facts disclose that one of limitations fundamental in Indonesian regulations are provision that right on compensation and restitution depending on the evidence error perpetrators in court, so that victims often difficult For get his rights If perpetrator more choose undergo punishment prison than pay change make a loss.⁶ Other conditions describe that effort fulfil right victim restitution through approach justice restorative Still face obstacle structural.

⁵ Rehngena Purba, *The Role and Responsibilities of Judges in Handling of Human Trafficking Crime Cases and Court Decisions*, Paper presented in the Seminar a day Human Trafficking in Indonesia, May 27, 2011 at the Millennium Hotel, Jakarta

⁶ Satjipto Rahardjo, 2009, *Law Progressive*, Genta Publishing, Yogyakarta, p.92.

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One of them is weakness implementation the concept of plea-bargaining and deferred prosecution agreements that accommodate submission of the Victim Impact Statement in system Indonesian ⁷law.

Obstacles also arise in aspect technical submission restitution, restitution can rejected by the judge if proof proposed expenditure No fulfil standard strict proof. In case said, even though the victim has submit application, restitution Finally rejected Because procedure submission considered No legitimate. ⁸On the other hand, the situation experienced by the victim is being held hostage in conditions psychological challenges of the victim No only question mark loss, but also frequent social stigma faced by the victim after go out from circle human trafficking. Support from government, apparatus enforcer law, and non- governmental organizations become factor crucial in push victim recovery comprehensive. ⁹Victims in his journey to get protection No let go from the existence of LPSK. LPSK (Witness and Victim Protection Agency) is an institution tasked with for ensure protection Good in a way physique and psychological for witnesses and victims, which include provision security, services medical, as well as rehabilitation programs. In addition, LPSK also provides support law, assistance in the legal process, as well as help fulfillment need life everyday. Protection to witnesses and victims have role crucial in the judicial process criminal, because testimony delivered without fear or pressure can help reveal action criminal in a way more effective.

In addition, to strengthen effort disclosure in a way comprehensive, especially in case action criminal organized transnational, protection similar is also necessary given to witness perpetrators, reporters, and experts involved in the judicial process. Victims of crime criminal law in essence attached rights, things This useful For protect and provide security, certainty and justice for victims of crime criminal law, the rights of victims of crime criminal in the form of : Physical Protection (Victims have the right to on protection physical, including security and escort, placement at home safe, and giving identity new If required), Legal Protection (Victims have the right to get mentoring law and assistance law in the judicial process), Assistance Medical and Psychosocial (Victims have the right on help medical, examination, action and treatment medical, as well as rehabilitation psychosocial and psychological), Compensation and Restitution (Victims have the right submit demands compensation in case gross human rights

⁷Moh. Mahfud MD., 2000, *Basis and Structure of the Indonesian State, (Edition Revision)*, Renaka Cipta, Jakarta, p. 64.

⁸ Amrah Muslimin, 1985, *Several Basic Principles and Understandings About Administration and Administrative Law*, Alumni, Bandung, p. 110

⁹Hans Kelsen, 2010, *General Theory of Law and State: Foundations of Normative Legal Science As Descriptive-Empirical Legal Science*, transfer Language Soemardi, 3rd Edition, Bee Media Indonesia, Bandung, p. 225.

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violations and rights on restitution or change make a loss from perpetrator criminal act), Right to Information (Victims have the right on information about the whole process and results handling cases, protection and recovery), Right to Health Services (Victims have the right to on examination, action, and treatment medical), Right to Strengthening Psychological (Victims have the right on help For overcoming the psychological trauma experienced), the Right to Provision of Testimony Without Appearing in Court (Victims can give testimony without present directly in court If needed), Right to Temporary Life Support (Victims can given help life temporary during undergoing a protection program). LPSK also provides assistance, help rehabilitation psychosocial and psychological, as well as mentoring in the judicial process.¹⁰

Description about right on No all action criminal can access towards victims of crime criminal, there is specificity namely existence action criminal case certain then the victim of action criminal case certain will get addition right in the form of right help medical and rights help rehabilitation psychosocial and psychological. So victims of human trafficking enter in the victim of the act criminal case certain, besides from victims of human trafficking, there are also victims of violations right basic heavy human, Victim of crime criminal terrorism, victims of acts criminal human trafficking, victims of crime criminal torture, victims of violence criminal violence sexual, and victims of abuse heavy.

Right to assistance medical namely, the assistance provided For restore health Victim's physical condition, including do management in case of death for example management corpse until funeral. Victim human trafficking rights get help medical which includes treatment wound physical, care on disease consequence exploitation, and access to service health continued. Help medical is very important for return condition the victim's physical condition, which is often experience wound consequence violence physical, torture, or sexual harassment.¹⁰ In Indonesia, the right This arranged in various regulations, such as Law No. 21 of 2007 concerning Eradication Action Criminal Human Trafficking and Law No. 13 of 2006 concerning Protection of Witnesses and Victims. The state is obliged provide service medical through facility government or Work The same with non- governmental organizations for ensure victim's access to recovery health. Right to assistance rehabilitation psychosocial namely all form service and assistance psychological as well as socially targeted For help relieve, protect, and restore condition physical, psychological, social and spiritual conditions of the victim so that capable operate function social return in a way reasonable, among other things LPSK is trying to do improvement quality Victim's life with do Work The same with agency relevant authorities in the form of help fulfillment clothing, food, shelter, assistance get work, or help continuity education.

¹⁰ Hotma P. Sibuea, 2010, *Principles of the Legal State, Regulations General Policies and Principles of Good Governance*, Erlangga, Jakarta, p. 56

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Psychological assistance is provided by psychologists to victims who suffer from trauma or problem mental health other for restore return condition Victim's mental state. Psychological trauma consequence human trafficking often more deep and persistent longer than wound physical. Therefore that, the victim also has the right get service rehabilitation psychosocial and psychological aims For Overcome stress post-traumatic stress disorder (PTSD); Recovering price self and sense of security and Prepare the victim for reintegration social. Many victims experience difficulty adapt return in public due to stigma, shame, and severe trauma. Rehabilitation psychosocial become crucial so that victims can build return a dignified life.¹¹

Rehabilitation program This covering counseling individual and group, trauma therapy, training skills live, until help social for build network support new. During In 2024, LPSK has carry out as many as 8,292 protection programs witnesses and victims. A recipient protection can get more from One type service in this program. In general, protection program the classified to in three categories, namely:

- 1) protection program security as many as 1,908 services covering Physical Protection, Fulfillment of Procedural Rights, Right to Information, Legal Protection, Facilitation of the Rights of Witnesses and Perpetrators, as well as Help Temporary Living Expenses and Replacement Cost Transportation;
- 2) assistance program a total of 2,619 services which include Help Medical, Rehabilitation Psychosocial, and Psychological Rehabilitation; and
- 3) facilitation program change loss as many as 3,765 services consisting of on Facilitation Restitution as well as Facilitation Fulfillment Compensation.¹²

Rights to help medical as well as rehabilitation psychosocial and psychological is vital parts in frame recovery of victims of human trafficking. The state has moral and legal obligations For ensure second right This fulfilled in a way effective. Improvement capacity service, simplification access administrative, as well as collaboration cross sector become step important For ensure better victim recovery holistic and dignified.

Analysis about policy law criminal in protect rights (restitution) of victims of crime criminal trading policy people law criminal with publish Law of the Republic of Indonesia No. 21 of 2007

¹¹Abu Daud Busroh and H. Abu Bakar Busro, 1983, *Principles of Constitutional Law*, Ghalia Indonesia, Jakarta, p. 109.

¹²Mohamad Tharir Azhary, 1992, *State of Law, A Study of The principles Seen from aspects of Islamic law, its implementation during the Medina State period and the present day*, tp, Jakarta, p. 67

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which regulates regarding restitution for victims of human trafficking crimes reflects wu-jud real from the country to notice as well as protect interests of victims of crime criminal trading people. Because with existence stated policies in Constitution it becomes foothold for victims to be able to make an effort fight for right restitution (replacement) loss) due to the losses he suffered to perpetrator action criminal human trafficking. However, aside other in Law of the Republic of Indonesia No. 21 of 1945 2007 regarding restitution Not yet fully give protection to witnesses and victims due to there is a number of weaknesses, between another is the thing that arrange about mechanism submission restitution as stated in the explanation of Article 48 paragraph (1) is lacking give certainty law and power tie in its implementation. Because the mechanism submission restitution is procedural law (law formal) which should be arranged alone in stem body so that rule about submission mechanism restitution can clear, firm, and detailed. Then in Article 50 paragraph (4) in Republic of Indonesia Law no. 21 of 2007 gives rise to three problem. Namely first, with criminal confinement as replacement restitution then the victim or expert his heirs No get right on restitution.

apart from that, if pu tusan restitution Enough big, with existence provision chapter said, then perpetrator will tend choose for undergo criminal The maximum imprisonment is only 1 (one) year. Second, if the perpetrator is corporation, then provision chapter the No Can implemented to convict the corporation, because something corporation No have body. Third, criminal confinement replacement the longest is only One year, rules confinement maximum One year That felt too much short as sanctions from consequence perpetrator No capable pay restitution. From the problem the naturally will disturbing even can remove right victim restitution For get it. Change loss is something which are given to the party that suffer loss worth it with take into account the damage he suffered.¹³

Difference between compensation and restitution is compensation arise from request victims, and paid by the community or is form of accountability public or country, while restitution more nature criminal, which arise from court ruling criminal and paid by the convict or is form of accountability convict. Regarding victim's rights in the form of giving restitution (replacement) loss) on system justice criminal especially on case criminal act human trafficking is something the thing that important to remember responsibility For give protection law is part who does not inseparable from not quite enough state responsibility for give protection for public.

Implementation restitution (replacement) loss) in the case specifically action criminal human trafficking is something important. However, the fact in the field implementation or

¹³ Jeremy Bentham, Theory of Legal Principles Legislation, Civil Law and Criminal Law, (Bandung: Publisher Nusamedia & Publisher Nuansa, 2006), p. 316

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implementation restitution Still seldom done in action criminal trading people. Based on results interviews and observations writer, there is a number of factor obstacles that hinder implementation restitution in case the crime of human trafficking, which is what makes not enough effectiveness throwing restitution and of course implications for victims get right restitution. Related factors constraint the can examined, namely on the factors constraints on regulations legislation is first, provisions about procedure submission restitution Not yet clear and detailed. Second, the provisions of Article 50 paragraph (4) of Law of the Republic of Indonesia No. 21 of 2002 2007 made fall right victim to get restitution. Third, the lack of internal regulations of each agency enforcer law about instruction technical and instruction implementer about How instruction technical and instructions perpetrator - there is a submission restitution on case action criminal human trafficking.

Policy law criminal in protecting right victim restitution action criminal human trafficking exists in Law of the Republic of Indonesia No. 21 of 2007 concerning Eradication Action Criminal Trading People who give runway law material and formal. Second, the factors that cause occurrence constraint mechanism restitution in criminal cases human trafficking is: a) factors in legislation, b) factors in sources Power man enforcer law, c) factors in awareness victim law. Implementation giving restitution to the victim's party did not filled until exceeding the time limit of 14 (four) days twelve) days counted since he informed the decision that has been get strength law remain. Court as give letter warning in a way written to giver restitution, for quick fulfil obligation give restitution to the victim or expert.

4. Conclusion

Study This confirm that policy law criminal in protecting right victim restitution action criminal human trafficking exists in Law of the Republic of Indonesia No. 21 of 2007 concerning Eradication Action Criminal Trading People who give runway law material and formal. Second, the factors that cause occurrence constraint mechanism restitution in criminal cases human trafficking is: a) factors in legislation, b) factors in sources Power man enforcer law, c) factors in awareness victim law. Implementation giving restitution to the victim's party did not filled until exceeding the time limit of 14 (four) days twelve) days counted since he informed the decision that has been get strength law remain. Court as give letter warning in a way written to giver restitution, for quick fulfil obligation give restitution to the victim or expert.

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