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

Restitution and Compensation for Victims of Human Trafficking

Rezky Tribhuwana

Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: rezkytribhuwana.std@unissula.ac.id

Abstract. *Human trafficking is one of the most serious transnational crimes in international law, as it not only constitutes a fundamental violation of human rights but also causes long-term physical, psychological, social, and economic harm to victims. In this context, mechanisms of restitution, compensation, rehabilitation, and recovery are essential elements of a victim-centered criminal justice system. However, the implementation of these mechanisms continues to face various normative and practical challenges, particularly regarding the effectiveness of law enforcement, inter-agency coordination, and the responsibility of the state in ensuring victim recovery. This research aims to comprehensively analyze the legal mechanisms governing restitution and compensation for victims of human trafficking, as well as to examine the victim-centered justice approach as a new paradigm in the protection of victims' rights. The research method used is normative legal research with statutory, conceptual, and comparative approaches to international legal instruments as well as national regulations related to the eradication of human trafficking crimes. The results of the study show that although various legal instruments guaranteeing victims' rights to restitution and compensation exist at the normative level, their implementation remains weak due to limitations in enforcement mechanisms and the state's role in providing compensation schemes is still not optimal, resulting in many victims not receiving adequate recovery. There is a need to strengthen a more victim-responsive legal system through regulatory harmonization, reinforcement of witness and victim protection institutions, and the implementation of a justice approach that truly places victims at the center of criminal justice proceedings.*

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

1. Introduction

Human trafficking has evolved as a crime, driven by changes in human mobility, labor markets, digital technology, and organized crime networks. Exploitation is no longer limited to conventional sexual exploitation and forced labor, but also includes forced online fraud, forced criminal activity, begging, exploitative marriage, organ harvesting, and the exploitation of ship

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crews and domestic workers. The latest global report notes that the number of victims detected in 2022 increased by 25 percent compared to 2019, with child victims increasing by 31 percent, and children now comprising 38 percent of all detected victims.¹ This increase does not reflect the actual prevalence rate, as law enforcement data is heavily influenced by identification skills, victims' willingness to report, and state capacity. However, this trend demonstrates that victim recovery cannot be viewed as a secondary issue after the punishment of perpetrators.

Conceptually, restitution and compensation have different sources of obligation. Restitution is a payment by the perpetrator or a responsible third party to redress the victim's losses, while compensation is a payment by the state when losses cannot be effectively recovered from the perpetrator. Both are distinct from medical, psychological, and social rehabilitation, but must be designed as part of a continuum of recovery. Anne T. Gallagher positions access to legal remedies and redress as part of the state's obligations, which extend beyond the criminalization of human trafficking.²

This perspective is particularly relevant in Indonesia. Data from the Online Information System for the Protection of Women and Children recorded 2,265 victims of human trafficking (TPPO) between 2019 and 2023. Of these, 1,156 victims, or 51 percent, were children, 1,073 victims, or 47 percent, were adult women, and only 2 percent were recorded as adult men. In 2023 alone, there were 252 adult victims and 206 child victims. The same official data identified evolving methods through migrant workers, internships, online gambling, and online fraud.³ The Ministry of Women's Empowerment and Child Protection reported that 3,703 Indonesian citizens fell victim to online scams between 2020 and March 2024, primarily in Cambodia, the Philippines, Thailand, and Myanmar.⁴ This situation demonstrates that recovery needs to combine the principles of non-punishment, legal aid, safe return, mental health services, the elimination of exploitative debt, restitution, and economic reintegration.

Indonesia has Law No. 21 of 2007 concerning the Eradication of Human Trafficking, which specifically recognizes the right of victims or their heirs to restitution. Article 48 of the law covers loss of wealth or income, suffering, medical or psychological costs, and other losses resulting from human trafficking.⁵

¹ United Nations Office on Drugs and Crime. (2024). Global Report on Trafficking in Persons 2024, p. 1.

² Gallagher, A. T. (2010). The International Law of Human Trafficking. Cambridge University Press, p. 276.

³ Ministry of Women's Empowerment and Child Protection. (2024). "Advocacy Movement for the Prevention of Human Trafficking: Camplong II Village Becomes a Model for Safe Migration in NTT."

⁴ Ministry of Women's Empowerment and Child Protection. (2024). "World Day Against Trafficking in Persons 2024." <https://kemenpppa.go.id/index.php/siaran-pers/hari-dunia-anti-perdagangan-orang-2024-menteri-pppa-lawan-dan-akhiri-segala-bentuk-perdagangan-orang>

⁵ Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, Article 48.

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The main problem is not the absence of norms, but rather the gap between recognition of rights and their realization. The 2024 LPSK (Lembaga Penitentiary and Victim Protection Agency) report recorded 457 restitution requests related to human trafficking and thousands of restitution assessment services for various crimes. The 2025 task implementation report further showed an increase in the volume of restitution facilitation, but the recorded value of restitution in human trafficking cases actually decreased from approximately Rp968.06 million in 2024 to Rp103.45 million in 2025.⁶The discrepancy between the number of services, the number of victims, the number of cases, the court-ordered amount, and the amount actually paid demonstrates the need for more precise performance indicators. A restitution decision should not be considered successful until the funds are received by the victims. This research asks three questions.

2. Research Methods

This research employs normative or doctrinal legal methods with statutory, conceptual, case-based, and comparative approaches. The statutory approach is used to examine the interrelationships of various national regulations concerning the eradication of human trafficking, witness and victim protection, criminal procedure law, and restitution and compensation mechanisms, by assessing not only the appropriateness of the norms but also their effectiveness in ensuring real, timely, and proportional payments to victims. The conceptual approach is used to differentiate restitution, compensation, rehabilitation, satisfaction, guarantees of non-recurrence, and restitution broadly based on the principles of victim-centered justice, victimology, and the right to effective restitution.

3. Results and Discussion

3.1. Human Trafficking, Victim Harm, and the Victim-Centered Justice Paradigm

Human trafficking is a process of exploitation, not simply the movement of individuals. The Palermo Protocol's definition includes three elements for adult victims: the act, the means, and the purpose of exploitation for children; proof of the means is not required.⁷

The principle of "do no harm" demands that the legal process avoid secondary victimization. Repeated interviews, victim-blaming questions, unsafe confrontations, identity theft, delayed payments, and demands for re-evidence of trauma can exacerbate harm. A victim's decision not to fully cooperate with the prosecution should not automatically deny access to basic services. In the context of restitution, meaningful participation means the victim receives an explanation

⁶ Witness and Victim Protection Agency. (2026). LPSK Annual Report 2024, section on TPPO Restitution Requests.

⁷ United Nations. (2000). Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Article 3. <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

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from the outset regarding the components of harm, the required evidence, the risks of disclosing personal information, the objection mechanism, the possibility of installment payments, and the consequences of the perpetrator's loss of assets. The assessment should be conducted with the victim, not solely for them. Victims should also be given the opportunity to correct calculations and address unseen losses, such as lost educational opportunities or long-term care costs.

Article 6 paragraph (6) of the Palermo Protocol requires each state party to ensure that its domestic legal system includes measures that provide victims of human trafficking with the opportunity to obtain compensation for the losses suffered.⁸ The term "possible" allows for national design, but does not justify procedures that are practically impossible to implement. These obligations must be read in conjunction with provisions for physical, psychological, social, housing, counseling, information, medical assistance, education, and employment.

3.2. Development of the Indonesian Legal Framework

The Indonesian Constitution provides a basis for victim reparation through guarantees of personal protection, a sense of security, fair legal certainty, equal treatment before the law, and the state's responsibility for human rights. This framework requires that criminal law protect not only the state's interests in punishing victims but also the interests of individuals who suffer as a result of the crime. In cases of human trafficking, this constitutional obligation is even stronger because exploitation violates dignity, freedom, bodily integrity, decent work, and children's rights.

Table Map of the National Legal Framework

Regulation	Main Contributions	Remaining Issues
Law No. 21 of 2007	Special restitution rights for victims of human trafficking and details of loss components.	Dependence on the perpetrator's assets; substitute imprisonment does not rehabilitate the victim.
Government Regulation No. 35 of 2020	General procedures for compensation, restitution and assistance.	State compensation is not expressly available to all victims of human trafficking.
PERMA No. 1 of 2022	Application procedures before and after the decision.	Access still depends on information, assistance, and coordination.
Presidential Decree No. 49 of 2023	Strengthening the structure of the TPPO Task Force.	Recovery indicators and payment data are not yet integrated.
Law No. 3 of 2026	Victims' Endowment Fund, collateral seizure, deadlines, and asset auctions.	Implementing regulations and the scope of funds for victims of human trafficking need to be ensured.
Law No. 20 of 2025	The context of new criminal proceedings and the strengthening	Technical harmonization with the TPPO Law, Law 3/2026, and PERMA is required.

⁸ United Nations. (2000). Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Article 6(6).

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of the position of the parties in the
process.

Law Number 21 of 2007 provides a specific foundation. Article 48 recognizes the right to restitution and details the components of losses. Restitution is included in the verdict, and its mechanism begins upon case processing. Article 50 regulates warnings, confiscation, auction, and alternative imprisonment when obligations are not met.⁹The advantage of this regime is the explicit recognition of suffering and other losses, not just the loss of property. The disadvantage is that restitution has not yet been fully established as a civil debt that remains collectible after the convict has served his substitute sentence.

General implementing provisions were previously outlined in the Witness and Victim Protection Law, Government Regulation No. 7 of 2018, as amended by Government Regulation No. 35 of 2020, and the LPSK's internal regulations. Government Regulation No. 35 of 2020 differentiates between compensation borne by the state and restitution borne by the perpetrator, but the scope of state compensation explicitly focuses on victims of gross human rights violations and terrorism.¹⁰Victims of human trafficking therefore rely primarily on restitution, even though the nature of the crime also results in the perpetrator's inability to pay or difficulty finding assets.

Supreme Court Regulation No. 1 of 2022 fills the procedural gap by regulating the applicant's subject, requirements, consolidation of applications in criminal cases, post-verdict applications, examinations, and implementation. This Regulation is significant because it recognizes that failure to file for restitution before a verdict should not deny victims their rights.¹¹

Law Number 3 of 2026 introduces the most significant changes to the general regime. The law regulates the Victims' Endowment Fund, restitution, and compensation in a single chapter; requires the inclusion of restitution in verdicts; sets payment deadlines; and instructs prosecutors to auction off collateral if payment is not made after the verdict becomes final and binding. Normatively, this design addresses criticism that restitution execution has so far relied too heavily on the convict's voluntary consent.

The relationship between Law Number 21 of 2007 and Law Number 3 of 2026 needs to be interpreted harmoniously. The Anti-Terrorism Law remains a specific regulation regarding the type of loss and the characteristics of the victim, while the 2026 law provides institutional strengthening and general procedures. If there are differences in deadlines or execution techniques, the interpretation should prioritize the norm that best protects the victim without

⁹ Law Number 21 of 2007, Articles 48–50.

¹⁰ Government Regulation Number 35 of 2020 concerning Amendments to Government Regulation Number 7 of 2018, Article 1 and provisions regarding compensation and restitution.

¹¹ Supreme Court Regulation Number 1 of 2022, Articles 4–17.

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violating the legal certainty of the defendant. Implementing regulations should explicitly state that the special rights of victims of TIP are not diminished.

The reform of the Criminal Procedure Code (KUHP) through Law No. 20 of 2025 also creates a new context for victims' positions. Integration between the KUHP, PERMA (Supreme Court Regulation), and specific laws is needed so that investigators can identify losses, prosecutors are required to file restitution demands, judges can decide, and prosecutors can execute without repeating administrative processes. Without shared forms and data systems, each stage has the potential to start the assessment from scratch.

Presidential Decree Number 49 of 2023 updates the composition of the Human Trafficking Prevention and Handling Task Force and emphasizes organizational and budgetary adjustments.¹² This institution should be used to link law enforcement with recovery. The task force cannot simply record the number of prosecutions; it needs to monitor whether victims receive identification, services, restitution, compensation, and reintegration. PPPA Ministerial Regulation No. 2 of 2024 concerning community-based prevention and response can facilitate identification and referrals at the village level, but protocols are needed to ensure evidence of losses is not lost.

3.3. Implementation and Gap between Decision and Payment

Implementation data highlights two issues simultaneously: the magnitude of the need and the system's limited ability to generate payments. At the national level, 2,265 victims were registered with SIMFONI PPA during 2019–2023. On the service side, the LPSK (Lembaga Penitentiary and Victim Protection Agency) recorded hundreds of applications for human trafficking restitution in 2024 and thousands of assessment facilitation services. These differences in data units are crucial. One victim may receive multiple services; one case may involve multiple victims; and one application may not necessarily result in a ruling or payment. Therefore, service figures should not be directly compared with victim numbers without operational definitions.

Table Supporting Data and Implications

Indicator	Findings
Victims of Human Trafficking 2019–2023	2,265 victims; 51% children, 47% adult women, 2% adult men.
Victims recorded 2023	252 adult victims and 206 child victims.
Online scamming victims 2020–March 2024	3,703 people; mainly in Cambodia, the Philippines, Thailand, and Myanmar.
2024 TPPO restitution application	457 applications according to the 2024 LPSK Annual Report.

¹² Presidential Regulation Number 49 of 2023 concerning the Second Amendment to Presidential Regulation Number 69 of 2008.

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Facilitation of TPPO restitution	3,685 services in 2024 and 5,576 services in 2025.
TPPO restitution value	Around Rp968.06 million in 2024 and Rp103.45 million in 2025 in the LPSK report.

The LPSK 2025 report stated that facilitation of human trafficking restitution reached 5,576 services, an increase from 3,685 services in 2024, while the value of recorded human trafficking restitution decreased sharply.¹³ Analytically, this combination could indicate an expansion of coverage with a lower value per case, differences in the filing stage, changes in case composition, or a low conversion of assessments into payments. Without open data linking applications, assessments, claims, orders, seized assets, and payments, the exact cause cannot be determined.

The payment gap is also related to timing. The perpetrator's assets may be transferred as soon as the investigation begins, while the assessment of losses is often only conducted closer to prosecution. Once the verdict is final and binding, the perpetrator may no longer have any assets in their name. Confiscation focused solely on securing evidence differs from confiscation to secure payment. The 2026 Law recognizes the seizure of restitution guarantees, but success depends on early asset tracking, access to financial data, cooperation with the Financial Transaction Reports and Analysis Center (PPATK), and the ability to identify beneficial ownership.

3.4. Comparison with the United States and Great Britain

The United States places restitution as a mandatory requirement in federal human trafficking offenses. Under 18 USC § 1593, the court must order payment of the full amount of the victim's losses. These losses include the value of the victim's labor or services calculated based on minimum wage and overtime requirements or the value of the perpetrator's earnings, whichever is greater.¹⁴ This formula is important because the perpetrator's profits cannot be separated from the value of the victim's work.

The United Kingdom uses slavery and trafficking reparation orders under the Modern Slavery Act 2015. Reparation orders can be linked to confiscation orders and are aimed at compensating for loss, damage, or injury resulting from a criminal act. Victims can also file a civil lawsuit and, in certain circumstances, access the Criminal Injuries Compensation Scheme. The government website specifically provides compensation guidance for victims of modern slavery and trafficking.¹⁵

¹³ Witness and Victim Protection Agency. (2026). Report on the Implementation of LPSK Duties 2025,

¹⁴ United States. 18 USC § 1593(b)(3),

¹⁵ United Kingdom Government. (2024). "Compensation for Victims of Modern Slavery and Human Trafficking." <https://www.gov.uk/compensation-victims-modern-slavery-human-trafficking>.

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The functional comparison yielded four elements relevant to Indonesia: mandatory restitution processed automatically; a calculation formula based on the perpetrator's losses and profits; asset prioritization for victims; and state compensation as a safety net. These four elements align with the direction of Law No. 3 of 2026, but need to be elaborated specifically for human trafficking and tailored to the LPSK (Leverage and Protection Agency), the prosecutor's office, the Financial Transaction Reports and Analysis Center (PPATK), the courts, the Ministry of Finance, and local governments.

4. Conclusion

Restitution, compensation, rehabilitation, and reparation are legal obligations inherent in responding to human trafficking. International standards do not limit states to criminalization and punishment, but rather demand real access to reparation. Restitution restores economic responsibility to the perpetrator, while state compensation prevents victims from suffering the consequences when the perpetrator or the law enforcement system is unable to generate payment. Indonesia has established a relatively comprehensive framework through Law No. 21 of 2007, Government Regulation No. 35 of 2020, Supreme Court Regulation No. 1 of 2022, the Task Force policy, and Law No. 3 of 2026. The 2026 update strengthens the collateral seizure, deadlines, auctions, and the Victims' Endowment Fund framework. However, the existence of norms has not yet equated with the fulfillment of rights. Data shows high demand, service growth, and uncertainty in the conversion from assessment to payment. Key obstacles include reliance on victim appeals, fragmented assessments, delays in asset tracing, unclear claim priorities, alternative prison terms, limited legal aid, cross-border issues, and the immaturity of state compensation for human trafficking victims.

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