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Reconstruction of Legal Protection for Victims of Forced Labor in Employment Relations Based on Pancasila Justice

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Abstract. *This study aims to reconstruct the legal protection of victims of forced labor within employment relationships on the basis of Pancasila justice. Although the Constitution, Law Number 39 of 1999 on Human Rights, the Manpower Law as amended by the Job Creation Law, Law Number 21 of 2007 on the Eradication of Trafficking in Persons, and the new Criminal Code (Law Number 1 of 2023) collectively prohibit slavery and exploitation, none of these instruments provide an operational definition of forced labor in ordinary employment relations nor a comprehensive recovery mechanism for its victims. A normative juridical approach was employed, combining statutory, conceptual, and philosophical analyzes with International Labor Organization Conventions No. 29 and No. 105. The findings reveal a normative vacuum and fragmented victim protection that emphasizes punishment of perpetrators while neglecting restitution, rehabilitation, and reintegration of victims. It is concluded that a reconstruction grounded in the second and fifth principles of Pancasila is required, encompassing a statutory definition of forced labor, an integrated victim-recovery institution, and restorative-restitutive remedies that affirm human dignity and social justice.*

Keywords: *Justice; Legal; Protection; Reconstruction; Victim.*

1. Introduction

Work as a means of obtaining a decent living is a constitutional right of every citizen as stated in Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia. However, in the practice of employment relations, protection of workers' dignity is often eroded by unequal power relations between employers and workers, thus giving rise to

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forms of exploitation, the extreme expression of which is forced labor.¹This phenomenon is not merely an economic issue, but a violation of non-derogable human rights as guaranteed by Article 28I paragraph (1) of the constitution.

Forced labor, according to the International Labor Organization Convention No. 29 of 1930, is understood as any work or service imposed on a person under the threat of punishment and which is not performed voluntarily. Indonesia has confirmed its commitment through the ratification of Convention No. 105 of 1957 concerning the Abolition of Forced Labor, but the gap between normative commitments and implementation in the field remains wide, as revealed in various cases of worker exploitation, including migrant workers and fishermen, who experience debt bondage, excessive working hours, and unpaid wages.²Weak oversight of recruitment agencies and minimal victim recovery mechanisms are recurring critical points.

The fundamental problem lies in the fragmented regulatory architecture. Law No. 13 of 2003 concerning Manpower, as amended by Law No. 6 of 2023, focuses on administrative protection and criminal sanctions for labor violations, but does not explicitly define forced labor as a separate normative category.³On the other hand, Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking covers forced labor only as long as there is an element of exploitation in the context of human trafficking, so that forced labor that arises purely from an employment relationship is at risk of escaping protection.

Furthermore, the new Criminal Code, namely Law Number 1 of 2023, has regulated the criminal acts of slavery and human exploitation as a form of decolonization and reorientation of national criminal law to the values of Pancasila, especially just and civilized humanity and social justice.⁴However, the focus on punishment inherent in criminal law has not been balanced with

¹Mochamad Sukedi and I Nengah Nuarta, Restorative Justice as an Effort to Resolve Criminal Acts in the Indonesian Legal System, *Jurnal Preferensi Hukum*, Vol. 5, No. 2 (2024), p. 223. <https://doi.org/10.22225/jph.5.2.10415.222-230>.

²Tenang Haryanto et al., Implementation of the ILO Convention on Forced Labor in Indonesia: A Case Study of Forced Labor of Migrant Fishermen, *Causa: Journal of Law and Citizenship*, Vol. 16, No. 2 (2025). See also Izathun Nissa, Legal Protection for Indonesian Migrant Workers, *Fundamental*, Vol. 7, No. 1 (2024). <https://doi.org/10.26623/julr.v7i1.8127>.

³Muhammad Bagus Basofi and Inggit Fatmawati, Legal Protection for Workers in Indonesia Based on the Job Creation Law, *Professional: Journal of Communication and Public Administration*, Vol. 10, No. 1 (2023), p. 80. <https://doi.org/10.37676/professional.v10i1.3544>.

⁴Muhammad Yoesuf, Pancasila as the Basis for the Objectives of Criminalization in the New Criminal Law System in Indonesia, in *Realizing a National Legal System Based on Pancasila* (Surabaya: Faculty of Law, University of August 17, 1945, 2024).

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a systematic victim recovery regime, so that victims of forced labor are often placed as objects of cases, not as subjects entitled to restitution, rehabilitation, and reintegration.

Previous studies tended to highlight general worker protection, migrant worker protection, or the application of restorative justice to specific crimes, but have not yet placed forced labor in employment relations as an object of reconstruction based on Pancasila justice.⁵ Herein lies a research gap: the absence of regulations that clearly define forced labor in employment relationships and provide a comprehensive redress mechanism for victims. The reconstruction in question is not simply a revision of articles, but rather a restructuring of the protection paradigm that is victim-centered and rooted in the legal ideals of Pancasila.

Based on the description, this study aims to reconstruct legal protection for victims of forced labor in employment relationships based on the values of Pancasila justice, especially the principles of Just and Civilized Humanity and Social Justice for All Indonesian People.

2. Research methods

This research uses a normative juridical approach. The research specification is descriptive-analytical by examining primary legal materials in the form of the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999, Law Number 13 of 2003 in conjunction with Law Number 6 of 2023, Law Number 21 of 2007, Law Number 1 of 2023, and ILO Conventions Number 29 and Number 105. The collection of legal materials was carried out through a literature study of primary, secondary, and tertiary legal materials. The analysis was carried out qualitatively-prescriptively by combining legislative, conceptual, and philosophical approaches to build a reconstruction model based on Pancasila justice.

3. Results and Discussion

3.1. Normative Void and Fragmentation of Protection for Victims of Forced Labor in Employment Relations

A mapping of laws and regulations shows that protection for victims of forced labor in employment relationships is scattered and uncoordinated. The Constitution guarantees the right to work, fair remuneration, and the prohibition of slavery as inalienable rights; however,

⁵Bunga Adelia Nur Salwa and Sunaryo, Justice in the Perspective of Pancasila Values: Relevance and Implementation in the Legal System; compare Untung Hari Purwono, Reconstruction of the Investigation Paradigm in the Pancasila Legal State System, *Binamulia Hukum*, Vol. 13, No. 2 (2024), p. 485. <https://doi.org/10.37893/jbh.v13i2.956>.

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these constitutional guarantees require elaboration through operational organic laws.⁶ Law Number 39 of 1999 prohibits slavery, servitude and forced labor, but is declarative in nature without a detailed recovery mechanism.

At the employment level, Article 86 of Law Number 13 of 2003 places worker protection in the aspects of safety, health, and treatment in accordance with human dignity. While Articles 183 through 189 regulate criminal sanctions for labor violations. Following amendments through Law Number 6 of 2023, the configuration of protection shifted to flexible employment relationships, fixed-term work agreements, and outsourcing, as outlined in Government Regulation Number 35 of 2021.⁷ This shift has the potential to weaken the position of workers and increase the space for the emergence of hidden forced labor practices, while there is no normative definition that makes forced labor a stand-alone category of violation.

Law No. 21 of 2007 provides relatively progressive victim protection, including restitution and rehabilitation, but its validity depends on the fulfillment of the elements of human trafficking. Consequently, victims of forced labor who do not go through human trafficking mechanisms fall into a gray area of protection.⁸ Law No. 1 of 2023 criminalizes slavery and exploitation, but its focus remains on punishing perpetrators, rather than fully rehabilitating victims. This creates a normative vacuum and institutional fragmentation in protecting victims of forced labor.

Mapping Table of Protection of Victims of Forced Labor in National Regulations

Legal Instruments	Protection Focus	Victim Recovery Mechanism
The 1945 Constitution of the Republic of Indonesia	Right to work & prohibition of slavery	Not operational
Law No. 39/1999	Prohibition of forced labor (HAM)	Declarative
Law No. 13/2003 in conjunction with Law No. 6/2023	Protection & criminal sanctions	No specific victim
Law No. 21/2007	Exploitation via TPPO	Restitution & rehabilitation (conditional)
Law No. 1/2023 (Criminal Code)	Criminalization of the perpetrator	Actor-oriented

Source: Primary data, processed, 2026.

⁶Bunga Adelia Nur Salwa and Sunaryo, op.cit.; see also internalization of Pancasila values in the formation of legislation as a national legal ideal.

⁷Muhammad Bagus Basofi and Inggit Fatmawati, loc.cit.; compare the analysis of regulatory disharmony in the relationship between Government Regulation Number 35 of 2021 and worker protection.

⁸Henny Saida Flora, Restorative Justice as an Effective Approach to Victim Protection: Prioritizing Justice and Recovery, Jurnal Hukum Justice (2025), p. 80.

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3.2. Reconstruction of Legal Protection for Victims of Forced Labor Based on Pancasila Justice

The reconstruction of legal protection must stem from Pancasila, the legal ideal (*rechtsidee*), which is the source of all legal sources. The principle of Just and Civilized Humanity demands that every worker be treated as a dignified subject, not a commodity, while the principle of Social Justice for All Indonesians demands equitable distribution of protection and redress for vulnerable groups.⁹In this framework, victim protection is not sufficient to be retributive towards the perpetrator, but must be restorative and restitutive towards the victim.

Conceptually, restorative justice as outlined in Regulation of the Chief of the Republic of Indonesia National Police Number 8 of 2021 and Regulation of the Republic of Indonesia Prosecutor's Office Number 15 of 2020 places restoration to the original state as the primary objective of case resolution.¹⁰This principle of recovery is in line with the values of Pancasila and can be adopted as a foundation for reconstruction, with an emphasis on the victim's right to restitution from the perpetrator, compensation from the state in the event of the perpetrator's inability, as well as psychosocial rehabilitation and reintegration into a decent job market.

Based on this, the reconstruction is focused on three pillars. First, the formulation of a normative definition of forced labor in employment relations that adopts elements of ILO Conventions No. 29 and No. 105, so that forced labor becomes a stand-alone violation category and does not depend on proving human trafficking.¹¹Second, the establishment of an integrated victim recovery institution that coordinates labor inspectors, the police, the prosecutor's office, and witness and victim protection agencies within a single service channel. Third, the provision of restorative-restitutive recovery mechanisms, including mandatory restitution, state compensation, rehabilitation, and reintegration, implemented in a measurable and monitorable manner.

This reconstruction model places the victim at the center (victim-centered), in line with the direction of national criminal law reform which seeks to balance the interests of perpetrators

⁹Untung Hari Purwono, *Reconstruction of the Investigation Paradigm in the Pancasila Legal State System to Realize Justice Based on Pancasila*, *Binamulia Hukum*, Vol. 13, No. 2 (2024), p. 490. <https://doi.org/10.37893/jbh.v13i2.956>.

¹⁰Mochamad Sukedi and I Nengah Nuarta, *op.cit.*, p. 226; compare Supreme Court Regulation Number 1 of 2024 in strengthening recovery-based settlements.

¹¹Fariza Raisa Rafania and colleagues, *Law Enforcement Against Perpetrators of Child Abuse Crimes Using Restorative Justice*, *Amendment: Indonesian Journal of Defense, Politics and Law*, Vol. 3, No. 1 (2026), p. 103. <https://doi.org/10.62383/amandemen.v3i1.1555>.

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and victims as well as between legal certainty and substantive justice.¹²Based on Pancasila, legal protection is no longer understood as a charitable gift from the state, but rather as the fulfillment of constitutional rights inherent in human dignity and social justice.

4. Conclusion

Legal protection for victims of forced labor in employment relations in Indonesia still experiences a normative vacuum and institutional fragmentation due to the absence of an operational definition of forced labor in employment relations and the absence of a comprehensive victim recovery mechanism, so that a Pancasila-based reconstruction is needed that places victims as subjects through three pillars, namely the formulation of a normative definition of forced labor, the establishment of an integrated victim recovery institution, and the provision of a restorative-restitutive recovery mechanism that emphasizes the principles of Just and Civilized Humanity and Social Justice for All Indonesian People.

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¹²Henny Saida Flora, op.cit.; see also the discourse of Pancasila justice as a reconstruction of the human spirit in the renewal of the National Criminal Code.

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