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

Bridging the Gap: Enhancing Legal Mechanisms for Human Trafficking Victim Restitution and Compensation

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Abstract. *Despite established legal rights, victims of human trafficking rarely receive adequate restitution or compensation for the severe trauma and financial losses endured. This research assesses the procedural and substantive barriers preventing trafficking victims from accessing their right to financial redress. Using a qualitative empirical legal approach, this study analyzes court rulings and conducts interviews with legal practitioners and victim advocates. The findings highlight significant procedural delays, lack of asset tracing capabilities, and judicial inconsistencies as primary obstacles. The paper advocates for a reformed asset forfeiture system and the establishment of a state-backed victim compensation fund to guarantee restorative justice for survivors.*

Keywords: *Compensation; Human Trafficking; Restitution; Restorative Justice; Victim Rights.*

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1. Introduction

Human trafficking constitutes a serious violation of human rights and human dignity that generates extensive and long-term consequences for its victims. Trafficking involves exploitation through various forms, including forced labour, sexual exploitation, domestic servitude, and other coercive practices. Victims may experience physical injury, psychological trauma, loss of income, social exclusion, and disruption of family relationships. Because the consequences of trafficking extend beyond the criminal act itself, the punishment of perpetrators alone cannot fully restore the rights and interests of victims. Effective legal protection must therefore include mechanisms that enable victims to obtain restitution and compensation as forms of financial redress and access to justice. (Azgara, Alya; 2025).

The recognition of restitution and compensation within the legal framework reflects an important transformation from a purely offender-centred criminal justice model toward a victim-oriented approach. Restitution seeks to repair losses caused by criminal conduct through obligations imposed upon perpetrators, while compensation may provide an alternative or supplementary form of redress where restitution cannot adequately address victims' losses. In the context of human trafficking, these mechanisms are particularly significant because exploitation frequently generates substantial economic and non-economic harm. Financial recovery can support medical treatment, psychological rehabilitation, livelihood restoration, and social reintegration, while also reaffirming the principle that victims have enforceable rights within the criminal justice system. (Dadang, Hasan Alzagladi, and Rio Hendra; 2023).

Indonesia has developed legal provisions recognizing the rights of trafficking victims to protection and restitution through legislation concerning the eradication of trafficking in persons, witness and victim protection, and related human rights instruments. The legal framework establishes a basis for victims to seek restitution for losses resulting from trafficking and provides institutional mechanisms intended to facilitate access to justice. Nevertheless, the existence of legal norms does not necessarily guarantee their effective implementation. A significant gap may emerge between the formal recognition of restitution and compensation rights and the actual receipt of financial redress by victims. (Putri, Syntia Puspita Andini Ika Hariyanto, and Emy Rosnawati; 2022).

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One of the principal challenges concerns the complexity of procedures for claiming restitution. Victims may lack sufficient information about their rights, the procedures for submitting claims, and the types of losses that may be recognized. The process of proving financial losses may also impose substantial burdens, particularly where victims do not possess employment records, financial documents, medical receipts, or other evidence of economic harm. Women and children may face additional difficulties because of psychological trauma, dependency, fear of retaliation, limited financial resources, and restricted access to legal assistance. Consequently, procedural requirements that appear neutral may produce unequal outcomes for particularly vulnerable victims. (Sasmita, Dahlia, Hadi Iskandar, and Hidayat; 2024).

Legal and institutional fragmentation represents another major obstacle. Human trafficking cases involve multiple institutions, including police investigators, prosecutors, courts, victim-protection institutions, social-service agencies, and local governments. Each institution may have distinct responsibilities and administrative procedures concerning victim identification, loss assessment, restitution claims, and enforcement. Insufficient coordination can result in delays, inconsistent assessments, duplication of procedures, and inadequate monitoring of restitution orders. The effectiveness of financial redress therefore depends not only on substantive legal provisions but also on the institutional capacity to translate those provisions into practical remedies. (Siahaan, H., L. Sudirman, and J. Girsang; 2023).

2. Research Methods

This research assesses the procedural and substantive barriers preventing trafficking victims from accessing their right to financial redress. Using a qualitative empirical legal approach, this study analyzes court rulings and conducts interviews with legal practitioners and victim advocates.

3. Results and Discussion

3.1. The Existing Legal Framework for Restitution and Compensation of Human Trafficking Victims

The legal framework governing restitution and compensation for human trafficking victims represents an essential component of a victim-centred criminal justice system. Human trafficking generates extensive physical, psychological, social, and economic consequences, meaning that criminal prosecution and punishment alone cannot adequately address the harm suffered by victims.

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Restitution and compensation provide legal mechanisms through which victims may obtain financial redress and recover losses resulting from exploitation. In Indonesia, these mechanisms are primarily supported by the legal framework concerning the eradication of trafficking in persons, witness and victim protection, and broader constitutional and human rights principles.

Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons establishes an important legal basis for protecting trafficking victims and recognizing their right to restitution. Restitution is conceptually directed toward restoring the victim through payment imposed upon the perpetrator for losses arising from the criminal act. Such losses may include material damage, loss of income, medical expenses, and other consequences that can be legally demonstrated. The recognition of restitution reflects a shift from a purely offender-centred criminal justice model toward an approach that acknowledges victims as rights holders.

The broader framework of victim protection also provides institutional mechanisms for assisting victims in obtaining legal remedies. Victims may require assistance in identifying and documenting losses, submitting claims, and participating in criminal proceedings. The involvement of victim-protection institutions is therefore significant in ensuring that restitution rights are not merely recognized in legislation but can be practically exercised. Legal assistance is particularly important for women and children, who may experience economic dependency, psychological trauma, fear of retaliation, or limited understanding of judicial procedures.

Compensation should be distinguished from restitution because the two mechanisms reflect different forms of responsibility. Restitution is generally associated with the perpetrator's obligation to repair harm caused by the trafficking offence, whereas compensation may involve state responsibility or state-supported mechanisms when victims cannot obtain adequate redress from perpetrators. This distinction is important because the effectiveness of victim protection should not depend entirely on the perpetrator's financial capacity or willingness to comply with a restitution order.

Nevertheless, the existing framework continues to face implementation challenges. Victims may encounter complex procedures, limited access to information and legal assistance, difficulties proving losses, and delays in enforcing restitution orders. Perpetrators may also conceal or transfer assets, making recovery and execution more difficult. Consequently, the existence of legal provisions does not automatically guarantee effective financial redress.



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The existing framework therefore requires continuous strengthening through clearer procedures, early identification of victims' financial losses, effective legal assistance, asset tracing and recovery, institutional coordination, and reliable enforcement mechanisms. Ultimately, restitution and compensation should be understood not merely as financial remedies but as integral elements of victim recovery, restoration of dignity, and access to justice. A stronger implementation framework is necessary to transform legally recognized rights into effective and accessible remedies for human trafficking victims.

3.2. Legal and Institutional Barriers to the Implementation of Restitution and Compensation

The implementation of restitution and compensation for human trafficking victims in Indonesia continues to face significant legal and institutional barriers. Although the existing legal framework recognizes victims' rights to obtain financial redress, the practical realization of these rights remains limited. The central problem lies in the gap between normative recognition and effective enforcement. Restitution may be established through judicial proceedings, yet victims can still experience difficulties in obtaining actual payment. Consequently, the availability of legal provisions does not necessarily guarantee meaningful access to justice or effective recovery for trafficking victims.

One of the primary legal barriers is the complexity of procedures for submitting and proving restitution claims. Victims are frequently required to provide evidence demonstrating the extent of their financial and material losses. However, trafficking victims may have limited access to documents concerning employment, wages, medical expenses, transportation costs, or other financial consequences of exploitation. Psychological trauma and fear of perpetrators may further discourage victims from actively participating in legal proceedings. These circumstances can make the evidentiary process particularly difficult for women and children, who may require additional legal assistance and procedural protection.

Another significant barrier concerns limited awareness of restitution and compensation rights. Victims may not understand that they are legally entitled to seek restitution or may lack information regarding the procedures, institutions, and stages through which claims can be submitted. This problem can be intensified when legal assistance is inadequate. Without effective assistance from investigators, prosecutors, lawyers, or victim-protection institutions, victims may fail to formulate comprehensive claims or pursue available remedies.

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Institutional fragmentation also represents a major obstacle. The protection of trafficking victims involves multiple institutions, including police investigators, prosecutors, courts, victim-protection agencies, social-service institutions, and local governments. Each institution may have different responsibilities, procedures, and administrative practices. Weak coordination can result in delays, inconsistent assessments of losses, incomplete documentation, and difficulties in monitoring whether restitution ordered by courts has actually been paid.

The enforcement of restitution orders presents another critical challenge. Even when a court grants restitution, the perpetrator may lack sufficient assets or deliberately conceal, transfer, or dispose of assets. Without effective asset tracing, freezing, seizure, and recovery mechanisms, a restitution order may remain largely symbolic. This situation demonstrates the importance of connecting financial investigation and asset recovery with victim compensation mechanisms.

The limited availability of supplementary compensation mechanisms can further disadvantage victims. When perpetrators are unable to pay restitution, victims may remain without adequate financial redress despite having suffered significant harm. A comprehensive system should therefore provide appropriate state-supported mechanisms for eligible victims when restitution cannot be fully recovered.

Addressing these barriers requires procedural simplification, early identification of victims' losses, accessible legal assistance, stronger inter-agency coordination, effective asset recovery, and systematic monitoring of restitution enforcement. Ultimately, the effectiveness of restitution and compensation depends not only on the existence of legal rights but also on institutional capacity to convert those rights into timely, accessible, and enforceable remedies. Strengthening these mechanisms is essential to ensure that human trafficking victims receive meaningful financial recovery and that justice extends beyond the punishment of perpetrators to the restoration of victims' rights and dignity.

3.3. Reconstruction of a Victim-Centred Restitution and Compensation Mechanism

The reconstruction of a victim-centred restitution and compensation mechanism for human trafficking victims requires a fundamental transformation from a predominantly offender-oriented criminal justice approach toward a system that places the restoration of victims' rights and dignity at its centre. Human trafficking causes multidimensional harm, including loss of income, physical injury, psychological trauma, social exclusion, and disruption of family and community

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relationships. Therefore, financial redress should not be regarded merely as an additional consequence of criminal proceedings but as an essential component of comprehensive victim recovery. Restitution and compensation must be designed to provide accessible, timely, fair, and enforceable remedies.

The first element of reconstruction concerns the simplification and accessibility of restitution procedures. Victims should receive clear information regarding their rights and available remedies from the earliest stage of the criminal justice process. Investigators, prosecutors, lawyers, and victim-protection institutions should assist victims in documenting economic and non-economic losses and preparing restitution claims. The evidentiary burden should be structured in a manner that does not create excessive obstacles for victims, particularly women and children who may experience trauma, dependency, or limited access to financial documentation. Child victims should receive age-appropriate assistance and representation in exercising their restitution rights.

The second element involves strengthening institutional coordination. Restitution requires cooperation among investigators, prosecutors, courts, victim-protection institutions, social services, and other relevant agencies. A standardized mechanism should connect victim identification, assessment of losses, submission of claims, judicial determination, asset tracing, payment, and monitoring. Institutional responsibilities must be clearly defined to prevent victims from being transferred between agencies without receiving effective assistance. Regular monitoring should also be established to determine whether restitution orders have been implemented in practice.

The third element is the integration of restitution with asset recovery. Trafficking is frequently motivated by financial gain, meaning that perpetrators may accumulate proceeds derived from exploitation. Effective asset tracing, freezing, seizure, confiscation, and recovery mechanisms can therefore support the enforcement of restitution orders. Recovered assets should, where legally appropriate, contribute to the restoration of victims and prevent offenders from benefiting from illicit proceeds.

A fourth element concerns supplementary compensation when restitution cannot be fully recovered. Victims should not be left without meaningful remedies merely because perpetrators are insolvent, absconding, or unable to satisfy judicial orders. A state-supported compensation mechanism for eligible victims can function as a safeguard within the broader victim-protection system. Such a mechanism reflects the state's responsibility to ensure effective access to remedies for serious violations of human rights.

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Ultimately, reconstruction should integrate financial redress with rehabilitation, psychological assistance, healthcare, social reintegration, and economic empowerment. Restitution and compensation should therefore be measured not simply by the issuance of court orders but by whether victims actually receive meaningful recovery. A victim-centred mechanism based on accessibility, enforceability, timeliness, institutional accountability, and victim participation can bridge the gap between legal entitlement and practical justice. Such reconstruction would strengthen Indonesia's anti-trafficking framework while reaffirming that the protection, recovery, and dignity of victims are fundamental objectives of the legal system.

4. Conclusion

Human trafficking victims require effective legal remedies that extend beyond the prosecution and punishment of perpetrators. The analysis demonstrates that Indonesia has established a legal foundation recognizing restitution and victim protection, yet a significant gap remains between normative rights and their practical realization. Complex procedures, limited victim awareness, evidentiary difficulties, insufficient legal assistance, institutional fragmentation, and weak enforcement of restitution orders continue to restrict victims' access to meaningful financial redress. These challenges are particularly significant for women and children, who may face additional psychological, social, and economic barriers. Bridging this gap requires reconstruction of the restitution and compensation framework through a comprehensive victim-centred approach. Restitution procedures should be simplified, victims should receive legal assistance from the earliest stage of proceedings, and institutional responsibilities should be clearly coordinated from victim identification through payment and recovery. Furthermore, restitution should be strengthened through effective asset tracing, freezing, seizure, confiscation, and recovery mechanisms to ensure that perpetrators cannot retain the economic benefits obtained through trafficking. Where restitution cannot be fully recovered, appropriate supplementary compensation mechanisms should ensure that victims are not deprived of effective remedies. Financial redress should also be integrated with healthcare, psychological rehabilitation, education, economic empowerment, and social reintegration. Ultimately, the effectiveness of restitution and compensation should be measured not merely by judicial recognition but by actual and timely recovery received by victims. A stronger victim-centred mechanism can transform restitution and compensation into meaningful instruments of justice, restore victims' dignity, and strengthen Indonesia's broader commitment to human rights and effective protection against human trafficking.



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