



LICS 2026

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

Legal Reconstruction of Restitution Fulfillment for Women and Child Victims of Online Human Trafficking

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Abstract. *The Crime of Trafficking in Persons (TPPO) has undergone a radical transformation in the digital era, shifting from conventional physical recruitment to highly organized, borderless online operations. This digital migration has created a massive and unprecedented threat, disproportionately targeting women and children who are sociologically and economically vulnerable to cyber-manipulation and online grooming. Despite the severe multidimensional impact of these exploitations, the current law enforcement paradigm in Indonesia remains heavily entrenched in a retributive justice framework. Consequently, the criminal justice system frequently succeeds in penalizing the perpetrators physically but systematically fails to restore the fundamental economic rights of the victims, particularly through the mechanism of restitution. This study aims to critically dissect the systemic and normative weaknesses within the current criminal justice system and to formulate a comprehensive legal reconstruction for fulfilling restitution for victims of online human trafficking. This Research use Employing a normative legal research method utilizing statutory, conceptual, and victimological approaches, this research analyzes the existing legal framework governing human trafficking and victim protection. The findings indicate that the chronic failure to execute restitution is primarily driven by critical legal loopholes. the proposed legal reconstruction advocates for a radical paradigm shift. It includes the absolute elimination of substitute imprisonment penalties for syndicate actors and corporations, ensuring restitution functions as a coercive, non-negotiable obligation. Furthermore, it urges the institutionalization of mandatory, early-stage digital asset tracing concurrent with the initial investigation, the imposition of strict criminal liability and fines on digital platforms, and the establishment of an independent Victim Trust Fund financed by confiscated syndicate assets. Ultimately, this policy reconstruction represents the highest manifestation of Restorative Justice and the theory of Dignified Justice, shifting the legal focus from mere offender*



LICS 2026

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

punishment to corporate impoverishment, thereby placing the recovery, dignity, and future of women and children at the absolute epicenter of law enforcement.

Keywords: *Dignified Justice; Legal Reconstruction; Online Human Trafficking; Restitution; Victim Trust Fund; Women and Children.*

1. Introduction

The Unitary State of the Republic of Indonesia was established with one of its fundamental objectives being to protect all Indonesian people and the entire homeland of Indonesia, as explicitly mandated in the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia. This constitutional mandate carries the logical consequence that the state bears an absolute obligation to protect every citizen, without exception, from all forms of threats that degrade human dignity and worth. Within the rapidly evolving landscape of transnational crime, Human Trafficking (TPPO) is recognized as one of the gravest crimes against humanity, brutally depriving individuals of bodily autonomy, freedom, and human rights. This crime not only harms victims individually but also tears apart the moral order and civilization of a nation that upholds the values of just and civilized humanity.

In the anatomy of human trafficking crimes in Indonesia, women and children have historically and sociologically occupied the position of the most vulnerable groups to exploitation. This vulnerability does not emerge in a vacuum but is an accumulation of structural poverty, gender inequality, lack of educational access, and economic desperation affecting families in impoverished regions. These subordinate conditions are systematically exploited by organized criminal syndicates through false promises of decent employment, prosperous marriages, or educational scholarships. In reality, these women and children are recruited and plunged into the abyss of modern slavery, whether in the form of labor exploitation, commercial sexual exploitation, or endless debt bondage.

The development of the information technology revolution over the past decade has brought a highly radical paradigm shift to the modus operandi of human trafficking crimes. Whereas recruitment in the past was carried out conventionally through brokers or face-to-face agents in villages, the process has now transformed into the digital or online realm. Modern trafficking syndicates use social media platforms, dating applications, fictitious job vacancy websites, and even online gaming platforms to seek out, recruit, and manipulate victims. This digital transformation has enabled syndicates to operate beyond



LICS 2026

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

geographical boundaries (borderless), at lower operational costs, with greater speed, and under a thick veil of anonymity for the intellectual actors behind the crimes.

The exploitation occurring in the online sphere has far more destructive physical, psychological, and economic impacts on women and children. In addition to being forced to work without pay or becoming objects of physical sexual exploitation, victims of online human trafficking are often compelled to participate in the production of pornographic content, live-streamed sexual performances, or to become operators of online scams. The digital footprint of such exploitation is permanent and can be disseminated worldwide within seconds. This creates lasting psychological trauma in the form of unbearable shame, social stigma, and ongoing threats of extortion (sextortion) by perpetrators, destroying victims' futures and mental well-being to their lowest point.

To restore the multidimensional losses suffered by victims, Indonesia's criminal justice system has in fact accommodated the concept of restitution, namely compensation payments imposed directly upon perpetrators. The right to restitution is a concrete manifestation of the restorative justice paradigm, in which the law does not merely focus on punishing offenders but also seeks to return victims to their original condition (*restitutio in integrum*). For women and children who have lost their dignity, future prospects, and livelihoods, restitution money is not merely material compensation but a fundamental resource for financing medical treatment, trauma recovery, and rebuilding lives that have been destroyed by syndicates.

Unfortunately, the reality of law enforcement in human trafficking cases in Indonesia demonstrates a tragic failure in the fulfillment of restitution. Court decisions granting restitution requests for victims often end as victories on paper that cannot be executed (illusory victories). Perpetrators, particularly recruitment corporations or syndicate networks, frequently invoke various legal excuses and accounting tricks to claim they have become impoverished, bankrupt, or possess no remaining assets to pay billions of rupiah in compensation to the dozens of victims they have exploited. The state's failure to compel perpetrators to pay restitution constitutes a neglect of the fulfillment of victims' human rights.

This failure of restitution execution largely stems from a fatal legal loophole within the anti-human trafficking legislation itself, namely the regulation of substitute imprisonment penalties (subsidiary imprisonment). Positive law provides perpetrators with the option of replacing restitution obligations with

LICS 2026

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

additional imprisonment, often for only a few months. This option is clearly exploited by criminal financiers to protect their wealth; rationally, they prefer serving a short additional prison sentence rather than surrendering billions of rupiah in assets obtained through criminal activities. This loophole directly legalizes financial impunity for criminal syndicates.

On the other hand, the nature of online human trafficking crimes, which depend entirely on digital ecosystems, creates extraordinary obstacles in evidence gathering and asset tracing processes. Criminal proceeds are no longer transacted through conventional banking systems that can be easily monitored by the Financial Transaction Reports and Analysis Center (PPATK). Criminal syndicates now use digital wallets (e-wallets), anonymous cross-border accounts, and decentralized cryptocurrency assets to launder and conceal blood money generated from the exploitation of women and children. Law enforcement agencies often lag behind due to the absence of adequate digital financial forensic instruments from the earliest stages of investigation.

This series of structural and substantive weaknesses within the criminal justice system indicates that the state requires a fundamental legal reconstruction. Law enforcement must no longer remain trapped within the outdated paradigm of retributive justice, which assumes that justice is achieved merely by imprisoning offenders. What is needed is legal engineering based on the philosophy of Dignified Justice, in which the law functions as a tool to impoverish criminal syndicates through asset confiscation while ensuring that every portion of criminal proceeds is concretely converted into restoring the dignity of women and children who have become victims of technological exploitation.

Based on these systemic problems, this article is prepared with the primary objective of critically examining the anatomy of the failure to fulfill restitution for human trafficking victims in the digital era. Furthermore, this article formulates and offers a model for reconstructing procedural and substantive law in a holistic manner to ensure certainty in compensation execution. Through this study, it is hoped that the state can establish a robust juridical foundation for cutting off the financial lifelines of online human trafficking syndicates while simultaneously placing victims' rights and recovery at the center of a justice-oriented legal system.

2. Research Methods

This study is a normative (doctrinal) legal research focusing on the analysis of legal principles, doctrines, theories of justice, and the synchronization of legislation forming Indonesia's positive legal system. The approaches employed are the statutory approach and the conceptual approach. Primary legal materials

LICS 2026

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

include the 1945 Constitution of the Republic of Indonesia, Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (Human Trafficking Law), Law Number 11 of 2008 in conjunction with Law Number 1 of 2024 concerning Electronic Information and Transactions (ITE Law), the Child Protection Law, the Law on the Protection of Witnesses and Victims (LPSK Law), and Supreme Court Regulations (PERMA) related to restitution. Secondary legal materials in the form of academic literature, journal research findings, and legal doctrines are analyzed qualitatively to build systematic and precise arguments for legal reconstruction.

3. Results and Discussion

3.1. The Evolution of Online Human Trafficking (TPPO) Modus Operandi and the Vulnerability of Women and Children

The era of digital disruption has brought a dual impact on human civilization; on one hand, it has expanded access to information, but on the other hand, it has opened a Pandora's box for the emergence of new and highly destructive forms of crime. Human Trafficking (TPPO), which was once mechanical in nature and required high levels of physical mobility, has now mutated into a highly sophisticated cybercrime. The internet has provided an ideal underground infrastructure for predators to hunt victims. Cyberspace offers a perfect veil of anonymity for criminals to hide behind fake IP addresses, fictitious accounts, and servers operating in foreign jurisdictions. This condition has transformed human trafficking into a dark industry that is almost risk-free (low risk) while generating enormous profits (high profit).

Anonymity and the absence of territorial boundaries within the digital ecosystem are the deadliest weapons currently employed by human trafficking syndicates. Perpetrators in one country can easily recruit female victims in another country without ever setting foot in that jurisdiction. Through social engineering techniques, these syndicates distribute millions of random messages containing fictitious job offers promising extraordinary salaries in foreign currencies. Women from developing countries experiencing domestic economic crises or unemployment become highly responsive targets for such fraudulent offers. They are recruited without any physical interview process, travel documents are forged and arranged online, and they are then directed to transit countries where they are ultimately detained and exploited.

Social media and messaging applications have transformed into modern slave markets. Platforms such as Facebook, Instagram, TikTok, and Telegram are used not only for recruitment but also as showcases for buying and selling women. In commercial sexual exploitation schemes, photographs and personal information



LICS 2026

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

of trafficked women are offered openly or within closed groups to prospective buyers. Tragically, the speed of data distribution on social media allows these human trafficking transactions to occur within minutes. Platforms originally designed for social interaction have had their functions exploited as catalysts for transnational crime, often without adequate algorithmic filtering by service providers.

For children, the most horrifying online modus operandi is online grooming. Predators use fake accounts, often posing as peers or empathetic figures, to build emotional relationships with children through online gaming platforms or social media. Once trust is established, these predators psychologically manipulate children into producing nude photographs or videos. This Child Sexual Abuse Material (CSAM) then becomes a tool for extortion. Children are threatened that the material will be distributed to their schools or parents if they refuse to engage in live-streamed sexual activities, which are subsequently sold by perpetrators on the dark web.

The exploitation phase in the digital era has also given rise to the phenomenon of cyber slavery. Thousands of citizens, both men and women, are deceived into traveling to Southeast Asian regions with promises of employment at technology startups or customer service call centers. In reality, upon arrival, their passports are confiscated, their movements restricted within heavily guarded compounds, and they are forced to work long hours as operators of online romance scams (love scams) or fraudulent investment schemes (pig butchering scams). Failure to meet daily financial targets imposed by the syndicates often results in brutal physical punishment, electric shocks, and even resale to other syndicates as if they were commodities.

One of the greatest challenges in addressing online human trafficking is the illusion of consent, which frequently obscures the perspective of law enforcement authorities. Because initial communications occur online and victims appear to “voluntarily” travel based on instructions received through messaging applications, law enforcement officers often misclassify these cases as mere immigration violations or ordinary fraud rather than human trafficking. Psychological manipulation in cyberspace is subtle yet devastating. Syndicates use online debt traps, threats of personal data exposure, and psychological terror that completely undermine the victim’s free will, meaning the element of coercion under criminal law should still be considered fulfilled.

Technically, law enforcement in online human trafficking cases faces significant obstacles due to the complexity of electronic evidence. Digital traces of crime are often stored in encrypted cloud computing facilities, such as end-to-end

LICS 2026

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

encrypted communications on WhatsApp or Telegram. When investigators attempt to access this data to identify intellectual actors or trace financial flows, they encounter cross-border jurisdictional barriers and Mutual Legal Assistance (MLA) processes that can take years. By the time access authorization is obtained from foreign jurisdictions, digital evidence has often been permanently deleted through remote commands executed by the syndicates.

The failure of conventional legal frameworks to anticipate the mutation of digital crime places women and children in positions of repeated victimization. Criminal laws designed with a twentieth-century territorial mindset clearly struggle to confront twenty-first-century transnational crimes. The absence of technological mitigation instruments, weak oversight of electronic system providers, and the slow response of states in disrupting online recruitment networks demonstrate the urgent need for a revolutionary legal approach. If the law continues to move more slowly than the technological advances of criminal syndicates, the exploitation of women's and children's dignity in cyberspace will become a criminal pandemic that can no longer be contained.

3.2. Weaknesses of the Positive Legal System in the Execution of Restitution for Human Trafficking Victims

Within the framework of human rights law, restitution is understood as a fundamental right of victims to receive compensation for both material and immaterial losses, imposed upon perpetrators or third parties through a final and binding court judgment. In Indonesia, the legal basis for restitution for victims of human trafficking is explicitly regulated under Article 48 of Law Number 21 of 2007. Normatively, this law requires every perpetrator of human trafficking to provide restitution for lost assets, suffering caused by the crime, and the victim's medical and psychological treatment costs. Unfortunately, the noble design embodied in the legislation is often reduced to empty rhetoric when confronted with the realities of criminal justice practice.

The most substantial weakness in restitution execution stems from the disharmony of sentencing priorities between state interests (fines) and victim interests (restitution). In many court decisions, judges impose substantial fines on defendants, with the proceeds paid into state revenues as Non-Tax State Revenue (PNBP), while simultaneously ordering restitution. A conflict arises when confiscated assets are limited. The legal system does not provide a clear hierarchical guideline stating that seized assets must first be prioritized for victim restitution before state fines are enforced. Consequently, prosecutors often prioritize the collection of fines to meet state revenue targets, while victims receive nothing.

LICS 2026

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

A second structural weakness and perhaps the most fatal loophole is found in Article 50 paragraph (4) of the Human Trafficking Law, which permits restitution obligations to be substituted with imprisonment. This provision adopts an outdated logic inherited from the Dutch colonial Penal Code. When perpetrators, particularly financiers or syndicate leaders, are ordered to pay billions of rupiah in restitution to dozens of deceived female migrant workers, they can rationally choose to declare themselves financially incapable. In exchange, they serve only an additional six to twelve months of imprisonment. At this point, criminal law effectively provides economic protection and impunity to crime financiers, allowing them to retain the proceeds of exploitation in exchange for a relatively insignificant extension of incarceration.

Regarding proof of losses, the current criminal procedure system places the burden of calculating restitution heavily upon victims and the Witness and Victim Protection Agency (LPSK). Victims are required to provide rigid material evidence, such as hospital receipts, proof of debt transfers to recruitment agents, or promised employment contracts. This amounts to a legal impossibility, considering that online trafficking syndicates systematically destroy or confiscate physical documents and never issue receipts for extortion. Requiring formal proof from female victims suffering acute trauma and returning home with nothing is an oppressive legal practice that ignores the realities of trafficking crimes.

Furthermore, the failure of restitution execution is deeply rooted in the slow mechanisms of asset tracing and recovery during the early stages of law enforcement. Police investigators traditionally focus on proving the physical elements of the crime (body of crime) to secure perpetrators and evidence of exploitation but often neglect the “follow the money” approach. Consequently, by the time investigations begin, criminal proceeds have already been laundered, transferred to relatives’ accounts, or converted into other assets. When courts eventually order asset confiscation for restitution months later, the assets have frequently disappeared, rendering judicial decisions little more than paper tigers.

This complexity becomes even more difficult when dealing with digitally based trafficking. Modern criminal syndicates avoid traditional banking systems. They collect ransom or extortion payments through fictitious digital wallets, conduct layered transactions through mule accounts, and convert proceeds into cryptocurrency assets. Indonesian regulations concerning the seizure of digital assets remain limited and do not grant investigators special authority to immediately freeze cryptocurrency exchanges without prolonged bureaucratic procedures. These regulatory and technological gaps provide ample time for cybercriminals to transfer victims’ money abroad.

LICS 2026

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

Another fundamental issue is the absence of broader corporate accountability, particularly regarding digital platform providers. The Human Trafficking Law imposes sanctions on corporations directly involved in trafficking activities. However, there is no adequate legal framework to hold third-party application providers such as social media companies, dating applications, or financial technology platforms liable for negligence that indirectly facilitates trafficking-related exploitation and transactions. Because these platforms cannot easily be subjected to vicarious liability, restitution recovery remains dependent solely on the financial capacity of individual perpetrators or field agents, who often possess few significant assets.

The dominance of a retributive paradigm within the positive criminal law system has blinded the state to the essential purpose of law enforcement itself. The justice system celebrates imprisonment as an institutional success while silently tolerating the financial ruin of victims. The failure to facilitate financial recovery for women and children effectively results in revictimization. Victims who return home without compensation are forced to confront debt collectors and economic hardship. This cycle of poverty and exploitation will never be broken so long as restitution mechanisms remain ineffective, rigid, and riddled with loopholes that ultimately benefit human trafficking syndicates.

3.3. Legal Reconstruction of Restitution Fulfillment Based on Perpetrator Impoverishment and Dignified Justice

Faced with a justice system that fails to protect the economic rights of women and child victims of online human trafficking, comprehensive legal reconstruction is no longer merely an academic discourse but a sociological and juridical necessity. This reconstruction must be grounded in the philosophical foundations of Dignified Justice and Restorative Justice. Under the concept of Dignified Justice, individuals must never be treated merely as means to achieve the goals of others as commodities. Therefore, a dignified criminal law system must prioritize the restoration of victims' human dignity above retributive punishment. The right to restitution must be reconstructed from being viewed as a "supplementary punishment" into an "absolute and primary right" of victims whose execution is fully guaranteed by state authority.

The first and most crucial juridical reconstruction is the revision of Article 50 of the Human Trafficking Law by absolutely eliminating substitute imprisonment provisions for corporate actors, financiers, and leaders of online trafficking syndicates. Instead, the law should adopt a doctrine of compulsory criminal asset confiscation. If perpetrators refuse to pay restitution, the state should possess full coercive authority to auction all personal assets, including property belonging

LICS 2026

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

to spouses or close relatives when proven to be proceeds of money laundering linked to exploitation. Eliminating substitute imprisonment ensures that syndicates no longer have an inexpensive escape route while establishing a doctrine of economic impoverishment for perpetrators of crimes against humanity.

The second reconstruction concerns the integration of an early asset tracing and freezing system. Special criminal procedures for trafficking cases should be amended to require police investigators and civil servant investigators (PPNS), simultaneously with the designation of a suspect, to issue freezing orders for bank accounts, digital wallets, and other related financial assets. There should be no time gap between investigating the offender and investigating the offender's wealth. LPSK should also be granted integrated authority to supervise victim loss calculations from the earliest stages of investigation rather than waiting until the case reaches court, thereby ensuring that asset seizures accurately correspond to restitution claims.

To address the digital nature of modern trafficking, legal reconstruction must expand corporate criminal liability through the doctrine of vicarious liability for digital platform providers. The Electronic Information and Transactions Law (ITE Law) and the Human Trafficking Law should be revised to impose proportional fines on social media platforms or payment gateways that negligently allow their services to become hubs for trafficking recruitment or child sexual exploitation due to inadequate AI-based moderation systems. Corporate fines imposed upon major technology companies should not enter ordinary state revenues but instead be allocated specifically as alternative funding sources for victim compensation.

To address the chronic problem of insufficient perpetrator assets to satisfy all restitution claims, Indonesia should institutionalize a Victim Trust Fund. This institution could be established through amendments to the LPSK Law. The Trust Fund would accumulate resources from confiscated criminal assets, proceeds from trafficking-related asset auctions, administrative fines imposed on online platforms, and legal philanthropy grants. Through such a mechanism, the state could immediately compensate women and child victims once court decisions are issued, without requiring them to wait months for uncertain asset execution processes.

Beyond domestic legal reforms, effective reconstruction of online trafficking law also requires stronger extraterritorial jurisdiction and international legal diplomacy. Cybercrime syndicates operate beyond national borders; therefore, Mutual Legal Assistance mechanisms must be simplified through special bilateral



LICS 2026

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

agreements among ASEAN member states. Indonesian investigators should possess regionally recognized authority to request temporary freezing of cryptocurrency assets belonging to syndicates in the jurisdictions where servers are located. This digital forensic “follow the money” approach is the most effective method for dismantling the financial infrastructure of transnational human trafficking organizations.

A breakthrough in evidentiary rules concerning restitution calculations must also be reconstructed. The rigid principle of **actori incumbit probatio** (the burden of proof lies upon the claimant) should be modified through a reversal of the burden of proof specifically for trafficking cases. Progressive judges should accept electronic evidence from victims’ devices, rough estimates prepared by LPSK, and testimony from forensic psychology experts as authoritative evidence. Conversely, perpetrators or syndicate corporations should bear the burden of disproving the economic and non-economic losses claimed by victims by presenting legitimate accounting records

This comprehensive reconstruction from eliminating substitute imprisonment loopholes, institutionalizing early digital asset tracing, expanding platform liability, and operationalizing a Victim Trust Fund would fundamentally transform the trajectory of human rights law enforcement in Indonesia. The transition from retributive justice focused on imprisonment to dignified justice focused on restoration would ensure that the law truly functions as a shield for human life. For women and children trapped by cyber-enabled exploitation, guaranteed restitution would restore their humanity, rebuild family economies, and help eradicate the stain of modern slavery in Indonesia.

4. Conclusion

Online-based Human Trafficking (TPPO) has generated a new spectrum of crimes that exploit the vulnerabilities of women and children on a massive scale, transcending national borders and hiding behind the thick veil of technological anonymity. Thus far, the state has failed to transform the objectives of punishment into genuine justice for victims. This failure is evident in the ineffective execution of restitution due to the continued existence of substitute imprisonment, the inadequacy of asset-tracing mechanisms in the digital era, and the persistence of an outdated retributive legal paradigm. Therefore, radical and systematic legal reconstruction is a *conditio sine qua non*. Through mechanisms that economically impoverish trafficking syndicates from the earliest stages of investigation, confiscate assets without substitute imprisonment options, impose intermediary liability upon digital platforms, and establish a Victim Trust Fund, the law would not only dismantle the financial



LICS 2026

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

backbone of trafficking mafias but also demonstrate its commitment to restoring victims' autonomy and dignity. The integration of these reconstruction measures would strengthen the realization of Dignified Justice, where victim protection occupies the highest position within Indonesia's legal order.

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LICS 2026

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

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