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

Reconstruction of Legal Protection for Victims of Forced Labor in Human Rights-Based Employment Relations

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Abstract. *This study aims to analyze and formulate a reconstruction of legal protection for victims of forced labor in employment relationships based on respect for human rights. The practice of forced labor, debt bondage, and labor exploitation still occurs in various disguised forms, while the national legal framework does not yet provide a comprehensive and integrated victim protection mechanism. The method used is normative legal research with a legislative, conceptual, and comparative approach, supported by qualitative analysis of primary and secondary legal materials. Based on the results of the study, it can be concluded that the prohibition of forced labor has been guaranteed by the 1945 Constitution of the Republic of Indonesia and Law No. 39 of 1999 concerning Human Rights, however, victim protection is still weak because it is scattered and not equivalent to the model of victim protection that has been advanced in Law No. 12 of 2022 and Law No. 23 of 2004; therefore, a normative reconstruction is needed that guarantees victims' rights to recovery, restitution, and assistance in an institutionalized manner based on human rights.*

Keywords: *Forced Labor; Human Rights; Legal Reconstruction; Restitution; Victim Protection.*

1. Introduction

Forced labor is one of the most basic forms of human rights violations because it negates human freedom and dignity as independent subjects. This practice is not only present in the classic form of slavery, but also manifests itself in modern forms such as debt slavery, human trafficking for the purpose of labor exploitation, and withholding documents and wages in employment relationships.¹ This reality shows that there is a gap between the normative guarantee of freedom from

¹Muladi, *Human Rights: Essence, Concept and Implications from the Perspective of Law and Society*, Refika Aditama, Bandung, 2009, p. 71.

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forced labor and the reality of the continued rampant exploitation of workers in the field.

The 1945 Constitution of the Republic of Indonesia expressly guarantees that everyone has the right to work and a decent living, as well as the right to be free from treatment that degrades human dignity. This constitutional guarantee serves as the foundation for the state to protect every citizen from all forms of forced labor that conflict with humanitarian values.²

At the legal level, Law No. 39 of 1999 concerning Human Rights affirms the prohibition of slavery and servitude as non-derogable rights. Indonesia has also ratified several International Labor Organization conventions prohibiting forced labor, making the commitment to eliminate forced labor a national legal obligation.³

Although the prohibition on forced labor has been firmly established, attention to the protection of its victims remains relatively underdeveloped. This contrasts with developments in Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence and Law No. 23 of 2004 concerning the Elimination of Domestic Violence, which have recognized victims as subjects entitled to comprehensive support, protection, and recovery.⁴

Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 concerning Witness and Victim Protection has actually opened up opportunities for restitution and assistance to victims of criminal acts. However, this mechanism has not been specifically designed to address the characteristics of victims of forced labor, who often find themselves in unequal power relationships with their employers.⁵

A No. of previous studies have focused more on the criminalization of perpetrators of human trafficking or labor violations, while studies that specifically formulate the reconstruction of legal protection for victims of forced labor from a human rights perspective are still limited.⁶The novelty of this research lies in the effort to

²Jimly Asshiddiqie, *The Indonesian Constitution and Constitutionalism*, Sinar Grafika, Jakarta, 2014, p. 89.

³Rhona KM Smith, *Human Rights Law*, Center for Human Rights Studies, Islamic University of Indonesia, Yogyakarta, 2008, p. 45.

⁴Sri Endah Wahyuningsih, *Reform of Indonesian Criminal Law Based on the Values of Justice*, Journal of Legal Reform, Vol. 1, No. 1, 2014, p. 9.

⁵Rena Yulia, *Victimology: Legal Protection for Crime Victims*, Graha Ilmu, Yogyakarta, 2010, p. 174.

⁶Farhana, *Legal Aspects of Human Trafficking in Indonesia*, Sinar Grafika, Jakarta, 2010, p. 23.

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integrate advanced victim protection models into a human rights-based forced labor victim protection framework.

Based on this description, this study aims to analyze and formulate the reconstruction of legal protection for victims of forced labor in employment relationships based on respect for human rights.

2. Research Methods

This study uses a normative legal research method, placing legal norms as the primary object of study. The approaches employed include a statutory approach, a conceptual approach, and a comparative approach. The research specifications are descriptive and analytical. The legal materials consist of primary legal materials in the form of laws and regulations, secondary legal materials in the form of books and scientific journals, and tertiary legal materials. The legal materials were collected through literature review, while the analysis was conducted qualitatively using legal interpretation and construction methods.⁷

3. Results and Discussion

3.1. The Status of Victims of Forced Labor in the Applicable Legal Framework and the Limitations of Their Protection

The prohibition of forced labor in the Indonesian legal system is rooted in the constitutional guarantee that everyone has the right to recognition, guarantees, protection, and certainty of fair legal treatment, as well as equal treatment before the law. Within this framework, forced labor is understood as a form of deprivation of liberty that contradicts the principle of a state based on the rule of law, which upholds human dignity.⁸

Law No. 39 of 1999 concerning Human Rights establishes freedom from slavery and forced labor as an inalienable right. However, this law focuses primarily on declarative affirmation of rights without providing adequate operational mechanisms for redress for victims when these rights are violated in employment relationships.⁹

⁷Peter Mahmud Marzuki, *Legal Research*, Revised Edition, Kencana, Jakarta, 2014, p. 133.

⁸Satjipto Rahardjo, *Legal Science*, Citra Aditya Bakti, Bandung, 2012, p. 19.

⁹Todung Mulya Lubis, *In Search of Human Rights: Legal-Political Dilemmas of Indonesia's New Order*, Gramedia, Jakarta, 1993, p. 102.

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Victims of forced labor generally find themselves in unequal power relationships, characterized by economic dependence, withholding of identity documents, threats, or debt bondage. These characteristics make it difficult for victims to report violations, necessitating a protection model that is sensitive to their vulnerabilities.¹⁰ Without such a mechanism, the normative guarantee of freedom from forced labor risks becoming merely a statement without any real remedial power.

Law No. 31 of 2014 provides the basis for victims' rights to restitution, medical assistance, and psychosocial rehabilitation through the Witness and Victim Protection Agency. However, these provisions are general in nature and do not specifically address the needs of victims of forced labor, thus hindering their implementation in reaching victims in situations of ongoing exploitation.¹¹

3.2. Reconstruction of Legal Protection for Victims of Forced Labor Based on Human Rights

Reconstructing legal protection for victims of forced labor requires a shift in orientation from an approach that solely prosecutes perpetrators to one that positions victims as subjects entitled to full reparation. A human rights-based approach places the state as the obligated party to respect, protect, and fulfill victims' rights.¹²

Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence offers a model for victim protection that can be used as a reference, as it comprehensively regulates victims' rights to treatment, protection, and recovery, including the right to assistance and restitution, which can be guaranteed through a court decision. This model places victims at the center of the entire law enforcement process.¹³

Similarly, Law No. 23 of 2004 concerning the Elimination of Domestic Violence recognizes the concept of protecting victims in unequal power relationships through the issuance of protection orders and mandatory assistance. This logic of

¹⁰Maidin Gultom, *Legal Protection for Children and Women*, Refika Aditama, Bandung, 2014, p. 58.

¹¹Siswanto Sunarso, *Victimology in the Criminal Justice System*, Sinar Grafika, Jakarta, 2012, p. 92.

¹²Rhona KM Smith, *Human Rights Law*, Center for Human Rights Studies, Islamic University of Indonesia, Yogyakarta, 2008, p. 56.

¹³Muladi, *Selected Chapters on the Criminal Justice System*, Diponegoro University Publishing Agency, Semarang, 2002, p. 127.

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protecting vulnerable parties in unequal relationships is highly relevant for adaptation to victims of forced labor who face dependency on their employers.¹⁴

Table 1. Comparison of Victim Protection Models in Several Laws

Protection Aspects	Human Rights Law & Witness-Victim	TPKS Law & Domestic Violence Law
Position of the victim	Rights holders in general	Active subject with special rights
Right to recovery	Restitution is general in nature	Comprehensive recovery & restitution
Mentoring	Not specifically regulated	Institutionalized assistance

Source: Secondary data, processed by the author, 2026.

As illustrated in Table 1, there is an imbalance in the level of protection provided to victims of forced labor, victims of sexual violence, and victims of domestic violence. Reconstruction needs to be directed at equalizing these protection standards, namely by guaranteeing the rights of victims of forced labor to legal assistance, protection from threats, psychosocial recovery, and enforceable restitution. This aligns with Gustav Radbruch's teachings on the balance between justice, expediency, and legal certainty.¹⁵

From an Islamic legal perspective, protection for victims of forced labor has a solid foundation through the concept of *maqāṣid al-syarī'ah* which emphasizes the protection of life (*ḥifẓ al-naḥs*), honor (*ḥifẓ al-'ird*), and property (*ḥifẓ al-māl*). Islam places the fulfillment of workers' rights as a sacred obligation, as reflected in the teaching to pay workers' wages before their sweat dries, so that every form of coercion and exploitation of work is contrary to the objectives of the Shari'a.¹⁶

On this basis, reconstruction can be achieved through the creation of provisions specifically guaranteeing the rights of victims of forced labor, both through

¹⁴Moerti Hadiati Soeroso, *Domestic Violence in a Juridical-Victimological Perspective*, Sinar Grafika, Jakarta, 2010, p. 80.

¹⁵Bagir Manan, *Authoritative Justice System: A Search*, FH UII Press, Yogyakarta, 2005, p. 41.

¹⁶Sri Endah Wahyuningsih and Rismanto, *Criminal Law Enforcement against Criminal Acts from an Islamic Law Perspective*, *Journal of Legal Reform*, Vol. 2, No. 1, 2015, p. 117.

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strengthening the Human Rights Law and establishing derivative regulations governing victim recovery procedures, employer obligations, and support institutions. In this way, protection for victims of forced labor is no longer declaratory but becomes a right that can be claimed and effectively restored.¹⁷

4. Conclusion

The prohibition of forced labor has been expressly guaranteed by the 1945 Constitution of the Republic of Indonesia and Law No. 39 of 1999 concerning Human Rights as a right that cannot be reduced, but protection for victims is still weak because it is declarative and scattered and is not yet equivalent to the victim protection model that has been advanced in Law No. 12 of 2022 and Law No. 23 of 2004, so that a normative reconstruction is needed that places victims of forced labor as active subjects with guaranteed rights to assistance, protection, psychosocial recovery, and restitution that are institutionalized and executable, based on respect for human rights and the values of justice that live in Indonesian society.

5. References

Journals:

- Sri Endah Wahyuningsih, "Pembaharuan Hukum Pidana Indonesia yang Berbasis Nilai-Nilai Keadilan", *Jurnal Pembaharuan Hukum*, Vol. 1, No. 1, 2014;
Sri Endah Wahyuningsih dan Rismanto, "Penegakan Hukum Pidana terhadap Pelaku Tindak Pidana dalam Perspektif Hukum Islam", *Jurnal Pembaharuan Hukum*, Vol. 2, No. 1, 2015;

Books:

- Bagir Manan, 2005, *Sistem Peradilan Berwibawa: Suatu Pencarian*, Yogyakarta : FH UII Press
Farhana, 2010, *Aspek Hukum Perdagangan Orang di Indonesia*, Jakarta : Sinar Grafika
Jimly Asshiddiqie, 2014, *Konstitusi dan Konstitusionalisme Indonesia*, Jakarta : Sinar Grafika
Maidin Gultom, 2014, *Perlindungan Hukum terhadap Anak dan Perempuan*, Bandung : Refika Aditama

¹⁷Mardjono Reksodiputro, *Progress in Economic Development and Crime*, Center for Justice Services and Legal Services, University of Indonesia, Jakarta, 1994, p. 76.



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Mardjono Reksodiputro, 1994, *Kemajuan Pembangunan Ekonomi dan Kejahatan*, Jakarta : Pusat Pelayanan Keadilan dan Pengabdian Hukum Universitas Indonesia

Moerti Hadiati Soeroso, 2010, *Kekerasan dalam Rumah Tangga dalam Perspektif Yuridis-Viktimologis*, Jakarta : Sinar Grafika

Muladi, 2002, *Kapita Selekta Sistem Peradilan Pidana*, Semarang : Badan Penerbit Universitas Diponegoro

Muladi, 2009, *Hak Asasi Manusia: Hakekat, Konsep dan Implikasinya dalam Perspektif Hukum dan Masyarakat*, Bandung : Refika Aditama

Peter Mahmud Marzuki, 2014, *Penelitian Hukum*, Edisi Revisi, Jakarta : Kencana

Rena Yulia, 2010, *Viktimologi: Perlindungan Hukum terhadap Korban Kejahatan*, Yogyakarta : Graha Ilmu

Rhona K. M. Smith, 2008, *Hukum Hak Asasi Manusia*, Yogyakarta : Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia

Satjipto Rahardjo, 2012, *Ilmu Hukum*, Bandung : Citra Aditya Bakti

Siswanto Sunarso, 2012, *Viktimologi dalam Sistem Peradilan Pidana*, Jakarta : Sinar Grafika

Todung Mulya Lubis, 1993, *In Search of Human Rights: Legal-Political Dilemmas of Indonesia's New Order*, Jakarta : Gramedia

Regulation:

Law No. 12 of 2022 concerning Criminal Acts of Sexual Violence.

Law No. 23 of 2004 concerning the Elimination of Domestic Violence;

Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 concerning Protection of Witnesses and Victims;

Law No. 39 of 1999 concerning Human Rights;

The 1945 Constitution of the Republic of Indonesia;