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

Reconstruction of Civil Liability for Victims of Human Trafficking

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Abstract. *Human trafficking constitutes a serious violation of human rights that causes physical, psychological, social, and economic harm to victims. Although Indonesian positive law has established criminal sanctions against perpetrators through Law Number 21 of 2007 concerning the Eradication of Human Trafficking, the aspect of civil liability aimed at restoring victims' losses has not yet been implemented effectively. In practice, victims frequently encounter difficulties in obtaining compensation, restitution, and other forms of recovery due to inadequate legal regulations, weak enforcement mechanisms, and the lack of an integrated victim protection system. This study aims to analyze the effectiveness of the existing legal framework governing civil liability for victims of human trafficking and to formulate a legal reconstruction model that is more oriented toward the fulfillment of victims' rights. The research employs a normative juridical method using statutory, conceptual, and comparative law approaches. The findings indicate that the current legal framework does not fully guarantee victims' rights to compensation and restitution. Therefore, legal reconstruction is required through the strengthening of civil liability mechanisms, harmonization of legislation, expansion of access to compensation, and the development of a victim-oriented legal protection model. Such reconstruction is expected to promote legal certainty, justice, and legal utility for victims of human trafficking in Indonesia.*

Keywords: *Human Trafficking; Legal Reconstruction; Restitution; Victim Protection.*

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1. Introduction

Human trafficking is a serious violation of human rights that produces extensive and multidimensional harm to victims. Unlike ordinary forms of criminal conduct, trafficking frequently involves systematic exploitation, deprivation of liberty, economic abuse, physical violence, and psychological coercion, leaving victims with consequences that may continue long after the criminal act has ended.

The legal response to human trafficking should therefore extend beyond the imposition of criminal sanctions upon perpetrators and incorporate mechanisms capable of restoring victims' rights and compensating them for the losses they have suffered. Civil liability represents an important component of such a framework because it establishes the legal responsibility of perpetrators to provide financial redress for the consequences of their unlawful conduct.

In Indonesia, the protection of trafficking victims is supported by Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons, which recognizes restitution and other forms of victim protection. This framework is further supported by Supreme Court Regulation (PERMA) No. 1 of 2022 concerning the Procedures for the Settlement of Applications and the Provision of Restitution and Compensation to Victims of Criminal Acts. These instruments demonstrate a normative shift toward recognizing victims not merely as sources of evidence in criminal proceedings but as rights-holders entitled to effective remedies. Nevertheless, the existence of legal provisions governing restitution and compensation does not necessarily guarantee that victims will obtain effective recovery.

Several legal challenges remain in the enforcement of civil liability and victims' claims. These include difficulties in identifying and quantifying material and non-material losses, evidentiary burdens, limited legal awareness among victims, inadequate access to legal assistance, perpetrators' inability or unwillingness to satisfy restitution obligations, and difficulties in tracing and enforcing perpetrators' assets. Institutional fragmentation among law enforcement authorities, courts, victim-protection institutions, and legal assistance providers may further weaken the implementation of victims' claims. Consequently, a gap may emerge between the formal recognition of civil liability and the actual realization of victims' rights.

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2. Research Methods

The research employs a normative juridical method using statutory, conceptual, and comparative law approaches. The findings indicate that the current legal framework does not fully guarantee victims' rights to compensation and restitution.

3. Results and Discussion

3.1. Normative Framework of Civil Liability for Human Trafficking Victims

The normative framework of civil liability for victims of human trafficking must be understood as an essential component of comprehensive victim protection and access to justice. Human trafficking constitutes a serious violation of human dignity and individual rights that frequently generates extensive material and non-material losses.

Victims may suffer loss of income, exploitation of labour, physical injuries, psychological trauma, deprivation of liberty, and disruption of family and social relationships. Consequently, the legal response to trafficking should not be limited to criminal sanctions against perpetrators but should also establish an effective mechanism through which victims can obtain compensation and restoration for the harm they have suffered.

In the Indonesian legal system, civil liability for trafficking-related harm is supported by several interconnected legal instruments. Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons establishes victims' rights to restitution and other forms of protection. The concept of restitution reflects the principle that perpetrators should bear responsibility for the consequences of their unlawful conduct.

This principle is consistent with the broader doctrine of civil liability, particularly the legal concept of unlawful acts, under which a person who unlawfully causes harm to another may be required to provide compensation. Accordingly, the criminal character of human trafficking does not eliminate the possibility of imposing financial responsibility upon perpetrators for the losses caused to victims.

The normative framework is further strengthened by Supreme Court Regulation (PERMA) No. 1 of 2022, which regulates procedures for the settlement of applications and the provision of restitution and compensation to victims of

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criminal acts. The regulation provides an important procedural bridge between the recognition of victims' substantive rights and their judicial enforcement. Restitution should therefore be regarded not merely as an additional consequence of criminal punishment but as an instrument for restoring victims' rights and addressing the consequences of trafficking. The judicial determination of restitution must take into account the nature and extent of losses experienced by victims while maintaining procedural fairness and legal certainty.

Nevertheless, an effective framework of civil liability requires a broad understanding of compensable harm. In trafficking cases, damage may extend beyond easily measurable financial losses.

Physical and psychological suffering, medical and rehabilitation expenses, lost earning opportunities, and other legally recognizable consequences may need to be assessed when determining appropriate remedies. A victim-centred interpretation is therefore necessary to prevent formal evidentiary requirements from becoming disproportionate barriers to recovery.

Furthermore, civil liability should be supported by effective enforcement mechanisms. A legal entitlement to restitution has limited value if the resulting order cannot be executed. The framework should consequently facilitate the identification, preservation, and lawful enforcement of perpetrators' assets to satisfy victims' claims. Institutional cooperation among investigators, prosecutors, courts, victim-protection institutions, and legal assistance providers is equally important.

Ultimately, the normative framework of civil liability should establish a balance between perpetrator accountability and victim recovery. By integrating restitution, compensation, judicial enforcement, and victim assistance, Indonesian law can move toward a more comprehensive system in which human trafficking victims are recognized not merely as participants in criminal proceedings but as rights-holders entitled to effective legal remedies and meaningful restoration.

3.2. Legal Challenges in the Enforcement of Civil Liability and Victims' Claims

The enforcement of civil liability and victims' claims in human trafficking cases remains a significant legal challenge because the recognition of victims' rights does not automatically ensure their effective realization. Human trafficking generates complex forms of harm that may include economic exploitation, physical injuries, psychological suffering, loss of income, deprivation of liberty, and disruption of family and social relationships.

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Accordingly, an effective legal system must provide mechanisms through which victims can obtain meaningful compensation for both material and legally recognizable non-material losses. In Indonesia, however, the implementation of restitution and compensation continues to encounter procedural, evidentiary, institutional, and enforcement-related obstacles.

One fundamental challenge concerns the identification and quantification of victims' losses. Civil liability generally requires the establishment of a causal relationship between unlawful conduct and the resulting damage. In trafficking cases, this requirement may be difficult to apply because the harm suffered by victims is frequently cumulative and develops over an extended period.

Financial losses may be difficult to document because victims often lack employment records, financial documents, or other evidence demonstrating lost income and exploitation. Similarly, psychological and other non-economic consequences may be difficult to translate into a monetary value. Excessively formalistic evidentiary requirements may consequently restrict victims' ability to establish the full extent of their losses.

A further challenge concerns the procedural position of victims. Trafficking victims may lack sufficient legal knowledge, financial resources, and psychological capacity to independently pursue civil claims. The complexity of judicial proceedings may discourage victims from seeking restitution or compensation. Therefore, the effective exercise of victims' rights requires accessible legal assistance, adequate information concerning available remedies, and institutional support throughout the judicial process. A victim-centred approach is particularly important to prevent legal procedures from producing secondary victimization.

The enforcement of judicial awards presents another major difficulty. The granting of restitution through a judicial decision does not necessarily guarantee actual payment. Perpetrators may possess insufficient assets, conceal property, transfer assets to third parties, or otherwise frustrate enforcement.

Consequently, the effectiveness of civil liability depends upon the availability of lawful mechanisms for tracing, preserving, and executing perpetrators' assets. Coordination between criminal proceedings, restitution determinations, asset recovery, and enforcement procedures is therefore essential.

Institutional fragmentation may further weaken the implementation of victims' claims. Investigators, prosecutors, courts, victim-protection institutions, and legal aid providers have different responsibilities that must operate in an integrated

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manner. Weak coordination can result in inadequate identification of victims' losses, insufficient preparation of restitution claims, and delays in enforcement.

From a normative perspective, these challenges demonstrate the need to strengthen the connection between substantive rights and effective remedies. PERMA No. 1 of 2022 provides an important procedural foundation for restitution and compensation, but its effectiveness depends upon consistent judicial implementation and institutional cooperation. The enforcement of civil liability should ultimately be directed toward ensuring that victims receive meaningful recovery rather than merely obtaining a formal declaration of entitlement. Strengthening evidence assessment, legal assistance, asset enforcement, institutional coordination, and alternative compensation mechanisms is therefore essential to establish an effective and victim-centred system of civil liability for human trafficking victims.

3.3. Reconstruction of a Victim-Centred Civil Liability Mechanism

The reconstruction of a victim-centred civil liability mechanism for human trafficking victims is necessary to ensure that legal protection provides not only formal recognition of victims' rights but also effective and measurable recovery. Human trafficking causes multidimensional harm that cannot be adequately addressed through criminal punishment alone.

Victims may experience economic exploitation, physical and psychological injuries, loss of employment and income, deprivation of liberty, and long-term social consequences. Therefore, the legal system should reconstruct civil liability as an integral component of justice, requiring perpetrators to assume responsibility for the consequences of their unlawful conduct while ensuring that victims have accessible and effective avenues for recovery.

The first element of reconstruction should involve strengthening the early identification and assessment of victims' losses. Restitution and compensation mechanisms should not depend exclusively upon victims' ability to independently initiate complex legal procedures. Investigators and prosecutors should facilitate the documentation and assessment of material and legally recognizable non-material losses from the earliest stages of proceedings.

Such an approach would enable courts to determine restitution on the basis of a more comprehensive understanding of the harm suffered. The assessment should include, where legally applicable, lost income, medical and rehabilitation

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expenses, property-related losses, and other consequences directly connected with trafficking.

The second element concerns accessibility. A victim-centred civil liability mechanism should guarantee that victims receive clear information regarding their rights, legal assistance, and appropriate psychosocial support. Many trafficking victims experience vulnerability, intimidation, trauma, and economic dependency, which may limit their capacity to pursue legal claims. Accordingly, procedural mechanisms should be designed to reduce unnecessary burdens and prevent secondary victimization. The involvement of legal aid providers and victim-protection institutions should be strengthened throughout the process.

The third element concerns enforcement. A restitution order has limited practical value if the perpetrator's assets cannot be identified or recovered. Reconstruction should therefore establish stronger connections between restitution and lawful asset-tracing, preservation, seizure, and execution mechanisms. The objective is not to impose disproportionate restrictions upon property rights but to ensure that assets derived from or connected to unlawful conduct can be effectively utilized, in accordance with due process, to satisfy victims' legitimate claims.

The fourth element involves the development of complementary compensation mechanisms. When perpetrators are unable to satisfy restitution obligations, victims should not automatically be left without effective remedies. State-supported compensation mechanisms may function as an additional form of protection where legally available, thereby ensuring that the burden of criminal insolvency is not transferred entirely to victims.

Finally, institutional coordination must be reconstructed as an integrated system involving investigators, prosecutors, courts, the Witness and Victim Protection Agency, legal aid institutions, and other relevant bodies.

PERMA No. 1 of 2022 can serve as an important procedural foundation within this integrated framework. Ultimately, reconstruction should connect victim identification, damage assessment, legal assistance, judicial determination, asset enforcement, compensation, and long-term recovery. Such a mechanism would transform civil liability from a formal legal entitlement into an effective instrument of victim-centred justice, ensuring that human trafficking victims receive meaningful redress and restoration of their rights and dignity.

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4. Conclusion

The reconstruction of civil liability for victims of human trafficking is essential to establish a legal system that provides not only punishment for perpetrators but also meaningful recovery for victims. Human trafficking causes multidimensional harm, including economic losses, physical and psychological injuries, loss of livelihood, deprivation of liberty, and disruption of social and family relationships. Therefore, criminal prosecution alone cannot fully address the consequences of trafficking. A comprehensive legal response must integrate perpetrator accountability with effective mechanisms for restitution, compensation, and restoration of victims' rights. The normative framework demonstrates that Indonesian law has provided a legal basis for imposing financial responsibility upon perpetrators of human trafficking. Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons recognizes restitution as an important mechanism for protecting victims, while Supreme Court Regulation (PERMA) No. 1 of 2022 provides procedural mechanisms concerning the settlement of applications and the granting of restitution and compensation. These instruments establish an important foundation for recognizing victims as rights-holders rather than merely participants in criminal proceedings. Civil liability should therefore be interpreted as an integral dimension of victim protection and access to justice. Nevertheless, the enforcement of civil liability continues to face significant legal and institutional challenges. Difficulties in identifying and quantifying victims' losses, evidentiary limitations, inadequate legal assistance, lack of victim awareness, perpetrators' inability to pay, and difficulties in tracing and enforcing offenders' assets may prevent victims from obtaining effective remedies. Consequently, a gap may arise between the formal recognition of victims' entitlement to restitution and their actual receipt of compensation. This demonstrates that legal recognition alone is insufficient unless supported by effective enforcement and institutional coordination. The reconstruction of a victim-centred civil liability mechanism should therefore prioritize accessibility, effectiveness, and substantive recovery. Victims should receive legal information, legal assistance, and psychosocial support from the earliest stage of proceedings. The assessment of losses should be conducted comprehensively and should account for material and legally recognizable non-material harm. Restitution claims should be integrated into criminal proceedings, while asset-tracing, preservation, and enforcement mechanisms should be strengthened to ensure that judicial awards can be effectively implemented. Complementary compensation mechanisms should also be available where perpetrators are unable to satisfy their restitution obligations. Ultimately, civil liability for human trafficking should no longer be regarded merely as an ancillary consequence of criminal punishment. It must function as an independent and integrated



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instrument of victim-centred justice. By connecting victim identification, damage assessment, legal assistance, judicial determination, asset enforcement, restitution, compensation, and long-term recovery, the reconstructed mechanism can transform victims' legal rights into effective remedies. Such reconstruction would strengthen the protection of human dignity, access to justice, and the principle that perpetrators must bear responsibility for the harm caused by human trafficking.

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