

# Legal Renewal on the Protection of Human Trafficking Victims Based on Access to Justice in Efforts to Fulfill the Rights of Restitution and Rehabilitation in Indonesia

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**Abstract:** Human trafficking is an organized transnational crime that not only violates criminal law but also constitutes a form of human rights violation because it eliminates the freedom, security, and dignity of victims through sexual exploitation, forced labor, child trafficking, digital exploitation, and various other forms of exploitation. This study aims to analyze the weaknesses in regulations and implementation of legal protection for victims of human trafficking in Indonesia and to formulate a reconstruction of legal reform based on access to justice in fulfilling the rights of restitution and rehabilitation of victims. This study employs a normative juridical method with a legislative approach and a conceptual approach through an analysis of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, Law Number 31 of 2014 concerning the Protection of Witnesses and Victims, and various international legal instruments such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child. The research findings indicate that the protection of human trafficking victims in Indonesia still faces various weaknesses, including the difficulty of implementing restitution, the absence of state compensation funds, weak multidisciplinary rehabilitation, limited legal aid, victim blaming, and a lack of

integration of the national victim protection system. Therefore, legal reform is needed through strengthening state compensation mechanisms, establishing an integrated victim protection system, a digital victim monitoring system, strengthening the role of the Witness and Victim Protection Agency, multidisciplinary rehabilitation, and harmonizing national law with international law to achieve more humane, effective, and equitable protection for human trafficking victims based on victim-centered justice.

**Keywords:** human trafficking, victim protection, access to justice, restitution, rehabilitation.

## Introduction

The crime of human trafficking in Indonesia continues to show serious escalation and has developed into an organized transnational crime that threatens human rights, social security, and human dignity. Data from the United Nations Office on Drugs and Crime and the International Organization for Migration shows that modern human trafficking is no longer limited to conventional sexual exploitation, but has shifted to new patterns such as forced labor, digital exploitation, transnational online fraud based on online scams, exploitation of undocumented migrant workers, child trafficking, exploitation of ship

crews, and even trafficking in organs (Latif, 2025). In Indonesia, reports from the National Commission on Violence Against Women and the Indonesian Migrant Workers Protection Agency show that women and children remain the most vulnerable groups to become victims of human trafficking due to poverty, low education, gender inequality, and weak state protection for migrant workers (Sari et al., 2024). It shows that human trafficking is no longer just an ordinary crime, but an extraordinary crime that is systematically organized and involves cross-national networks. Under national law, Indonesia already has a legal basis through Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons, which defines trafficking as the act of recruiting, transporting, harboring, sending, transferring, or receiving a person through threats of violence, abduction, fraud, abuse of power, or debt bondage for exploitation, as stipulated in Article 1, point 1 (Nugroho, 2020). However, the increasing number of victims each year indicates that the existing legal protection system is unable to guarantee effective protection and restoration of victims' rights.

Human trafficking is essentially a serious form of human rights violation because it systematically deprives a person of their freedom, security, and right to a decent life. This crime contradicts the principle of human dignity, which places humans as subjects whose dignity must be respected (D. PANJAITAN, 2022). From an international legal perspective, the state's obligation to protect victims of trafficking is affirmed in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, a complementary instrument to the United Nations Convention against Transnational Organized Crime. The protocol emphasizes that the state is obliged to comprehensively prevent, prosecute, and protect trafficking victims (Mardan, 2025). In addition, the principles of non-discrimination and victim protection are also emphasized in the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child, which require the state to provide special protection for women and children from all forms of exploitation. In the national context, guarantees of human rights protection are regulated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which affirms the right of every person to recognition, guarantees, protection, and fair legal certainty. Furthermore, Article 28G paragraph (1) of the 1945 Constitution guarantees protection for a sense of security and protection from the threat of fear (Ayu Dewi Rachmawati & Komang Febrinayanti Dantes, 2022). However, in practice, victims of human trafficking are still often positioned merely as evidence in criminal proceedings, so that victims' rights to recovery have not become the primary orientation of law enforcement. It indicates that the Indonesian legal paradigm still tends to be offender-oriented rather than victim-oriented justice. The problem of victim protection is increasingly apparent in the fulfillment of the right to restitution, which is normatively regulated in Articles 48 to 50 of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking and reinforced in Law Number 31 of 2014 concerning the Protection of Witnesses and Victims. These provisions emphasize that victims have the right to receive restitution in the form of compensation for lost wealth or income, suffering, medical care costs, or other losses incurred as a result of the crime (Harefa, 2026). However, empirically, the right to restitution for victims of human trafficking remains very difficult to realize. Many court decisions do not include restitution, or if they do, they often cannot be executed because the perpetrators

lack economic capacity. The state also lacks a victim compensation fund to guarantee restitution payments to victims. As a result, the right to restitution, which should be a victim recovery instrument, has become merely an ineffective formal norm. Furthermore, victims generally lack an understanding of their right to restitution due to the lack of legal assistance and support during the judicial process (Junginger, 2024). This situation demonstrates a gap between "das sollen" (the principle of justice) and "das sein" (the principle of justice), namely, between legal norms that guarantee victim protection and legal implementation that has not yet provided substantive justice. In fact, according to the theory of access to justice, the state should not only guarantee formal access to the courts but also ensure that victims receive real and effective restitution.

Another crucial issue is the weak rehabilitation and recovery system for human trafficking victims in Indonesia. Victim protection is not merely achieved through criminal prosecution; it must also be accompanied by physical, psychological, social, economic, and legal recovery for victims. Articles 51 and 52 of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking actually regulate victims' rights to receive health rehabilitation, social rehabilitation, repatriation, and social reintegration. (Puanandini et al., 2024) However, the implementation of these provisions still faces various structural obstacles such as limited shelters, minimal rehabilitation budgets, weak inter-agency coordination, a shortage of psychologists and victim advocates, and social stigma against trafficking victims. Many victims who are repatriated become victims of human trafficking again due to the lack of economic empowerment and ongoing social assistance. This situation demonstrates that Indonesia does not yet have an integrated victim recovery system capable of comprehensively integrating legal protection, psychosocial rehabilitation, economic recovery, and social reintegration of victims. From a victimology perspective, victims of human trafficking experience secondary victimization due to a legal system that is insensitive to victims' needs. (Annas & Asyrofisyauqi, 2024) Therefore, the approach to victim protection must be directed towards victim-centered justice, which places the victim as the primary subject in the criminal justice system. The weak implementation of the principle of access to justice is also a major factor in the suboptimal protection of human trafficking victims in Indonesia. Theoretically, access to justice is not only interpreted as access to the courts, but also includes access to legal aid, information, rehabilitation, restitution, protection during the legal process, and socio-economic recovery after the crime. However, in practice, victims of human trafficking still face various obstacles such as complicated bureaucratic procedures, victim blaming from the public and authorities, threats from human trafficking mafia networks, and disparities in law enforcement between regions. Many victims are afraid to report for fear of being criminalized or intimidated by the perpetrators. (Pratama, 2024) This condition indicates the weak implementation of Articles 5 and 6 of Law Number 31 of 2014 concerning Witness and Victim Protection, which guarantees victims' rights to security protection, medical assistance, psychological assistance, and legal assistance. From the perspective of progressive law, as stated by Satjipto Rahardjo, the law should not be understood merely as a normative rule, but rather as an instrument for delivering substantive justice and humanity. Therefore, protection for human trafficking victims must be reconstructed through a progressive and responsive

legal approach that prioritizes victims' interests within the national criminal justice system (Sumisa Theja, 2024).

Besides the implementation issues, the human trafficking victim protection system in Indonesia also faces regulatory and institutional disharmony, resulting in partial and sectoral victim protection. Victim protection provisions are scattered across various regulations, such as the Anti-Human Trafficking Law, the Witness and Victim Protection Law, the Human Rights Law, the Indonesian Migrant Worker Protection Law, the Criminal Procedure Code, as well as various social rehabilitation regulations and regional policies that have not been systematically integrated. Consequently, inter-agency coordination is often weak, leading to overlapping authority in handling victims. Unlike several countries, such as the Netherlands, Australia, the Philippines, and the United States, which have established victim compensation funds, trauma recovery centers, witness protection systems, and state compensation mechanisms based on victim-centered justice (Susanti et al., 2022), Indonesia remains focused on punishing perpetrators and has not yet prioritized victim recovery as the primary objective of its legal system. Therefore, reforming the law on human trafficking victim protection is urgently needed through harmonization of national law with international legal instruments, strengthening the role of the Witness and Victim Protection Agency, establishing a state-based victim compensation fund, developing an integrated victim protection system, digital victim monitoring, and integrated multidisciplinary rehabilitation. These legal reforms are crucial to ensure that the Indonesian legal system not only punishes human traffickers but is also capable of fully restoring the dignity and human rights of victims in accordance with the principles of access to justice and victim-centered justice.

## Methodology

This research employs a normative juridical legal research method that focuses on the study of positive legal norms, legal principles, doctrines, and the synchronization of various laws and regulations related to the protection of human trafficking victims in Indonesia. The approaches used include a statute approach and a conceptual approach. The statutory approach is carried out by examining various national and international legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, Law Number 31 of 2014 concerning the Protection of Witnesses and Victims, Law Number 39 of 1999 concerning Human Rights, Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, the Criminal Procedure Code, as well as international instruments such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child. Meanwhile, a conceptual approach is used to analyze various relevant legal concepts and theories, such as access to justice, victim protection, victimology, restorative justice, progressive law, responsive law, and victim-centered justice, as a basis for formulating legal reforms for the protection of human trafficking victims in Indonesia. The legal materials used consist of primary, secondary, and tertiary legal materials obtained through literature studies, then analyzed prescriptively and qualitatively to find legal arguments, synchronization of norms, and formulation of ideal legal reforms in

guaranteeing the fulfillment of the rights of restitution and rehabilitation of human trafficking victims in Indonesia.

## Result and Discussion

### **Weaknesses in Regulation and Implementation of Legal Protection for Victims of Human Trafficking in Fulfilling the Right to Restitution and Rehabilitation in Indonesia**

Human trafficking is an extraordinary crime that not only violates criminal law but also constitutes a serious violation of human rights because it systematically robs people of their freedom, security, and dignity. In the context of national law, regulations regarding the crime of human trafficking have been regulated through Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, which in Article 1 number 1 defines human trafficking as the act of recruiting, transporting, harboring, sending, transferring, or receiving a person with the threat of violence, kidnapping, confinement, fraud, abuse of power, debt bondage, or the provision of payment for exploitation. In addition, victim protection is also guaranteed in Law Number 31 of 2014 concerning Witness and Victim Protection, which provides victims with the right to obtain security protection, legal assistance, restitution, rehabilitation, and compensation. Constitutionally, this protection is based on Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees the right to fair legal certainty; Article 28G paragraph (1), which guarantees personal protection and a sense of security; and Article 28I paragraph (4), which affirms the state's responsibility for protecting human rights. However, although Indonesia has fairly comprehensive regulations, the practice of protecting victims of human trafficking still exhibits various structural and implementation weaknesses, resulting in suboptimal fulfillment of victims' rights (Sukatma, 2022).

The most fundamental weakness is seen in the weak victim protection orientation within the Indonesian criminal justice system, which still tends to be oriented toward punishing perpetrators, or offender-oriented. It is evident in the dominant focus of law enforcement on criminal action against perpetrators of trafficking, while victim recovery has not been recognized as a primary goal of the criminal justice system. In fact, Article 51 of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking explicitly states that victims have the right to receive health rehabilitation, social rehabilitation, repatriation, and social reintegration from the government if they experience physical or psychological suffering as a result of the crime of human trafficking. Furthermore, Article 5, letters a to o of Law Number 31 of 2014 concerning Witness and Victim Protection, also grants victims the right to receive security protection, a new identity, medical assistance, psychological assistance, legal assistance, and restitution. However, in practice, victims are often positioned merely as evidence to strengthen criminal cases without any serious attention to their recovery after the crime. It demonstrates that the national legal system has not fully adopted the principle of victim-centered justice, which places the victim as the primary subject whose rights and dignity must be restored (Elza P, 2025).

The problem of victim protection is also reflected in the normative and institutional limitations surrounding the implementation of the right to restitution. Provisions regarding restitution are regulated in Articles 48 to 50 of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, which states that victims or their heirs have the right to receive restitution in the form of compensation for lost wealth or income, suffering, medical and psychological costs, and other losses resulting from the crime of human trafficking. This provision is reinforced by Article 7A of Law Number 31 of 2014 concerning the Protection of Witnesses and Victims, which emphasizes that victims of criminal acts have the right to receive restitution imposed on the perpetrator based on a legally binding court decision. However, the effectiveness of restitution cannot be assessed solely from the existence of these normative guarantees. Relevant literature has identified obstacles relating to victims' understanding of restitution rights, access to legal assistance, restitution application procedures, and the execution of restitution decisions, particularly where perpetrators have insufficient assets or assets are no longer available for recovery (Maryam, 2025). Because this study employs a normative juridical method, it does not independently calculate the proportion of restitution applications that are granted or successfully executed. Rather, the legal problem identified is the absence of a sufficiently comprehensive mechanism to ensure that a legally recognized right to restitution can be effectively realized when the perpetrator lacks the capacity or assets to fulfill the obligation.

In addition to weak restitution, the rehabilitation and recovery system for human trafficking victims in Indonesia also faces various fundamental problems. Articles 51 and 52 of Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons indeed regulate victims' rights to receive health rehabilitation, social rehabilitation, repatriation, and social reintegration, which are the responsibility of the central and regional governments. However, the implementation of these norms has not been effective due to limited rehabilitation facilities and infrastructure, a minimal budget, and weak inter-agency coordination. Many regions lack adequate shelters for trafficking victims, while psychological and trauma recovery services remain very limited. In practice, victim rehabilitation is often only administrative and short-term, without sustainable social and economic reintegration programs. As a result, many victims re-enter vulnerable groups and even experience re-victimization or become victims of human trafficking. This situation indicates that the victim protection system in Indonesia has not yet moved towards an integrated victim recovery system that comprehensively integrates medical, psychological, social, economic, and legal recovery. However, from a victimology perspective, victim recovery is an essential part of substantive justice that the state must fulfill as a form of responsibility for protecting human rights (Malau, 2023).

The problem of protecting human trafficking victims is exacerbated by the weak implementation of the principle of access to justice in the Indonesian criminal justice system. Normatively, victims' right to access justice is guaranteed in Article 28H paragraph (2) of the 1945 Constitution, which states that everyone has the right to receive facilities and special treatment to obtain the same opportunities and benefits to achieve equality and justice. Furthermore, Article 10 of Law Number 39 of 1999 concerning Human Rights also

affirms that everyone has the right to receive fair legal protection and certainty. However, in practice, victims of human trafficking still face various obstacles to obtaining justice, such as complicated bureaucratic procedures, victims' ignorance of their rights, victim blaming from the public and law enforcement officials, intimidation from trafficking networks, and a lack of sensitivity on the part of authorities to victims' psychological well-being. Many victims are reluctant to report cases for fear of criminalization or threats from the perpetrators. Furthermore, disparities in law enforcement across regions contribute to uneven protection for victims. This situation demonstrates that access to justice for human trafficking victims remains formalistic and has not yet addressed substantive justice. However, according to the concepts of progressive law and responsive law, the law should be present to protect vulnerable groups and guarantee real victim recovery, not merely follow formal legal procedures (Mulyawan, 2022).

Besides implementation issues, the protection of human trafficking victims in Indonesia also faces regulatory disharmony and weak institutional coordination. Victim protection provisions are scattered across various regulations, such as the Human Trafficking Law (TPPO), the Witness and Victim Protection Law (UU Witness and Victim Protection), the Human Rights Law, Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (UU Migrant Workers), the Criminal Procedure Code (KUHP), and various technical regulations related to social rehabilitation and the protection of women and children. However, these regulations have not been systematically integrated, often leading to overlapping authority between agencies. Coordination between law enforcement officials, the Ministry of Social Affairs, the Women's Empowerment and Child Protection Agency (WHO), hospitals, rehabilitation institutions, and the Witness and Victim Protection Agency (WPPA) remains suboptimal. As a result, victim protection is often partial and unsustainable (Wisnu & Pratikno, 2024). This situation indicates that the protection system for human trafficking victims in Indonesia still requires more comprehensive legal reform through regulatory harmonization, institutional strengthening, the establishment of a state-based restitution mechanism, the development of an integrated victim protection system, and the strengthening of a victim-centered justice approach so that victim protection is not only normative but is truly capable of providing justice and restoring victims' rights effectively.

### **Protection of Human Trafficking Victims from the Perspective of International Law and the Theory of Access to Justice**

Protection of victims of human trafficking from an international legal perspective is an integral part of human rights protection, which places victims as the primary subjects whose rights, dignity, and security of life must be restored. Human trafficking is seen as a modern form of slavery that contradicts the principle of human dignity because it makes humans objects of economic and sexual exploitation. In the international legal system, the main regulation regarding human trafficking is contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, which is an additional protocol to the United Nations Convention against Transnational Organized Crime. Article 3 of the Palermo Protocol defines trafficking in persons as the recruitment, transportation, transfer,

harboring, or receipt of a person by means of threat, violence, deception, abuse of power, or position of vulnerability for exploitation. Furthermore, Article 6 requires state parties to provide protection for the privacy, identity, physical and psychological recovery of victims, including the provision of housing, counseling, medical assistance, education, and employment opportunities. Article 7 also emphasizes the obligation of states to consider granting temporary or permanent residence permits to victims of trafficking for humanitarian reasons. However, empirically, the implementation of these principles in various developing countries, including Indonesia, still faces serious obstacles in the form of weak victim protection systems, low institutional capacity, and a dominant orientation of law enforcement toward punishing perpetrators rather than victim rehabilitation. Consequently, victims of human trafficking often experience secondary victimization due to a legal system that is not yet sensitive to victims' needs.

From an international human rights perspective, the protection of victims of human trafficking is also closely linked to the principle of non-discrimination and the protection of vulnerable groups, as stipulated in the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child. Article 6 of CEDAW requires states to take appropriate measures to eradicate all forms of trafficking in women and the exploitation of female prostitution. Meanwhile, Article 35 of the CRC requires states to prevent the abduction, sale, or trafficking of children for any purpose and in any form. In this context, women and children are considered the most vulnerable groups to become victims of trafficking due to social inequality, poverty, gender discrimination, and weak legal protection. Empirically, the majority of human trafficking victims in Indonesia are female migrant workers, children, and the poor, recruited through job fraud, fake marriages, and digital exploitation based on cross-border online scams. This situation demonstrates that human trafficking is not only a criminal issue, but also a structural issue related to social inequality and the state's failure to provide adequate social protection. Therefore, the principle of state responsibility is crucial, as the state is not only obligated to punish perpetrators but also to prevent, protect, restore, and rehabilitate victims of human trafficking comprehensively.

The concept of access to justice is a crucial theoretical foundation for protecting human trafficking victims because it positions victims as entitled to access to legal protection, rights restoration, and substantive justice. From a modern legal perspective, access to justice is not only defined as the right to access the courts but also includes the right to legal aid, information, restitution, rehabilitation, security protection, and social and economic recovery. This theory was developed through the thinking of Mauro Cappelletti, who emphasized the importance of eliminating structural barriers that prevent people from accessing justice. In the context of human trafficking, victims often face obstacles such as ignorance of their rights, economic constraints, fear of the perpetrator, social stigma, and complicated and formalistic legal procedures. Empirically, many victims of human trafficking in Indonesia do not pursue legal proceedings due to fear of threats from the perpetrator's network or distrust of law enforcement officials. Furthermore, access to legal aid for victims remains very limited, particularly in areas with migrant worker enclaves. As

a result, many victims do not receive adequate restitution, rehabilitation, or psychological protection. This situation indicates that access to justice for victims of human trafficking in Indonesia remains formal and has not been able to deliver substantive justice that favors the victims.

In addition to the theory of access to justice, victimology and restorative justice approaches also serve as important foundations for building a more humane protection system for human trafficking victims. Victimology views victims as those who experience physical, psychological, social, and economic suffering as a result of a crime, and therefore, the state is obliged to provide comprehensive protection and recovery. In the context of restorative justice, the primary objective of criminal law is not only to punish the perpetrator, but also to restore the victim's loss and dignity. This principle is reflected in Articles 48 to 50 of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, which regulates the victim's right to restitution, and Articles 5 and 6 of Law Number 31 of 2014 concerning the Protection of Witnesses and Victims, which guarantee victims' rights to medical, psychological, and legal assistance. However, empirically, the implementation of restorative justice in trafficking cases remains very weak because the Indonesian criminal law system emphasizes punishing the perpetrator rather than rehabilitating the victim. Many victims, after the trial process is completed, return to lives of trauma, poverty, and vulnerability to re-trafficking. It demonstrates that victim protection in Indonesia has not yet optimally integrated a restorative justice approach into the criminal justice system.

From the perspective of progressive law and responsive law, law should not be understood merely as a set of formal rules, but rather as an instrument for delivering substantive justice and protecting vulnerable groups. Satjipto Rahardjo's thinking on progressive law emphasizes that the law must favor humanity and the welfare of society, not merely procedural certainty. Therefore, protection for victims of human trafficking should be implemented through a flexible, responsive, and recovery-oriented approach. However, empirically, law enforcement practices in Indonesia still face various problems, such as victim blaming by both authorities and the public, a lack of sensitivity on the part of authorities to victims' trauma, and weak inter-agency coordination in handling trafficking victims. Victims are often treated as guilty parties because they are considered to be working illegally or involved in prostitution, when in fact they are victims of exploitation. This situation demonstrates that the legal culture of law enforcement officials has not yet fully adopted a victim-centered justice perspective. As a result, many victims are reluctant to report or withdraw their reports because they feel they are not receiving protection and justice from the state.

Various countries have developed more structured protection mechanisms for human trafficking victims through different combinations of compensation, integrated services, rehabilitation, and institutional coordination. The Netherlands provides an important model through its state victim compensation mechanism and specialized victim support and shelter arrangements, demonstrating the possibility of separating state-supported recovery mechanisms from the criminal liability of offenders. Australia offers a

relevant service-oriented approach through the Support for Trafficked People Program, which provides access to accommodation, medical and psychological assistance, legal support, and other forms of recovery assistance. The Philippines, through the Anti-Trafficking in Persons Act and the Inter-Agency Council Against Trafficking, provides a model of statutory inter-agency coordination linking law enforcement, victim protection, rehabilitation, and prevention. Meanwhile, the United States, through the Trafficking Victims Protection Act and related victim assistance mechanisms, demonstrates the integration of victim protection, immigration relief, witness assistance, and broader recovery support. These models should not be directly transplanted into Indonesia. Instead, they provide several principles that may realistically be adapted, particularly a clear institutional coordination mechanism, the differentiation between offender-funded restitution and state-supported recovery, integrated multidisciplinary services, and continuous assistance for victims (Susanti et al., 2022). Accordingly, the comparative approach in this study is used to identify functional mechanisms suitable for adaptation within the Indonesian legal system rather than to replicate foreign institutions in their original form.

### **Reconstruction of Legal Updates for the Protection of Human Trafficking Victims Based on Access to Justice in Fulfilling the Rights of Restitution and Rehabilitation in Indonesia**

Reconstruction of legal reforms for the protection of human trafficking victims in Indonesia must be directed at shifting the paradigm of the criminal justice system from offender-oriented to victim-centered justice, which places victim recovery as the primary goal of law enforcement. To date, the Indonesian legal system has focused on punishing perpetrators, while victims' rights to restitution, rehabilitation, and social recovery have not been optimally fulfilled. Therefore, legal reform must begin with a revision of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking and Law Number 31 of 2014 concerning the Protection of Witnesses and Victims by strengthening the norms of state obligations in victim recovery. The restitution provisions in Articles 48 to 50 of the Human Trafficking Law need to be strengthened through a clearer distinction between restitution and state compensation. Restitution should remain a legal obligation imposed upon the perpetrator and calculated according to the losses suffered by the victim, whereas state compensation should constitute a separate form of state-supported recovery provided only under legally defined conditions, particularly when restitution cannot be effectively realized because the perpetrator is unidentified, insolvent, lacks recoverable assets, or when the execution of a restitution order has failed after reasonable legal enforcement efforts. The proposed Victim Compensation Fund should therefore not replace the perpetrator's obligation but should operate as a subsidiary recovery mechanism, with the state retaining the right to recover amounts paid from subsequently identified or seized assets of the perpetrator.

The legal basis for such a mechanism should be established through amendments to Law Number 21 of 2007 and harmonized with Law Number 31 of 2014, followed by a Government Regulation governing institutional administration, eligibility, payment

procedures, funding sources, accountability, and financial supervision. The Witness and Victim Protection Agency should exercise primary authority in assessing victim eligibility and determining compensation needs, while fund administration should be coordinated with the relevant government institutions responsible for finance, social recovery, and victim protection. Funding should be structured through a dedicated state budget allocation, proceeds from final and lawfully confiscated assets derived from trafficking crimes, a legally designated proportion of applicable criminal financial penalties where permitted by law, and transparent international assistance that does not compromise national accountability. All incoming and outgoing funds should be subject to a separate financial account, periodic audit, public accountability reporting in anonymized form, and clear anti-corruption safeguards. Compensation eligibility should be based on verified victim status, demonstrated harm, unmet recovery needs, and the inability to obtain effective restitution. Payment limits should be determined through a statutory or regulatory formula based on categories of harm and recovery costs, rather than through unlimited discretionary payments.

In addition to strengthening restitution, legal reconstruction must also be directed at simplifying access to justice mechanisms for human trafficking victims through an integrated one-stop victim protection system at the provincial and district or city levels. The proposed system should integrate the police, prosecutors, courts, hospitals, psychologists, social workers, immigration authorities, legal-aid institutions, and the Witness and Victim Protection Agency through a coordinated referral and case-management mechanism. To prevent overlapping authority, the system should distinguish between primary coordination authority and sectoral operational authority. Primary coordination for victim protection and recovery should be exercised through a nationally designated victim protection coordination mechanism involving the Witness and Victim Protection Agency, while each participating institution retains its statutory authority over criminal investigation, prosecution, adjudication, medical treatment, immigration matters, social services, and legal assistance. A designated case coordinator should be assigned for each victim to ensure continuity of services and to prevent victims from being required to navigate multiple institutions independently.

Specifically, the government should establish a 24-hour Human Trafficking Crisis Center as an integrated access point for emergency protection, initial assessment, safe referral, legal assistance, psychological support, and temporary protection. The center should operate according to standardized referral procedures, clear response responsibilities, and a shared case-management protocol. Furthermore, the government needs to develop an online reporting system and a national anti-trafficking hotline to facilitate victims and the public in reporting human trafficking crimes quickly and safely. This integrated structure is consistent with the principle of access to justice because it is intended to reduce structural and bureaucratic barriers while preserving the legally defined authority of each participating institution.

Reconstruction of victim protection must also be realized through the establishment of an integrated multidisciplinary rehabilitation system that combines legal protection with

medical, psychological, social, and economic recovery, followed by sustainable victim reintegration. Multidisciplinary rehabilitation centers should therefore be established in trafficking-prone areas and regions with significant migrant worker populations. These centers should provide medical services, psychological counseling, trauma therapy, legal assistance, education and vocational training, productive economic assistance, and social reintegration for victims and, where appropriate, their families. The government may collaborate with universities, hospitals, civil society organizations, and international institutions to ensure the availability of professional psychologists, psychiatrists, social workers, and legal counsel.

Rehabilitation should not be regarded as successful merely because a victim has completed a program or has been formally repatriated. The future regulatory framework should establish measurable indicators covering at least physical and psychological recovery, safe and stable living conditions, access to education or employment, sustainable economic independence, continuity of legal protection, the absence of renewed contact with trafficking networks, and the victim's ability to participate voluntarily and safely in social life. Follow-up assessments should be conducted periodically according to risk levels, with particular attention to indicators of vulnerability to re-trafficking. Victims should also have the right to re-enter support programs if new risks or recovery needs emerge. In this manner, rehabilitation is transformed from a short-term administrative intervention into a measurable and sustainable recovery process.

To address the increasingly complex and digital-based patterns of modern human trafficking, legal reform must also integrate technology through the establishment of a digital victim monitoring system and an integrated anti-trafficking database. This system serves to continuously monitor the victim's rehabilitation process, restitution status, legal protection, and potential re-victimization. Specifically, the government needs to build an integrated national database that connects the police, prosecutors, courts, immigration, social services, the Ministry of Manpower, and the Witness and Victim Protection Agency in a single, integrated digital system. The system must be equipped with an early warning system to detect trafficking-prone areas, digital recruitment patterns, and cross-border human trafficking networks. Furthermore, law enforcement officers need to be trained in cyber trafficking investigations to address the growing number of trafficking methods based on social media, digital applications, and cross-border online scams. This technological enhancement is crucial because human trafficking has now evolved into an organized transnational crime that exploits advances in information technology to recruit and exploit victims covertly.

Reconstructing the law to protect human trafficking victims also requires strengthening cross-institutional and cross-border cooperation through harmonization of national laws with international legal instruments. Indonesia, as a party to the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, has an obligation to strengthen international cooperation in preventing, prosecuting, and protecting trafficking victims. Therefore, the government needs to establish a joint investigation and integrated border protection mechanism with destination countries for Indonesian migrant workers, such as

Malaysia, Singapore, Thailand, and Middle Eastern countries. Specifically, bilateral agreements are needed regarding the protection of migrant workers and the repatriation of trafficking victims, guaranteeing the rights to rehabilitation, restitution, and legal protection for victims abroad. Furthermore, the government needs to strengthen oversight of labor placement agencies and tighten digital-based migration systems to prevent the undocumented sending of vulnerable migrant workers into trafficking. International cooperation should also be directed at tracking the assets of transnational traffickers to support asset recovery mechanisms that can be used to pay restitution to victims.

Ultimately, the reconstruction of legal reforms for the protection of human trafficking victims must be directed at establishing a more humane, progressive, and substantively just legal system. Legal reform is not sufficient through regulatory changes alone, but also through changes in the legal culture of law enforcement officials and the public to be more sensitive to victims. Therefore, the government needs to mandate victim-centered justice education and training for the police, prosecutors, judges, immigration officers, and social rehabilitation workers to prevent victim blaming and secondary victimization. Furthermore, the government needs to expand public education through a national anti-trafficking campaign based in schools, universities, communities, and digital media to raise public awareness of the dangers of human trafficking. Specifically, the establishment of a National Anti-Human Trafficking Task Force across ministries and civil society is also crucial to ensure effective and sustainable coordination of victim protection policies. With legal reconstruction based on access to justice, restorative justice, and victim-centered justice, the human trafficking victim protection system in Indonesia is expected to provide comprehensive restoration of victims' rights and deliver justice that not only punishes perpetrators but also truly restores victims' dignity and lives.

To provide a clearer normative direction, the reconstruction should be translated into specific amendments to Law Number 21 of 2007 and Law Number 31 of 2014. First, the Human Trafficking Law should require investigators, prosecutors, and courts to consider restitution in every trafficking case involving identifiable victim losses, with reasons expressly stated where restitution cannot be calculated or imposed. Second, the law should provide that the inability of a perpetrator to satisfy a restitution order does not extinguish the victim's right to recovery and may trigger eligibility for a separate state compensation mechanism under legally defined conditions. Third, investigators and prosecutors should be authorized and required, subject to due process, to identify, trace, preserve, and seek the confiscation of assets connected to trafficking for the purpose of satisfying victim recovery obligations. Fourth, Law Number 31 of 2014 should be strengthened to provide a specific framework for multidisciplinary rehabilitation, sustainable reintegration, digital victim protection, and coordinated case management for trafficking victims. Fifth, the law should establish clear institutional coordination authority, referral obligations, shared case-management standards, and procedures for resolving overlapping responsibilities between agencies. Finally, the regulatory framework should provide administrative and disciplinary sanctions for officials or institutions that unlawfully obstruct access to restitution, fail to provide mandatory victim protection services without lawful justification, disclose

protected victim information, or engage in conduct that causes avoidable secondary victimization.

## Conclusion

Based on the results of the discussion, the legal protection for victims of human trafficking in Indonesia basically has a sufficient normative basis through Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons, Law Number 31 of 2014 concerning the Protection of Witnesses and Victims, and various international legal instruments such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child. However, the implementation of victim protection still faces various structural and normative weaknesses that prevent access to justice for victims from being optimally fulfilled. The Indonesian criminal law system still tends to be oriented towards punishing perpetrators rather than victim recovery, so that victims' rights to restitution, rehabilitation, and social reintegration have not been implemented effectively. The main problems are seen in the difficulty of executing restitution, the absence of state compensation funds for victims, weak multidisciplinary rehabilitation, minimal legal aid and psychosocial services, victim blaming, and the lack of integration of the victim protection system between agencies. Furthermore, the development of digital-based and transnational human trafficking patterns indicates that human trafficking has evolved into an organized transnational crime, requiring a more progressive, responsive, and victim-centered justice-based victim protection system. Therefore, reforming the law on human trafficking victim protection is urgently needed to ensure that the state is not only present to punish perpetrators but also able to restore victims' rights, dignity, and livelihoods comprehensively.

Based on these conclusions, a reconstruction of the law on human trafficking victim protection is needed by strengthening regulations on restitution and rehabilitation based on access to justice and victim-centered justice. The government needs to revise related regulations by adding a state compensation mechanism or a state-based victim compensation fund when perpetrators are unable to pay restitution, and strengthening the authority of the Witness and Victim Protection Agency in assisting and recovering trafficking victims. Furthermore, an integrated victim protection system needs to be established that integrates legal protection, medical, psychological, social, and economic rehabilitation, and sustainable victim reintegration through integrated service centers and trauma recovery centers in trafficking-prone areas. The state also needs to develop a digital victim monitoring system, strengthen cross-border cooperation in addressing transnational trafficking, and increase oversight of undocumented migrant workers and digital-based human trafficking. Furthermore, victim-centered justice education and training for law enforcement officers is crucial to eliminating the practice of victim blaming and secondary victimization in the criminal justice process. With comprehensive legal reforms focused on victim recovery, it is hoped that the protection system for human trafficking victims in Indonesia will be more effective, humane, and equitable, and able to guarantee the full fulfillment of victims' rights in accordance with the principles of human rights and substantive justice.

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