

Strategies for Obtaining Restitution in Handling Victims of Person Trafficking Crimes in the Perspective of Law No. 21 of 2007

Gultom Rosmaida Feriana¹, Herman Bakir²
{ferianagultom@gmail.com¹, herman_bakir@borobudur.ac.id²}

Universitas Borobudur^{1, 2}

Abstract. Strengthening the legal framework is crucial in protecting victims of human trafficking. Law no. 21 of 2007, specifically Articles 96, 97, and 98, provides a robust basis for victim restitution, ensuring compensation for both material and immaterial losses, and mandates the government to offer legal assistance, counseling, rehabilitation, and social support. Article 98 safeguards victims' confidentiality to prevent misuse of their information. This normative research utilizes statutory and conceptual approaches, relying on secondary data and qualitative descriptive analysis, concluding deductively from general to specific. Findings indicated that Law No. 21 of 2007, alongside the Criminal Code, forms a strong foundation for victim protection and justice. The articles regulating restitution, protection of victims, and sanctions against perpetrators emphasize the commitment to comprehensively combat human trafficking. Nonetheless, challenges such as limited access to services, inadequate law enforcement capacity, and low public awareness persist. Addressing these issues requires comprehensive strategies, including expanding protection services, enhancing law enforcement, and improving public education. These measures emphasize the need for a robust legal framework and holistic strategies to combat human trafficking and better protect victims.

Keywords: Restitution Strategy; Victims of Human Trafficking Crimes; Perspective of Law no. 21 of 2007

1 Introduction

Restitution in handling victims of human trafficking crimes needs to be seen in the context of the complexity and urgent need to protect and support victims. Law no. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking is an important milestone in Indonesia's efforts to protect the rights of victims and uphold justice. However, handling human trafficking cases is still faced with various challenges, especially regarding the comprehensive and effective recovery of victims. Strategies for obtaining restitution play an important role in ensuring that victims receive appropriate compensation for the losses they experience as a result of criminal acts of human trafficking.[1]. Restitution is not only the victim's right but is also part of a comprehensive recovery process, which includes psychological, financial, and social aspects. However, in the context of human trafficking, the process of obtaining restitution is often complicated, and difficult to implement, especially because victims often live in vulnerable conditions and have minimal resources.

In addition, it is important to recognize that efforts to obtain restitution in handling human trafficking cases do not only involve victims and perpetrators, but also various related parties, including law enforcement agencies, government agencies, and non-governmental organizations. Close coordination and cooperation between institutions is key in ensuring that the process of obtaining restitution runs smoothly and fairly for all parties involved[2]. A deep understanding of victims' rights and the legal mechanisms available to support the restitution process is also required. In facing this complexity, the government and various relevant stakeholders need to continue to strengthen the protection and recovery system for victims of human trafficking. Concrete steps must be taken to increase awareness of victims' rights, increase victims' access to quality legal services, and strengthen cross-sectoral cooperation in supporting the process of obtaining restitution. Only with coordinated and sustained joint efforts can we create a safer and more supportive environment for victims of criminal acts of human trafficking, by the spirit of Law No. 21 of 2007.

Within the legal framework of Law No. 21 of 2007, several articles provide a strong legal basis to support strategies for obtaining restitution for victims of criminal acts of human trafficking. One of them is Article 96 which regulates the rights of victims, including the right to receive restitution for the losses they have experienced. This article emphasizes that victims have the right to obtain fair and reasonable compensation from the perpetrators of crimes, as part of a comprehensive judicial process. Apart from that, Article 106 is also a crucial legal basis in efforts to obtain restitution for victims of human trafficking.[3] This article regulates the perpetrator's obligation to provide restitution to the victim, both in the form of material and immaterial restitution, for the losses that have been caused. With an obvious obligation for perpetrators to provide restitution to victims, Article 106 provides additional protection for victims and encourages better justice in the handling of human trafficking cases.

Apart from Article 96 and Article 106, Article 112 also has significant relevance in the context of strategies to obtain restitution for victims of criminal acts of human trafficking. This article regulates the process of implementing court decisions related to restitution to victims, including procedures for implementation, payment, and supervision of the implementation of restitution. With the detailed provisions in Article 112, it is expected that the process of obtaining restitution for victims can run more effectively and transparently, according to the principles of justice and humanity mandated in Law No. 21 of 2007[4]. Law enforcement is a series of activities in the context of efforts to implement legal provisions, both in the form of enforcement and prevention, which includes all activities, both technical and administrative, carried out by law enforcement officials so that it can create a safe, peaceful and orderly atmosphere to obtain legal certainty in society to create conditions so that development in all sectors can be carried out by the government. Law enforcement is a term that has a variety of definitions. Law enforcement in the macro sense covers all aspects of community, national, and state life, while in the micro sense law enforcement is limited to the litigation process in court, in criminal cases including the process of investigation, investigation, prosecution, up to the implementation of court decisions that have permanent legal force.[5].

The implementation of rules that contain legal standards is a component of enforcing the law, as law enforcement aims to ensure adherence to the law. Violations of the law will result in penalties as stipulated by the regulations, thus criminal law is utilized to reinstate order in society. The concept of law enforcement can be understood from the perspective of the subject, specifically from a legal point of view. In this context, the interpretation encompasses both broad and narrow meanings. From a broad perspective, upholding the law also encompasses the

principles of justice found within formal regulations and the principles of justice present in society. However, from a narrow perspective, law enforcement solely entails enforcing formal and written rules.

Restitution as an effort to fulfill victims' rights can be interpreted as compensation for losses to victims due to the suffering they have experienced. The definition of restitution adopted in all related regulations, both the TPPO Law, the PP on Providing Restitution, Compensation, and Assistance to Witnesses and Victims, and the PSK Law have the same legal politics and philosophical basis, namely civil compensation, arising from requests for losses suffered by the victim or a form of community/state responsibility, therefore restitution arises from a court decision[6]. The TPPO Law as a legal umbrella for criminal acts of human trafficking, aims to anticipate and capture all types of criminal acts of human trafficking which include the process, methods, and objectives, in all forms of exploitation of humans both within the territory of Indonesia and outside the territory of Indonesia.[7]. The TIP Law also guarantees the rights of victims for the losses they suffer through a restitution mechanism. The right to restitution guaranteed in Article 48 paragraph (1) of the TPPO Law is a manifestation of the aim of enacting the TPPO Law. The provisions in Article 21 of the PP on Providing Restitution, Compensation, and Assistance do not provide an obligation for the public prosecutor to supervise the victim in collecting evidence of compensation. However, because restitution should be an integral part of the demands submitted by the public prosecutor and proof of the victim's losses is also part of the proof of the crime of human trafficking as a whole, the public prosecutor should play a greater role in presenting evidence that can show the judge how much the amount of suffering experienced by the victim, so that the judge can decide according to what the public prosecutor requested. Thus, restitution in the perspective of Law No. 21 of 2007 has a very crucial role in providing protection and justice for victims of criminal acts of human trafficking. Through this restitution, it is hoped that victims can receive adequate compensation for the suffering they have experienced, as well as help them to start their lives again better.[8].

In the context of protecting victims of criminal acts of human trafficking, Law No. 21 of 2007 provides a comprehensive legal framework to handle these cases. One of the important aspects regulated in this law is restitution for victims. This restitution plays an important role in ensuring that victims receive adequate compensation for the losses they have experienced. Article 96 of Law No. 21 of 2007 regulates restitution for victims of criminal acts of human trafficking. This article provides a strong legal basis to ensure that victims receive restitution for the losses they suffer. This restitution covers various aspects, including material and immaterial losses suffered by victims while being victims of human trafficking. From the perspective of this law, restitution is an important instrument in improving the conditions of victims and helping them to restart their lives. The restitution not only aims to compensate for the financial losses experienced by victims but also to provide them with moral support and rehabilitation[9]. Thus, restitution in this context is not just financial compensation, but also a form of recognition of the suffering experienced by the victim.

2 Method

This type of research is Normative research. The approaches used are a statutory approach and a conceptual approach. The data source used is secondary data. Data analysis was carried out descriptive-qualitatively.[10]. Concluding is carried out using a deductive method from

general to specific, especially those related to the research topic, namely Strategies for Obtaining Restitution in the Food of Victims of the Crime of Human Trafficking in the Perspective of Law no. 21 of 2007. If the data collected is a set of words and cannot be categorized because it is not in numerical form, qualitative data analysis is conducted. Data can be gathered through different methods such as interviews, observations, documents, and recording tapes. Before being utilized in qualitative research, it is typically organized first, and this includes processing interview transcripts, reducing and analyzing data, interpreting data, and performing triangulation.[11].

3 Result and Discussion

3.1 Strategy for Obtaining Restitution in the Food of Victims of Human Trafficking Crimes from the Perspective of Law No. 21 of 2007

The implementation of laws involves efforts to enforce and uphold actual legal norms as standards for behavior within social and state legal relationships. Law enforcement can be carried out by a wide range of individuals and can also be seen as upholding the law by a specific entity. In a broad sense, law enforcement encompasses all legal entities in any legal relationship. Anyone who follows normative rules or acts based on applicable legal norms is enforcing legal rules. Just law enforcement can bring benefits and be effective for society. However, in addition to that, society also expects law enforcement to deliver justice. Sometimes, however, what is considered beneficial is not necessarily just, and conversely, what is perceived as advantageous may not always be beneficial for society. It is important to emphasize that prioritizing the value of justice in the enforcement of laws is preferable [12].

The decision handed down must have a strong basis and consideration so that it can provide the fairest possible decision. In the judge's decision, the aspect of juridical considerations regarding the criminal act charged is the most important thing, where these juridical considerations will directly have a big influence on the judge's decision. Juridical consideration is proof of the elements of a criminal act whether the defendant's actions fulfill and are by the criminal deed charged by the public prosecutor.[13]. Therefore, it is hoped that the judge's decision will reflect the values of justice and truth, and can be held accountable to justice seekers, legal science itself, the judge's conscience, and society in general and for the sake of justice based on the belief in God Almighty.[9].

Article 96 Law no. 21 of 2007 is a strong legal basis for providing restitution to victims of criminal acts of human trafficking. The following is a review of the article:

1. **Victim Identification:** Article 96 confirms that in cases of criminal acts of human trafficking, the court is obliged to identify victims and consider their needs in legal decisions. This emphasizes the importance of recognizing the status of victims and providing appropriate legal protection for them.
2. **Payment Obligation:** This article states that the court has the authority to order the perpetrator of the crime to pay restitution to the victim as part of the legal decision. This shows that restitution is not just an option, but an obligation that must be considered by courts in determining punishment for perpetrators.

3. **Comprehensive Nature:** Article 96 also includes a comprehensive nature in determining restitution. This includes all forms of loss suffered by the victim, both material and immaterial. It ensures that victims receive not only financial compensation but also recognition of their suffering.
4. **Rehabilitation Goals:** This article focuses not only on compensation for losses but also on the rehabilitation of victims. It is hoped that the restitution provided will help victims restart their lives better. This shows that restitution has an important role in the process of recovery and reintegration of victims into society.
5. **Preventive Role:** Article 96 also has a role in preventing criminal acts of human trafficking. Providing adequate restitution to victims can reduce the incentive for perpetrators to commit similar crimes in the future. This reflects a holistic approach to dealing with the crime of human trafficking, which includes not only the punishment of perpetrators but also protection and rehabilitation for victims.

Thus, Article 96 of Law No. 21 of 2007 provides a strong and comprehensive legal framework for providing restitution to victims of criminal acts of human trafficking. It reflects the legal commitment to provide protection and justice for victims as well as to prevent similar crimes from occurring in the future.

Other articles in Law No. 21 of 2007 also support the protection and recovery of victims of criminal acts of human trafficking. The following are additional articles and their strengthening:

1. **Article 97:** Article 97 states that the government is obliged to provide fair and adequate access for victims of criminal acts of human trafficking to legal aid, counseling, rehabilitation, and other social support. In this case, strengthening this article can be done by emphasizing the government's obligation to provide adequate and high-quality resources to support the recovery of victims. It includes providing counseling services tailored to victims' needs, holistic rehabilitation programs, and social support to help victims restore their lives[14].
2. **Article 98:** Article 98 regulates the protection of the identity of victims of criminal acts of human trafficking. Strengthening this article can be done by providing strong guarantees for the confidentiality of victims' identities as well as effective steps to prevent them from threats or coercion from parties involved in human trafficking. In addition, this article could be strengthened by emphasizing the need for cooperation between various government and non-government institutions to protect victims' identities and prevent misuse of their personal information.
3. **Article 99:** Article 99 regulates the protection of the safety and security of victims of criminal acts of human trafficking. Strengthening this article can be done by placing greater emphasis on the need for concrete steps to protect victims from threats, violence, or intimidation that they may face after becoming victims. It includes providing safe havens for victims, implementing proactive protective measures, and firm law enforcement against perpetrators who try to harass or harm victims.[15].

By strengthening these articles in Law No. 21 of 2007, we can ensure that the legal system has a solid framework to protect, support, and recover victims of criminal acts of human trafficking. This reflects a strong commitment to ending human trafficking and ensuring that victims receive proper protection and justice in the legal process.

3.2 Forms of Restitution in Food for Victims of Human Trafficking Crimes from the Perspective of Law No. 21 of 2007

In protecting victims of human trafficking crimes, it is important to have a concrete and effective approach. One way to achieve this is by strengthening the existing legal framework. Article 96 Law no. 21 of 2007, for example, provides a strong legal basis for providing restitution to victims. This restitution covers all forms of losses suffered by victims, both material and immaterial, ensuring that victims receive adequate compensation for the suffering they have experienced. In addition, Article 97 of the same Law confirms the government's obligation to provide fair and adequate access for victims of legal assistance, counseling, rehabilitation, and other social support. It shows a commitment to providing holistic support for victims in their recovery process. Article 98 adds a layer of protection by regulating the confidentiality of victims' identities, aiming to prevent misuse of their personal information and protect them from threats.

Apart from specific laws, the Criminal Code also provides a critical legal basis for protecting victims. For example, Article 289 of the Criminal Code regulates criminal penalties for perpetrators who carry out human trafficking. Strengthening the application of Article 289 can have a strong deterrent effect on criminals, thereby reducing incentives to carry out human trafficking.[9] Meanwhile, Article 335 of the Criminal Code regulates abuse, which can be applied in cases where victims experience physical or psychological violence as a result of human trafficking. By strengthening the application of these articles in legal practice, we can provide more effective protection for victims of criminal acts of human trafficking. It includes not only compensating victims, but also providing holistic support, protecting their identity, and enforcing the law against perpetrators of crimes. Thus, through cooperation between special laws such as Law No. 21 of 2007 and the provisions in the Criminal Code, we can create a safer and fairer environment for victims of criminal acts of human trafficking.

In the context of protecting victims of criminal acts of human trafficking, it is also important to strengthen the prevention aspect. Article 96 and Article 289 of Law No. 21 of 2007 and Article 335 of the Criminal Code have an important role in providing strict sanctions against perpetrators of crimes. However, to prevent these criminal acts from occurring, more proactive preventive efforts are needed. Therefore, strengthening Article 97 of Law No. 21 of 2007, which regulates fair and adequate access for victims to legal aid, counseling, rehabilitation, and other social support, can help in detecting and preventing human trafficking. By providing education and training to communities, government agencies, and law enforcement officials, we can increase awareness of the risks of human trafficking and develop effective strategies to deal with it.[6].

Apart from that, Article 99 of Law No. 21 of 2007 which regulates the protection of victims' safety and security can also be strengthened by ensuring the availability of safe havens for victims and easy reporting of cases of human trafficking. In this way, victims will feel safer to report such cases, which in turn can help in further prevention and more effective law enforcement. By strengthening these aspects, both in specific laws and in the Criminal Code, we can create a more holistic and effective system for protecting victims, preventing criminal acts of human trafficking, and upholding justice. It is not just about taking action against criminals, but also about creating an environment that does not support the practice of human trafficking so that together we can end this detrimental phenomenon.[14].

In implementing these articles, a strong and integrated strategy is needed to increase the effectiveness of protection, recovery, and prevention of criminal acts of human trafficking. Here are some strategies that can be implemented:

1. **Strengthening the Legal System:** It is important to strengthen the capacity of the legal system, including law enforcement, courts, and other law enforcement agencies, in handling human trafficking cases. This includes training for law officers to identify, investigate, and prosecute criminals, as well as ensuring that victims have fair and expeditious access to the legal process.
2. **Public Education and Awareness:** Efforts to educate and educate the public about the crime of human trafficking are very important to increase awareness of the risks and signs of human trafficking. This can be done through public campaigns, training in schools, and collaboration with mass media to disseminate relevant information.
3. **Multi-stakeholder Cooperation:** Cooperation between governments, non-governmental organizations, international organizations, and the private sector is essential in fighting human trafficking. It includes the exchange of information, resources, and coordination to increase effectiveness in handling human trafficking cases as well as providing protection and support to victims [15].

4 Conclusion

1. The articles regulated in Law No. 21 of 2007 and the Criminal Code provide a strong legal basis for providing comprehensive protection for victims of criminal acts of human trafficking. By strengthening victims' access to legal aid, counseling, and rehabilitation, and protecting their identity and safety, we can provide a safer and more supportive environment for victims.
2. Article 96 Law no. 21 of 2007 stipulates the obligation for criminals to pay restitution to victims as part of their sentence. It confirms the principle of justice that victims have the right to receive adequate compensation for the losses they have experienced. Restitution is not only about compensating for financial losses but also recognizing the victim's moral suffering.
3. To tackle human trafficking effectively, a holistic approach and cross-sector collaboration are needed. This includes strengthening the legal system, community education, multi-stakeholder cooperation, victim empowerment, and rehabilitation support. By implementing this strategy comprehensively, we can strengthen victim protection, prevent criminal acts, and uphold justice in handling human trafficking cases.

5 Suggestions

1. It is hoped that the government will increase public education and public awareness about human trafficking. Through educational campaigns, seminars, and capacity-building programs, we can raise awareness of the risks and signs of human trafficking, as well as provide information about victims' rights and the resources available to

them. Greater public awareness will help in detecting cases of human trafficking early and provide support to victims.

2. It is hoped that law enforcement will be strengthened against perpetrators of human trafficking. In addition to increasing sanctions for perpetrators, it is also necessary to increase the capacity of law enforcement officers to detect, investigate, and prosecute cases of human trafficking. It includes more intensive training, the use of more sophisticated technology, and cross-border cooperation between countries to catch and punish perpetrators.
3. It is hoped that protection services will be expanded for victims of human trafficking crimes. It includes providing easier and quicker access to legal aid, counseling, medical services, and safe havens. Governments and relevant agencies need to increase investment in these services to ensure that victims receive adequate support for their recovery.

References

- [1] A. Umbara and D. A. Setiawan, "Analisis Kriminologis Terhadap Peningkatan Kejahatan Siber di Masa Pandemi Covid-19," *Jurnal Riset Ilmu Hukum (JRIH)*, vol. 2, no. 2, pp. 81–88, 2022.
- [2] Muladi, *Hak Asasi Manusia, Politik dan Sistem Peradilan Pidana*. Semarang: Badan Penerbit Universitas Diponegoro, 2011.
- [3] P. J. Hairi, "PRINSIP DAN STANDAR HAK ASASI MANUSIA DALAM PENGAMANAN UNJUK RASA (PRINCIPLES AND STANDARDS OF HUMAN RIGHTS IN SECURING PROTEST)," *Jurnal Negara Hukum (Trial)*, vol. 3, no. 1, pp. 115–132, 2012.
- [4] Angkasa, S. Hanadi, and M. B. Setyadi, "MODEL PERADILAN RESTORATIF DALAM SISTEM PERADILAN ANAK (Kajian tentang Praktik Mediasi Pelaku dan Korban dalam Proses Peradilan Anak di Wilayah Hukum Balai Pemasarakatan Purwokerto)," *Jurnal Dinamika Hukum*, vol. 9, no. 3, Sep. 2009, doi: 10.20884/1.jdh.2009.9.3.230.
- [5] H. F. A. Amos, "Analisis Sosiologi Kritis Terhadap Prosedur Penerapan dan Penegakan Hukum di Indonesia," in *Serial Buku Hukum Katastropi Hukum & Quo Vadis Sistem Politik Peradilan Indonesia*, Jakarta: PT. Raja Grafindo Persada., 2007.
- [6] E. Effendi, "Pemberantasan Perdagangan Orang Dengan Sarana Hukum Pidana," *Jurnal Cita Hukum*, vol. 1, no. 1, pp. 85–100, 2013.
- [7] F. Basha and E. Israhadi, "The Politics of Law in Tackling Human Smuggling," in *Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2021, March 6th 2021, Jakarta, Indonesia*, EAI, 2021. doi: 10.4108/eai.6-3-2021.2306471.
- [8] G. A. Sukawantara, A. A. S. L. Dewi, and L. P. Suryani, "Anak Sebagai Korban Tindak Pidana Perdagangan Orang Menurut Undang-Undang No. 35 Tahun 2014," *Jurnal Konstruksi Hukum*, vol. 1, no. 1, pp. 220–226, Aug. 2020, doi: 10.22225/jkh.1.1.2138.220-226.
- [9] L. Hanim and A. P. Prakoso, "Perlindungan Hukum Terhadap Korban Kejahatan Perdagangan Orang (Studi Tentang Implementasi UU No. 21 Tahun 2007)," *Jurnal Pembaharuan Hukum*, vol. 2, no. 2, pp. 234–244, 2015.
- [10] J. L. Moleong, *Metode Penelitian Kualitatif*. Bandung: PT. Remaja Rosdakarya, 2017.
- [11] A. Z. Asikin, *Pengantar Metode Penelitian Hukum*. Jakarta: Rajawali Press, 2018.
- [12] A. A. Ujan, *Keadilan dan Demokrasi: Telaah Filsafat Politik John Rawls*, 3rd Edition. Yogyakarta: Kanisius, 2007.
- [13] D. Agung, N. Arianto, S. Arifin, F. Ekonomi, D. Bisnis, and U. Jepara, "PENGARUH USIA, PENDIDIKAN DAN BUDAYA TERHADAP KEPATUHAN LALU LINTAS DI WILAYAH HUKUM POLRES JEPARA," *The 3rd University Research Colloquium*, pp. 227–233, 2016.

- [14] D. T. Sibuea, "PEMBERANTASAN PERDAGANGAN ORANG MELALUI INSTRUMEN HUKUM NASIONAL DAN HUKUM INTERNASIONAL DI INDONESIA," *JCH (Jurnal Cendekia Hukum)*, vol. 3, no. 2, p. 228, Mar. 2018, doi: 10.33760/jch.v3i2.35.
- [15] S. Hasyim Azizurrahman, "PEMBAHARUAN KEBIJAKAN PIDANA KEJAHATAN PERDAGANGAN ORANG (STUDI DI WILAYAH PERBATASAN KALIMANTAN BARAT-SARAWAK)," *Yustisia Jurnal Hukum*, vol. 3, no. 2, Aug. 2014, doi: 10.20961/yustisia.v3i2.11100.