

# Restitution in Social Reintegration of Human Trafficking Victims: An Islamic and Indonesian Criminal Law Perspective

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## Abstract

The crime of human trafficking has a significant impact and affects a large number of victims. This study examines the legal framework for protecting victims in Indonesia, analyzing these laws through the lenses of constitutionalism, natural law theory, and Islamic perspectives on restitution and social reintegration. The study used Natural Law theory to analyze the fundamental principles of justice that should guide the enforcement of restitution for victims of human trafficking. It also evaluated the alignment of Indonesian positive laws with principles of natural justice and the social reintegration of victims, using perspectives of constitutionalism and Islamic law. The research methods employed in this study included normative legal research, literature review, and qualitative analysis. The study found that Indonesian positive laws, such as Law No. 21 of 2007 and Law No. 1 of 2023, establish a comprehensive legal framework for the recovery and protection of human trafficking victims. However, they do not fully address the specific needs of victims, particularly in terms of psychological support. Evaluating based on constitutionalism and the concept of *diyyah* in Islam emphasizes the importance of financial compensation in recognizing the victims' suffering. Additionally, the concept of *kafālah* underscores the need for guaranteed protection, including social support, education, and social reintegration, to fully restore the dignity and well-being of victims. The study highlights the importance of community involvement in the reintegration process and advocates for legal reforms to enhance the effectiveness of the existing framework. These findings emphasize the need for an interdisciplinary approach in legal and policy frameworks to ensure the full recovery and reintegration of human trafficking victims.

## Article History

Received: 02-08-2024

Revised: 22-08-2024

Accepted: 09-09-2024

## Keywords:

Criminal Law;  
Human Trafficking;  
Islamic Perspective;  
Restitution;  
Social Reintegration.



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## INTRODUCTION

Human trafficking is one of the most serious crimes faced by the international community. This crime involves the exploitation of humans in various forms, including modern slavery, forced labor, and sexual exploitation. Internationally, human trafficking has been recognized as a severe violation of human rights, as reflected in various legal instruments, such as Office of the United Nations High Commissioner for Human Rights (OHCHR, 2000), which addresses the prevention, suppression, and punishment of trafficking, particularly in women and children. At the national level, many countries, including Indonesia, have ratified and implemented laws to prevent and combat human trafficking. Nevertheless, challenges in law enforcement and victim protection remain significant, especially in countries with limited law enforcement resources and strong organized crime networks (Ambagtsheer, 2021; Katona, 2020).

In Indonesia, human trafficking remains a serious issue, with thousands of victims reported each year. In 2023, it was recorded that 3,363 people became victims of human trafficking in Indonesia, highlighting the widespread nature of this problem in the country (Ahdiat, 2024). Data from the Australian Embassy indicate that around 2% of migrant workers in Indonesia fall victim to human trafficking, suggesting that this problem not only affects Indonesian nationals but also migrant workers from other countries (Australian Embassy Indonesia, 2024). Human trafficking networks in Indonesia are highly organized, involving individuals with financial and social power,

as well as influence at various levels of government and society (Gezie et al., 2021; Van Buren et al., 2021). These networks operate down to the district and village levels, making communities in these areas particularly vulnerable to exploitation and this crime. This crime not only violates various provisions of the Human Rights Charter but also draws international attention, demanding Indonesia strengthen its efforts to combat human trafficking (John, 2020; Mileski et al., 2020).

Restitution is a crucial step in the rehabilitation process for victims of human trafficking, aimed at restoring the victims to their original state before the exploitation occurred. As a country that upholds constitutionalism, Indonesia must refer to its constitution in its efforts to combat human trafficking. Article 28I paragraph 4 of the 1945 Constitution of the Republic of Indonesia emphasizes that the protection of human rights and citizens is the responsibility of the government (DPR RI, 2024). The strength of human trafficking networks cannot be used as an excuse for the state to fail to protect its people (Blanton et al., 2020; Fernandes et al., 2020). Article 27 paragraph 2 of the 1945 Constitution also states that every citizen has the right to employment and a decent livelihood, a right that is violated by human trafficking practices (Nathanian et al., 2022). Therefore, the state must put an end to this practice. Indonesia's commitment to combating human trafficking is reflected in various laws, such as Law No. 21 of 2007 on the Eradication of Human Trafficking Crimes and Law No. 1 of 2023 on General Provisions of Criminal Law (Presiden RI, 2007, 2023). These laws demonstrate the state's good intentions in protecting its citizens and dispelling suspicions of state officials' involvement in this crime.

An essential aspect of human trafficking prevention is restitution, which aims to restore victims to their original condition. However, this process is not easy, as many victims have suffered greatly. According to reports from the United Nations Office on Drugs and Crime (UNODC), this process includes not only physical and psychological recovery but also economic and social rehabilitation, which is often hindered by a lack of resources, complex bureaucracy, and the social stigma attached to victims (UNODC, 2019). For example, research conducted by the International Organization for Migration (IOM) shows that victims often face difficulties in accessing rehabilitation and reintegration services due to the economic and social vulnerabilities they experience after escaping human trafficking situations (IOM, 2010). Thus, it is clear that the challenges in the restitution process are not only related to the harm suffered by the victims but also the complexity of the system and the lack of adequate support to facilitate their recovery (Yagci Sokat et al., 2024).

Additionally, according to Islamic teachings, human trafficking is strictly prohibited as it goes against the principles of justice and humanity taught by the religion. The Quran emphasizes the importance of respecting the dignity of every individual, as stated in Surah Al-Hujurat verse 13, "O mankind! We have created you from a male and a female and made you into nations and tribes so that you may know one another. Verily, the most honorable of you in the sight of Allah is the most righteous of you. Verily, Allah is All-Knowing, All-Aware" (Quranweb.id, 2024). This verse teaches that all humans are created equal and must be treated fairly. Ibn Kaṣīr's tafsir of Surah Al-Hujurat verse 13, also affirms this principle, emphasizing that all people hold the same status before Allah (Katsir, 2004). As narrated by Imām Muslim from Abū Hurairah, he said, "The Messenger of Allah said, 'Indeed, Allah does not look at your appearances or wealth, but He looks at your hearts and deeds'". This hadith is also narrated by Ibn Mājah from Aḥmad bin Sinān, from Kaṣīr ibn Hisyām. This shows that a person's honor in the eyes of Allah is not determined by appearance or wealth, but by piety and good deeds. Imam Ahmad also narrated from 'Abdullah bin 'Amīrah, the husband of Darrah bint Abī Lahab, from Darrah bint Abī Lahab, who said, "A man stood before the Prophet Muhammad while he was on the pulpit and said, 'O Messenger of Allah, who is the best person?'", The Prophet Muhammad replied: "The best of people is the one who recites the Qur'an the best, fears Allah the most, enjoins what is right and forbids what is wrong, and maintains family ties the best". Furthermore, the Prophet Muhammad's hadith also condemns all forms of exploitation and injustice against fellow humans. In a hadith, the Prophet Muhammad said, "There are three persons whom I will oppose on the Day of Judgment: a man who makes a covenant in My

Name and then breaks it; a man who sells a free person and eats his price; and a man who hires a laborer and takes full work from him but does not pay him his wages” (Al-Bukhārī, 1997).

Several studies have examined the issue of restitution and compensation for crime victims, particularly victims of human trafficking in Indonesia. The study by Ali et al. (2022) highlights the deficiencies in Indonesian legislation regarding victims' rights to compensation and restitution and the challenges faced by victims in obtaining these rights, especially when perpetrators prefer to serve prison sentences rather than pay restitution. Pasaribu & Master (2020) also discusses the challenges in implementing restitution for victims of human trafficking in Indonesia with a restorative justice approach, similar to this study, which evaluates the restitution system in the context of victims' social reintegration. Sadia & Abbasi (2022) although focused on the Islamic legal perspective, also addresses the issue of human trafficking and highlights the Islamic view on protecting victims from exploitation and human rights violations, which relates to this study in exploring the Islamic view on restitution.

Comparing two legal norms, namely Islamic law and Indonesian criminal law, in examining the issue of restitution for victims of human trafficking is important because each legal norm offers different yet complementary perspectives and approaches in ensuring the restoration of victims' rights. Islamic law, with its moral and spiritual approach, emphasizes justice, humanity, and respect for individual dignity as reflected in the teachings of the Qur'an and hadith, thus providing a strong ethical foundation for the protection of victims' rights (Insani et al., 2023; Sule & Mainiyo, 2024). Meanwhile, Indonesian criminal law, institutionalized in various laws such as Law Number 21 of 2007, offers a specific formal legal framework for the enforcement of restitution through judicial mechanisms. A study that combines these two approaches can provide a more comprehensive understanding of the best ways to ensure full recovery for victims, both from a formal legal perspective and from the moral and social justice aspects (Ali et al., 2022; Sadia & Abbasi, 2022). Therefore, this comparative analysis not only enriches academic discourse but can also offer practical contributions to the development of more effective and humane policies for handling human trafficking cases in Indonesia.

Although this study and previous studies share a focus on the issue of restitution and protection for human trafficking victims, there are some important differences. Ali et al.'s emphasizes the juridical evaluation of existing legislation and judicial responses to victims' rights, while this study aims to evaluate the restitution system from the perspective of constitutionalism and natural law theory and how Islamic views can influence the social reintegration of victims. Pasaribu's focuses on the implementation of restitution in the context of restorative justice, while this study broadens the scope by including an evaluation of Islamic views and constitutionalism. Saida and Abbasi's explicitly explores the concept of human trafficking from the Islamic legal perspective, while this study places more emphasis on the aspects of restitution and social reintegration of victims within the Islamic view and Indonesian criminal law.

This study offers novelty by combining positive legal analysis, natural law theory, and Islamic views in the context of restitution and social reintegration of human trafficking victims. Not only does it evaluate the deficiencies in existing legislation, but it also offers a constitutionalism perspective and natural law theory. It introduces Islamic views as an alternative approach to the social reintegration of victims. Therefore, this study focuses on the restitution system for human trafficking victims, with three main questions: what is the applicable positive law for human trafficking victims in Indonesia? How is the evaluation of these rules based on the prevailing constitutionalism in Indonesia and natural law theory, and how is the Islamic view on restitution in the context of social reintegration of human trafficking victims? Hence, this study provides a significant contribution by offering a holistic and multidimensional approach to understanding and addressing the issue of restitution and social reintegration of human trafficking victims. By introducing Islamic views as an alternative, this study also opens up new discourse that can serve as a basis for policymakers to design more inclusive and just policies for human trafficking victims in Indonesia.

## METHODS

This research employed a qualitative research method (Simons, 2014) with the primary aim of analyzing and interpreting the legal framework governing human trafficking in Indonesia, particularly the restitution process for victims. A qualitative approach was chosen to analyze the existing positive laws for victims of human trafficking in Indonesia, evaluated these laws based on the constitutionalism applied in Indonesia, as well as natural law theory, and examined the Islamic perspective on restitution within the context of the social reintegration of human trafficking victims. A juridical and deductive approach was applied within the qualitative framework, where the juridical aspect involved an examination of Indonesia's current laws and regulations related to human trafficking. This approach was crucial in identifying how the existing laws aligned with broader legal principles such as constitutionalism, natural law theory, and Islamic legal perspectives.

Since this research was a literature review or library study, the primary data sources consisted of books, scholarly journals, legal documents, and other authoritative sources. These materials were systematically reviewed and selected based on their relevance to the research objectives. Data collection was conducted by carefully gathering and reviewing relevant literature, ensuring that the selected materials addressed the research questions comprehensively (Dizon, 2024). This process involved identifying key themes from the literature directly related to the restitution process for victims of human trafficking, based on both Indonesian criminal law and Islamic law.

For data analysis, qualitative descriptive analysis techniques were used. The researcher categorized the data according to key themes identified from the literature, allowing for a systematic and logical presentation of findings (Creswell & Poth, 2016). This analysis sought to provide insights into how Islamic law and Indonesian criminal law conceptualized restitution and supported the social reintegration of human trafficking victims. This study focused on the restitution system for human trafficking victims, analyzed through various legal approaches and perspectives. Natural law was used to explore the universal principles of justice that should underpin the enforcement of restitution for human trafficking victims. According to John Finnis (1980) in *Natural Law and Natural Rights*, this theory emphasized moral and justice principles inherent in human nature and society (Bello, 2023). Therefore, the question arose: how did the positive law applicable to human trafficking victims in Indonesia align with these principles?

Furthermore, constitutionalism was selected as an approach to evaluate the alignment of existing laws in Indonesia with constitutional principles. In the views of Hobbes and Rousseau, natural law involved the concept that humans inherently had rights and freedoms, and the law needed to reflect a social contract between individuals and society (Grewal & Purdy, 2018). In the Indonesian legal framework, the prevailing constitutionalism also recognized the importance of popular sovereignty as enshrined in the 1945 Constitution, particularly in the principles of popular sovereignty and human rights, which were aligned with the basic concepts of natural law (Meliala & Woods, 2022). The question then became: how was the assessment of these laws based on the constitutionalism prevailing in Indonesia and natural law theory?. Lastly, the Islamic perspective was used to analyze the Islamic view on restitution and social reintegration for human trafficking victims. Jasser Auda (2008) in *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* explained that social justice and the protection of human rights were key principles in Islamic law (Murti & Syah, 2021). The question was “how did Islam view restitution within the context of the social reintegration of human trafficking victims?”.

## RESULTS AND DISCUSSION

### Positive Law Applicable to Victims of Human Trafficking in Indonesia

The efforts for recovery and protection of victims of human trafficking in Indonesia have been explicitly outlined in Law No. 21 of 2007 on the Eradication of Human Trafficking Crimes (Presiden RI, 2007) and further strengthened by Law No. 1 of 2023, which reinforces several aspects of victim recovery and protection efforts (Presiden RI, 2023). In the context of restitution,



the steps taken by the state reflect a commitment to punish perpetrators and provide substantial support to victims. Indonesia's positive law, particularly regarding human trafficking protection, has made significant progress with the enactment of Law No. 21 of 2007 on the Eradication of Human Trafficking Crimes (HTC). This law provides a solid legal foundation for prosecuting perpetrators and expanding victim protection, including recognition of various forms of human trafficking such as sexual exploitation, forced labor, and child trafficking. This broad scope is supported by stringent criminal sanctions to deter offenders, simultaneously showing the government's seriousness in addressing human trafficking cases (Olivieri et al., 2024).

One of the significant breakthroughs is Article 27, which offers a concrete solution by canceling victims' debts often used by perpetrators as tools of manipulation and control, thus freeing victims from unfair financial pressures (Badriyanti et al., 2023). Furthermore, Articles 44 and 45 strengthen the protection of victims' identity and safety, ensuring they can undergo recovery without fear of retaliation or intimidation from perpetrators (Owairan, 2022). The government has also established a special police division focused on handling these cases, ensuring that victims receive the care and security needed to overcome trauma. This protection is further expanded in Articles 47 and 48, emphasizing physical protection and psychological recovery for victims, including access to facilities such as shelters, counseling services, and medical assistance (Presiden RI, 2007). On the other hand, Law No. 1 of 2023 introduces Articles 455 and 456, emphasizing the importance of harsher punishments for perpetrators, with sentences of up to 15 years in prison and the revocation of certain rights, sending a clear message that the state will not tolerate human trafficking (Presiden RI, 2023). Overall, these provisions demonstrate a comprehensive approach to protecting victims while simultaneously providing deterrence for perpetrators through increased penalties and stronger protection for victims.

However, there are some negative aspects to the implementation of this positive law. Despite the strength of regulations related to the prevention of human trafficking, the main challenge lies in its enforcement. The enforcement of the HTC Law is often hindered by limited resources and the lack of capacity among law enforcement officers in various regions, especially in remote areas (Naibaho, 2011). Additionally, many cases in which human trafficking victims do not receive adequate protection or restitution are due to a lack of legal understanding among officers and the community (Aryana, 2020; Chandra, 2019). This contributes to the large number of cases that go unreported or are not properly handled. Although efforts such as officer training, outreach programs, and strengthening cross-agency cooperation have been implemented, the effectiveness of law enforcement in the field still needs improvement (Middleton & Edwards, 2020). Some human traffickers still manage to evade punishment or receive penalties that are not commensurate with their crimes. On the other hand, victims often face social stigma despite having received identity protection, which hinders their reintegration into society (Ramaj, 2023). Additionally, the restitution mechanism for victims has not yet been effectively implemented, with some victims not receiving adequate compensation or facing a very slow process, thus hindering their full recovery (Firmansyah et al., 2022). Therefore, further improvements in the legal system are needed to ensure that victims' rights are truly protected and fulfilled to the maximum extent.

Human trafficking has become a complex phenomenon caused by various interrelated factors. Its main cause is poverty, where individuals, especially women and children, are forced to seek work outside their areas or even abroad to survive (Asnawi et al., 2022). This condition makes them vulnerable to fraud and exploitation, either in the form of forced labor or sexual exploitation. Families living in poverty often resort to survival strategies, such as migration for work, which ultimately worsens their vulnerability to debt bondage and labor exploitation. A lack of awareness and education also becomes a significant factor. Many individuals are unaware of the threat of human trafficking or do not understand the modus operandi of criminal syndicates that use deception to trap victims into modern slavery (Sumby et al., 2021)s. The low level of education further exacerbates the situation, as individuals with limited skills are more easily manipulated and exploited. Moreover, the desire to get rich quickly motivates many people to accept job offers that

appear enticing but end in physical or sexual exploitation (Asnawi et al., 2022). Often, job offers with high salaries are used by human traffickers to lure victims who are unaware of the risks behind them. Cultural and patriarchal factors also play a large role in increasing women's vulnerability to human trafficking (Ong et al., 2022). Cultural norms that place women in subordinate positions, combined with traditional obligations to support families, create social pressures that encourage women to take risks by working abroad or in dangerous environments. Practices such as early marriage and debt bondage labor further reinforce this vulnerability.

Corruption and weak law enforcement add another layer of complexity to addressing human trafficking. In Indonesia, for example, corruption among law enforcement officials allows human traffickers to operate with impunity, while weak law enforcement hampers efforts to prevent and eradicate these cases (Blanton et al., 2020). The same occurs in the United States, where, despite progressive legislation such as the Second Chance Act and Fair Sentencing Act, women remain vulnerable to discriminatory treatment within the criminal justice system, especially those from lower socioeconomic groups or minorities (Hasan & Pradikta, 2024). The lack of clear identification is also a significant issue. The lack of birth registration makes individuals without official identity easy targets for human trafficking. Their unclear status complicates the process of tracking and protecting victims. In conclusion, human trafficking is influenced by various interrelated factors, from poverty and lack of education to patriarchal culture and weak law enforcement. Therefore, addressing human trafficking requires a holistic approach that includes economic empowerment, raising awareness, and policy reforms that are more just and gender-sensitive. These efforts must be supported by strong law enforcement and concrete actions to protect the rights of victims, especially women and children, from systematic exploitation and violence.

### **Evaluation of Regulations Based on Indonesian Constitutionalism**

Restitution in the context of Indonesian law has become an important topic, highlighting the state's responsibility in upholding the law, as mandated by constitutionalism. However, a deeper analysis reveals that while positive law has met the elements of state responsibility, there are still shortcomings in addressing the specific needs of human trafficking victims, especially in terms of psychological support (Albright et al., 2020; Dell et al., 2019; Junaedi & Dimiyati, 2020). The lack of focus on mental trauma in current legislation indicates that fulfilling legal elements does not always align with the standards of adequate victim protection. This criticism is reinforced by the absence of specialized institutions competent in handling psychological restitution for human trafficking victims, which fails to create the much-needed "sense of security" for victims' recovery (Bukoting et al., 2024; Dewi et al., 2023; Kurniawan et al., 2024). Establishing such institutions, including unique rooms and divisions within the police force, could facilitate the quicker reintegration of victims into society. However, the absence of systematic operational standards and policies often hinders the restitution process.

Furthermore, the government's efforts to address this issue are hindered by the absence of a centralized database that can be used to collect, process, and analyze data related to human trafficking cases. The lack of coordination between agencies, both at the national and regional levels, exacerbates the situation, leading to fragmented and ineffective law enforcement processes (Elliott & Denise Smith, 2020). The absence of a centralized database makes it difficult to track, monitor, and evaluate human trafficking cases, which negatively impacts efforts to provide restitution and recovery for the already vulnerable victims (UNODC, 2008). For example, many cases involve poorly documented data on victims or perpetrators, obstructing law enforcement and the necessary recovery efforts (Islam, 2023). Weak coordination between the police, social agencies, and non-governmental organizations further hampers the identification of victims and the provision of the support they should receive (Nguyen et al., 2020).

From a constitutionalist perspective, it is crucial to integrate a multidisciplinary approach in law formulation. Handling human trafficking cases requires not only legal justice but also a deep

understanding of the victims' psychology and social needs. This supports the view that cross-disciplinary studies can enhance the effectiveness of law in performing its function in society (Engberg, 2020; Siems, 2022). Therefore, pragmatism in law serves as a tool for law enforcement and a medium for social and psychological recovery. Harmonization with other laws is also essential. For example, the Witness Protection Law and the Press Law have roles that can be expanded to support restitution for human trafficking victims. The Press Law should be directed towards protecting victims from excessive exposure, which could worsen their psychological condition (DeJong et al., 2021; Whiting et al., 2021). On the other hand, witness protection should encompass more than just hiding the victims' identities; it should also support building new identities, allowing victims to move on and leave their past behind, a proven effective process in developed countries like the United States.

Therefore, the challenges faced in the context of restitution in Indonesia require a more inclusive and integrated legal approach that includes mental health aspects in legislation. This will not only affirm the state's constitutional responsibility in upholding the law but also in respecting and fulfilling the human rights of victims. Restitution should be understood as a comprehensive process involving various parties and capable of effectively responding to each victim's unique needs. This reflects an understanding that the law functions in pure legal space and is a vital tool in strengthening social peace and mental health (Bhugra, 2016; Sinaga et al., 2023). This multidisciplinary approach emphasizes that addressing human trafficking cases cannot be separated from the broader social and psychological context. Legal enforcement that only focuses on formal legal aspects without considering the psychological needs of victims tends to be ineffective. For example, victims experiencing psychological trauma require ongoing and holistic support, including psychological counseling, legal assistance, and social support for reintegration into society (Ediae et al., 2024; Gettings et al., 2022; Ramaj, 2023). This support is crucial in helping victims overcome the long-term impacts of their experiences and ensuring they can continue their lives more positively.

The implementation of restitution policies must also consider the local dynamics and cultural context of society. This includes understanding the social norms and cultural values that may influence public perception of human trafficking victims (Bonilla & Mo, 2019; Motseki & Mofokeng, 2022). For instance, the social stigma attached to victims can impede their recovery process. Therefore, efforts to reduce stigma and increase public awareness about human trafficking issues should also be part of restitution policies. It is essential to involve various stakeholders in the restitution process, including the government, law enforcement agencies, non-governmental organizations, and local communities. Strong collaboration between these parties can help create a more comprehensive and effective support system for victims (Thompson et al., 2023). For example, the government can play a role in providing resources and policy support (Asquith et al., 2022). At the same time, non-governmental organizations can offer direct services to victims, such as psychological counseling and legal assistance.

In this context, the media also plays a crucial role in supporting restitution efforts. The media has the power to shape public opinion and can be utilized to raise awareness about human trafficking issues and the importance of providing support to victims (Kolnik et al., 2020; Sharapov et al., 2019). However, the media must also act responsibly in reporting human trafficking cases, adhering to journalistic ethics while safeguarding the privacy and dignity of victims. Furthermore, as a concrete solution, the government needs to establish and manage a comprehensive centralized database accessible to all relevant agencies (Cockbain et al., 2019). This database should include detailed information about victims, perpetrators, modus operandi, and legal actions that have been taken. To ensure its effectiveness, the government should also develop standard protocols governing how data is collected, shared, and used by various parties involved in law enforcement and victim recovery efforts. Moreover, enhancing inter-agency coordination can be achieved by forming a national coordination body with a mandate to oversee, direct, and facilitate cooperation among agencies handling human trafficking cases (Garland, 2022). This body should be

empowered to monitor policy implementation, conduct regular evaluations, and provide training and capacity building for law enforcement officials and other stakeholders. These efforts are expected to create a more integrated and responsive system, thereby strengthening law enforcement and improving the restitution process for human trafficking victims in Indonesia.

Thus, restitution in the context of Indonesian law requires a holistic and multidisciplinary approach. Efforts to fulfill the rights of human trafficking victims must encompass legal, psychological, social, and cultural aspects. Of particular importance is the establishment of a centralized database that can be used to monitor, track, and coordinate data related to victims and traffickers. With such a database, the government can ensure that every case is properly recorded and that every legal action and restitution is handled more efficiently. The government and society must work together to create an environment that supports victim recovery and ensures they can move forward with their lives in a better way. Restitution is not merely financial compensation but also involves comprehensive support to help victims overcome trauma and rebuild their lives. This approach aligns with the constitutional principles that emphasize the protection of human rights and justice for all citizens.

### **Natural Law Approach to Restitution in the Social Reintegration of Human Trafficking Victims**

The natural law approach in the context of restitution for victims of human trafficking asserts that there are universal moral principles that must be respected in all legal actions, including the restoration of victims. According to Socrates, Plato, and Aristotle, these principles do not merely originate from human-made laws but are more fundamental, as they stem from nature (Setyawan & Rhiti, 2022). In this context, restitution focuses on compensating losses and social reintegration that fulfill the basic human need for justice and moral restoration. Restitution in cases of human trafficking must include comprehensive measures to address the psychological trauma and social losses experienced by the victims. Kartika (2020), and Septia & Suhartini (2024), explain that psychological support and emotional rehabilitation are central to adequate restitution. These programs should be designed to restore victims' trust in society and eliminate the stigma often associated with them after they are rescued. Furthermore, the natural law approach emphasizes the importance of restoring lost opportunities. Human trafficking victims often lose critical years in education and skill development. Therefore, access to education and vocational training should be a key part of restitution programs. This enables victims to start anew and supports their reintegration into society as independent and productive individuals. However, current laws, such as Law No. 21 of 2007 and Law No. 1 of 2023, often fail to adequately meet the specific needs of victims, as evidenced by the lack of focus on social reintegration aspects (Setyawan & Rhiti, 2022). Hence, legal revisions are needed to clarify and strengthen the restitution framework, including components of social reintegration.

Restitution aligned with the natural law approach must actively involve the community. This means building strong social support networks and mentoring programs to help victims reintegrate into society. Such an approach not only addresses the short-term impact of human trafficking but also tackles the underlying causes of the issue, such as distrust and social vulnerability, which initially made victims susceptible to exploitation. Effectively implementing restitution oriented towards natural law also strengthens the legal system by demonstrating the application of genuine and just justice. When victims see that the law punishes perpetrators and actively supports their recovery, it will increase their trust in the legal system and, more broadly, in social and governmental structures. Thus, the natural law approach teaches that justice is about punishment, restoration, and harmony. It emphasizes that every legal effort, including restitution, must create balance and peace, prevent future crimes, and strengthen social networks. Therefore, the ideal restitution envisioned by natural law in the context of human trafficking is a process that not only restores what was lost but also builds a stronger foundation for a better and more just future for victims (Mugiyanto, 2022). With the strengthening of laws and restitution policies based on natural



law principles, it is hoped that the recovery of human trafficking victims will become more comprehensive, not only returning them to their original state but also reinforcing trust and social justice in society.

In Indonesia, the natural law approach to restitution for victims of human trafficking is highly relevant because it emphasizes respect for human dignity in every legal action. This encompasses more than just punishing perpetrators; it also focuses on the comprehensive recovery of victims, including their social reintegration. Previous research has shown that existing law enforcement often overlooks the social and psychological aspects of victim recovery) (Mustafa, 2023; Riyantika & Hafidz, 2021). The natural law approach promotes holistic restitution, including material compensation, psychological support, and social rehabilitation, aiming to restore victims' self-confidence and remove the stigma attached to them after being trafficked. This is especially important in Indonesia, where the current legal system tends to focus only on material aspects and often neglects the psychological impact on victims (Riyantika & Hafidz, 2021). Moreover, the natural law approach to restitution can increase victims' trust in the legal system, which in turn encourages the prevention of similar crimes in the future. One crucial element of this approach is providing access to education and vocational training as part of the restitution program, which is essential for victims who often lose educational opportunities and skill development due to human trafficking (Mustafa, 2023).

Thus, the novelty of this research highlights the importance of a comprehensive natural law approach to restitution, which focuses not only on material compensation but also on the psychological and social recovery of victims, as well as their reintegration into society. This contrasts with previous studies that tend to focus on the formal aspects of law enforcement without giving sufficient attention to the social reintegration of victims. This research emphasizes that existing regulations, such as Law No. 21 of 2007, have not fully met the specific needs of victims, especially in terms of social reintegration, thus requiring legal revisions to strengthen the restitution framework (Mustafa, 2023). The natural law approach offers a new contribution to academic studies on the importance of creating more just and comprehensive restitution policies in Indonesia.

### **Islamic Perspective on Restitution and Social Reintegration of Human Trafficking Victims**

The Islamic perspective on restitution and social reintegration of human trafficking victims is rich and profound, reflecting the principles of justice and welfare that are central to its teachings. In Islam, justice is not limited to material compensation but also encompasses spiritual and emotional aspects. This aligns with the teachings of the Qur'an and hadith, which emphasize the importance of upholding the dignity and welfare of every individual.

The Qur'an teaches that everyone has the right to be respected and protected. In Surah Al-Mā'idah, verse 32, Allah stated, "For that reason, We decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption (done) in the land, it is as if he had slain mankind entirely. And whoever saves one, it is as if he had saved mankind entirely" (Quran, 2024a). This verse illustrates the immense value of every human life in Islam. Therefore, in cases of human trafficking, where fundamental human rights are violated, Islam emphasizes the importance of restitution as a means to restore the rights and dignity of victims. In his commentary on this verse, Ibn Kašīr (Katsir, 2003) affirms that whoever kills a human being without just cause, or justifies such a killing without any reason, it is as if they have killed all of humanity. Conversely, whoever forbids murder and preserves human life, believing that every soul holds equal value in the eyes of Allah, it is as if they have preserved the entirety of humanity. Sa'id ibn Jubair also emphasizes this point and said, "Whoever deems the shedding of human blood lawful, it is as if they have deemed the blood of all humanity lawful, and whoever deems the blood of a Muslim unlawful, it is as if they have deemed the blood of all humanity unlawful". This is considered the clearest opinion. This view highlights the alignment among scholars in asserting the importance of protecting every human life. In this context, Islamic teachings provide a strong moral foundation to

oppose human trafficking and demand restitution to restore the dignity of victims, in accordance with the humanitarian values taught by the Qur'an.

This is reinforced in Saḥīḥ Muslim 1509b (Hajjaj, 2007), where Abū Hurairah reported that the Prophet Muhammad said, "Whoever frees a slave, Allah will free every part of his body from the Hellfire for every part of the slave's body, including his private parts". Thus, one form of restitution in Islam is the concept of *diyyah*, which is financial compensation given to the victim or the victim's family as reparation for the harm suffered (Hossain, 2021; Uddin et al., 2023). *Diyyah* not only provides material compensation but also acknowledges the suffering endured by the victim. This is exemplified in Saḥīḥ Al-Bukhārī 6898 (Bukhari, 1997b), narrated by Sahl ibn Abi Ḥatma, "So he said, 'It is serious, it is serious', then he said to them, 'Bring evidence against the one who killed him', they said, 'We have no evidence', he said, 'Then they must swear', they said, 'We are not satisfied with the oaths of the Jews', so the Prophet Muhammad disliked that the blood of the slain go in vain, so he paid one hundred camels from the alms as *diyyah*".

In the hadith above, the Prophet Muhammad shows decisiveness in handling cases without concrete evidence against the killer. The decision to use *diyyah*, in this case, one hundred camels, as compensation reflects an effort to redress the loss of life while respecting the doubts regarding the existing testimony. This emphasizes the importance of justice and restitution in Islam, which not only resolves issues materially but also reconciles and reintegrates the victim or the victim's family into society, ensuring that no one feels marginalized or demeaned due to a lack of evidence or oaths. This reflects Islam's principle of acknowledging and restoring the rights of individuals affected by criminal acts.

Moreover, the concept of *kafālah*, meaning guarantee or protection, can be applied to ensure that victims receive the protection and support they need to start a new life. This is explained in Surah Al-Baqarah, verse 177 (Quran, 2024b), where Allah stated, "Righteousness is not that you turn your faces toward the east or the west, but (true) righteousness is in one who believes in Allah, the Last Day, the Angels, the Book, and the Prophets, and gives his wealth, in spite of love for it, to relatives, orphans, the needy, the traveler, those who ask (for help), and for freeing slaves; (and who) establishes prayer and gives *zakāt*; (those who) fulfill their promise when they promise; and (those who) are patient in poverty and hardship and during battle. Those are the ones who have been true, and it is those who are the righteous". In his interpretation of this verse, Ibn Kaṣīr explains that */wa fī ar-riqāb/* 'and (freeing) a slave'. These are the slaves who have an agreement to ransom themselves but do not have the means to fulfill it (Katsir, 2003). This is further emphasized by Qurṭhubī's interpretation, which states that forgiveness here means accepting *diyyah* (blood money) for intentional murder. The one who forgives should follow up with what is acceptable, and the one who is forgiven should pay the *diyyah* to the forgiver in a good manner. Both parties must maintain good behavior towards each other. This is a relief and mercy from your Lord. From what has been made obligatory on those before you. Whoever transgresses after that will have a painful punishment (Qurṭhubī, 2007).

In Islam, the concept of *kafālah*, which means guarantee or protection, is highly relevant in the context of protecting victims of human trafficking (Kanchana, 2018). Verse 177 of Surah Al-Baqarah emphasizes that true righteousness does not lie merely in religious rituals but also in tangible actions to protect and support the weak and oppressed, including victims of human trafficking. According to the tafsir of Sa'di (2018) in the section on the redemption of slaves, this includes the emancipation of slaves and helping others with that; giving money to a *mukātib* (a slave with a manumission contract) so that he can settle with his master; ransoming a Muslim who has been captured by disbelievers; and paying ransom in the case of people who are detained by criminals. In practice, *kafālah* can mean providing financial, social, and emotional support for victims to help them start anew, offering them safe housing, education, and access to healthcare, and assisting them in legal processes if needed (Assim & Nielsen, 2014; Offia, 2023). This illustrates the application of faith and virtue as taught in Islam, which focuses on fulfilling ritual obligations and substantive contributions to human welfare, especially for those most in need of

protection and support. Thus, the application of the concepts of *diyyah* and *kafālah* in Islam plays a crucial role in maintaining the honor and dignity of every individual and ensuring justice for victims of human trafficking.

Furthermore, Islam recognizes the importance of the community in the recovery process. In a hadith narrated by Al-Bukhārī (Bukhari, 1997a), the Prophet Muhammad said, "The example of the believers in their mutual love, mercy, and compassion is like that of a body; when one part feels pain, the whole body responds with sleeplessness and fever". Likewise, society must respond to crimes such as human trafficking. This requires Muslims to be not only aware of the suffering of victims but also actively provide support, both morally and practically. This includes efforts to detect, report, and end the practice of human trafficking, as well as provide assistance and rehabilitation to victims so they do not feel isolated or neglected by society. Thus, this hadith teaches empathy and calls for collective and proactive action in combating social evils and restoring the dignity and rights of those affected.

In the law context, therefore, legislative revisions are necessary to include aspects of psychological support and systematic rehabilitation programs. This aligns with the Islamic principle emphasizing the importance of justice and welfare. The Qur'an, in Surah An-Nisā' verse 58 Allah stated, "Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing" (Quran, 2024c). Ibn Kaṣīr explained the words of Allah, "And when you judge between people, judge with justice" (An-Nisā' 4:58) as a command from Him to judge among people with justice. For this, Muhammad bin Ka'ab, Zaid bin Aslam, and Shahr bin Hausyab said, "Indeed, this verse was revealed for the leaders, those who adjudicate matters between people." Furthermore, Allah's statement, "Verily, how excellent is the teaching which He gives you!" means that Allah commands you to fulfill trusts, judge with justice between people, and other commands, which encompass His perfect, magnificent, and complete laws and regulations. Then His words, "Verily, Allah is All-Hearing, All-Seeing" indicate that He hears all of your statements and sees all of your deeds. As Ibn Abī Hātim narrated from 'Uqbah bin 'Amīr, who said, "I saw the Messenger of Allah recite this verse, 'All-Hearing, All-Seeing,' and he said: (Allah) sees everything" (Katsir, 2003).

This verse underscores the importance of justice in all aspects of life, including law enforcement. Therefore, restitution and social reintegration from an Islamic perspective are not just about providing material compensation but also about restoring the total dignity and welfare of the victims. Islam teaches that every individual has the right to live safely and with respect and that the community is responsible for ensuring these rights are honored and protected. Thus, the Islamic approach to restitution and social reintegration of human trafficking victims is comprehensive, encompassing material, spiritual, emotional, and legal aspects, and strives to achieve total well-being for the victims.

This study aims to analyze the positive law applicable to victims of human trafficking in Indonesia, evaluate these regulations based on the prevailing constitutionalism in Indonesia and natural law theory, and examine the Islamic perspective on restitution in the context of the social reintegration of human trafficking victims. In the framework of positive law, efforts to recover and protect victims have been regulated through Law No. 21 of 2007 and Law No. 1 of 2023, which include debt relief, identity protection, and psychological support. Despite various regulations indicating the state's commitment to supporting victims, there are still shortcomings in addressing the psychological needs of victims (Bukoting et al., 2024; Dewi et al., 2023; Junaedi & Dimiyati, 2020; Kurniawan et al., 2024). Previous research also supports these findings, explaining that while human trafficking victims in Indonesia are legally entitled to restitution, its implementation is often inconsistent and fails to meet the comprehensive needs of the victims (Susilowati, 2022). This highlights that although efforts have been made through regulations, suboptimal implementation remains an obstacle in fulfilling victims' rights, especially in terms of psychological and comprehensive recovery.

From the perspective of constitutionalism, this evaluation emphasizes the need for a multidisciplinary and inclusive approach in legislation to meet the unique needs of victims, including deep psychological support (Engberg, 2020; Siems, 2022). Additionally, natural law theory highlights the importance of a comprehensive approach that includes moral recovery and social reintegration, emphasizing human rights and justice as fundamental principles (Setyawan & Rhiti, 2022). The Islamic approach to restitution, based on the principles of justice and welfare, emphasizes restoring victims' rights, protecting dignity, and involving the community in recovery (Mugiyanto, 2022; Sinaga et al., 2023). Islam also emphasizes that restitution is not merely material compensation but involves spiritual and emotional aspects to restore victims' trust in society. Therefore, this study suggests that while there has been progress in legislation, further improvements are needed that consider the psychological and social aspects of victims to achieve comprehensive and sustainable reintegration.

This research supports previous findings that emphasize the need for a comprehensive and multidisciplinary approach in handling cases of human trafficking victims in Indonesia. Similar to the studies by Ali et al. (2022) and Pasaribu & Master (2020), this research shows that although there are regulations aimed at protecting victims, there are still deficiencies in their implementation, particularly in meeting the psychological and social needs of victims. This research also aligns with Sadia & Abbasi (2022) study, which highlights the importance of legal and religious perspectives in addressing human trafficking issues, including emphasizing moral and social reintegration. The advantage of this study over previous research lies in its more comprehensive and in-depth approach, highlighting aspects of constitutionalism, natural law theory, and the Islamic view of restitution, providing a richer perspective in understanding the need for victim protection and recovery, including often overlooked spiritual and emotional aspects. Additionally, this research emphasizes the importance of community involvement in the recovery process, adding a significant social dimension to efforts to reintegrate victims. The implications of these findings suggest that existing legal and policy approaches need to be integrated with a more holistic and inclusive perspective, indicating that current laws are insufficient to meet the complex needs of victims. Therefore, there is an urgent need to reform existing policies and legal practices by incorporating a multidisciplinary approach involving constitutional, natural law, and Islamic principles, ensuring that victims receive the necessary moral, spiritual, and psychological support for successful reintegration into society. These findings encourage systematic changes in how human trafficking victims are treated, focusing on holistic recovery that considers the overall well-being of victims.

## CONCLUSION

This study shows that although Indonesia has established a legal framework for the protection and recovery of human trafficking victims through Law Number 21 of 2007 and Law Number 1 of 2023, there are still significant gaps, particularly in addressing the psychological needs of the victims. The main weakness of Indonesia's positive law concerning the protection of human trafficking victims is the lack of attention to the psychological and social aspects that are crucial in the recovery and reintegration process. While these regulations provide a solid foundation for prosecuting perpetrators and protecting victims, their implementation in the field is often hindered by limited resources, weak coordination between agencies, and a lack of understanding among law enforcement officers and the general public. As a result, many victims do not receive adequate protection or restitution, and their recovery process is often hampered by bureaucracy and a lack of comprehensive support. Therefore, efforts should be enhanced through reforms in the law enforcement system that are more inclusive and coordinated, with an emphasis on strengthening the capacity of law enforcement officers and providing better psychological and social support for victims. In addition, the importance of utilizing a natural law approach in the restitution and social reintegration of human trafficking victims should not be overlooked. This approach emphasizes holistic recovery, covering material, psychological, and spiritual aspects, and involves the community in supporting the victims' recovery. By integrating this natural law approach into the



existing legal framework, Indonesia can ensure that human trafficking victims receive more comprehensive and sustainable protection, as well as restore their dignity as part of society.

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