

PEMENUHAN HAK RESTITUSI KORBAN TINDAK PIDANA PERDAGANGAN ORANG DALAM SISTEM PERADILAN PIDANA INDONESIA

**Oleh
Gebby Cantika Putri
NIM. 2205040028**

ABSTRAK

Tindak Pidana Perdagangan Orang (TPPO) merupakan kejahatan terhadap hak asasi manusia. Meskipun Pasal 48 ayat (1) UU No. 21 Tahun 2007 menjamin hak restitusi korban, pemenuhannya dalam sistem peradilan pidana sering kali tidak efektif. Penelitian ini bertujuan menganalisis pelaksanaan pemenuhan restitusi korban TPPO dan mengidentifikasi hambatan hukum maupun empirisnya di wilayah hukum Kejaksaan Negeri Tanjungpinang. Penelitian hukum normatif-empiris ini menggunakan pendekatan sosio-legal secara deskriptif-kualitatif. Data primer diperoleh melalui wawancara mendalam di Kejaksaan Negeri Tanjungpinang, sedangkan data sekunder mencakup bahan hukum primer dan sekunder terkait. Hasil penelitian mengungkapkan bahwa meskipun pengajuan restitusi secara prosedural berjalan cukup baik melalui koordinasi kelembagaan antara Lembaga Perlindungan Saksi dan Korban (LPSK) dan Jaksa Penuntut Umum, eksekusi akhir atas putusan pengadilan yang berkekuatan hukum tetap mengalami kegagalan yang signifikan. Data empiris dari tahun 2023 hingga 2025 menunjukkan bahwa dari 14 kasus TPPO yang restitusinya dikabulkan oleh hakim, hanya 1 kasus yang berhasil direalisasikan secara finansial kepada korban. Hambatan-hambatan utama meliputi: (1) celah hukum struktural pada Pasal 50 Ayat (4) UU TPPO yang memungkinkan pelaku memilih pidana kurungan pengganti maksimal satu tahun daripada membayar ganti rugi finansial; (2) ketidakmampuan finansial pelaku; serta (3) kurangnya penelusuran aset secara proaktif oleh penegak hukum selama penyidikan awal. Akibatnya, restitusi tetap bersifat simbolis, gagal memberikan keadilan substantif dan pemulihan ekonomi nyata bagi korban.

Kata Kunci : Restitusi, Tindak Pidana Perdagangan Orang, Sistem Peradilan Pidana

FULFILLMENT OF VICTIMS' RIGHTS TO RESTITUTION IN CASES OF HUMAN TRAFFICKING WITHIN THE INDONESIAN CRIMINAL JUSTICE SYSTEM

By
Gebby Cantika Putri
NIM. 2205040028

ABSTRACT

The Crime of Trafficking in Persons constitutes a severe violation of fundamental human rights and personal dignity. Although Article 48 Paragraph (1) of Law Number 21 of 2007 explicitly guarantees victims' rights to restitution, its practical execution within the criminal justice system remains largely unrealized. This study aims to analyze the implementation of restitution fulfillment for human trafficking victims and identify the juridical and empirical obstacles causing this implementation gap, with a specific focus on the jurisdiction of the Tanjungpinang State Prosecutor's Office. This research adopts a normative-empirical legal methodology utilizing a socio-legal approach with a descriptive-qualitative framework. Primary data were obtained through in-depth interviews with law enforcement officials at the Tanjungpinang State Prosecutor's Office. Secondary data comprised primary legal materials including the Human Trafficking Law, Supreme Court Regulation No. 1 of 2022, and Government Regulation No. 35 of 2020 alongside secondary and tertiary legal sources. The findings reveal that while the procedural submission of restitution functions adequately through institutional coordination between the Witness and Victim Protection Agency and Public Prosecutors, the final execution of binding court decisions fails significantly. Empirical data from 2023 to 2025 demonstrate that out of 14 Human Trafficking cases where restitution was granted by judges, only 1 case resulted in actual financial realization for the victim. Key impediments include: (1) a structural legal loophole in Article 50 Paragraph (4) of the Human Trafficking Law that permits offenders to elect a maximum of one year of subsidiary imprisonment over financial compensation; (2) offenders' insolvency; and (3) a lack of proactive asset tracing by law enforcement during initial investigations. Consequently, restitution remains symbolic, failing to secure substantive justice and economic recovery for victims.

Keywords: Restitution, Human Trafficking, Criminal Justice System