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Fulfillment of Restitution Rights for Victims of Trafficking in Persons: A Study of Atambua District Court Decision Number 102/Pid.Sus/2023/PN Atb

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Abstrak

Hak restitusi korban tindak pidana perdagangan orang tidak otomatis terlaksana hanya karena terdakwa dijatuhi pidana. Penelitian hukum normatif ini mengkaji Putusan Pengadilan Negeri Atambua Nomor 102/Pid.Sus/2023/PN Atb, khususnya hubungan antara unsur tindak pidana perdagangan orang, hak korban atau ahli waris menurut Pasal 48 Undang-Undang Nomor 21 Tahun 2007, dan dasar prosedural agar kerugian dapat diperiksa dan diputus. Naskah sumber melaporkan pemidanaan atas perekrutan dan pemberangkatan pekerja ke Malaysia serta tidak tercantumnya restitusi dalam amar. Namun, tidak tersedia bukti terverifikasi mengenai permohonan, perincian kerugian, ataupun penilaian LPSK dan penuntut umum. Oleh karena itu, penelitian tidak mengasumsikan alasan hakim atau menyimpulkan kesalahan penerapan hukum tanpa pemeriksaan lengkap berkas perkara. Temuan normatifnya adalah perlunya pengajuan, pembuktian, penilaian, dan pencantuman restitusi secara dapat ditelusuri sejak penyidikan hingga eksekusi.

Kata Kunci: perdagangan orang; restitusi; ahli waris; perlindungan korban; Pengadilan Negeri Atambua.

Abstract

A trafficking conviction does not automatically deliver the victim's right to restitution. This normative legal study examines Atambua District Court Decision Number 102/Pid.Sus/2023/PN Atb, focusing on the relationship between the elements of trafficking, the rights of victims or heirs under Article 48 of Law Number 21 of 2007, and the procedural steps necessary for losses to be assessed and ordered. The supplied manuscript describes a conviction arising from recruitment and transportation to Malaysia and reports that the operative judgment did not include a restitution award. However, the documents supplied do not establish whether a restitution request, itemized loss calculation, prosecutor assessment, or witness-and-victim protection agency evaluation was submitted. The study therefore does not infer the judge's motive or a judicial legal error without the authenticated complete judgment and relevant filings. It recommends a traceable procedure from identification of the claimant and quantification of losses through judicial reasoning, operative relief, and enforcement.

Keywords: *trafficking in persons; restitution; victims' heirs; victim protection; Atambua District Court.*

INTRODUCTION

Trafficking in persons entails conduct that compromises bodily integrity, freedom, dignity, and economic security. A conviction responds to the prohibited conduct, whereas restitution concerns the distinct obligation to recognize and remedy losses caused to the victim. The two legal consequences are related but not interchangeable. Where a victim has died, the role of heirs brings additional questions about standing, documentary proof, loss calculation, and the relationship between the offence and the claimed damage. Indonesian law recognizes these concerns in its special trafficking legislation.[1]

Article 48(1) of Law Number 21 of 2007 recognizes a right to restitution for each trafficking victim or the victim's heirs. The right is substantively important, yet the existence of the right does not alone show whether a particular loss was requested, proved, considered or included in the operative part of a judgment. A valid case analysis must separate these questions and distinguish material and non-material loss as provided by the applicable legal scheme.[2]

The original submission describes Decision Number 102/Pid.Sus/2023/PN Atb as a "Supreme Court decision." This description is legally inaccurate: PN Atb is the identifier of the Atambua District Court, a court of first instance. Accordingly, the title, case study and analysis are corrected. No Supreme Court cassation number is supplied, and no appellate judgment is treated as proven here. This correction is not merely stylistic because it determines the applicable procedural stage, the court's jurisdiction and the meaning of the operative ruling.[3]

Previous discussion of trafficking and restitution has frequently focused on the normative protection of victims or general barriers to enforcement. The narrower contribution of the present article is a four-stage test of one identified judgment: was a restitution claim presented; was the underlying economic or personal loss substantiated; did the adjudicator address the claim in the reasons; and did the operative judgment include an enforceable direction? The distinction between an absent award and an unlawful refusal is essential. The former can be observed in a dispositive record; the latter demands consideration of the procedural history and governing statutory requirements.

The study therefore asks (1) how Article 48 of the Trafficking Law applies to victims and heirs, particularly where the charged offence concerns transportation outside Indonesia; (2) which procedural and evidentiary steps are necessary for restitution to be adjudicated in case No. 102/Pid.Sus/2023/PN Atb; and (3) which conclusions are supportable from the judgment description in the supplied manuscript and which remain contingent on primary judicial records.

RESEARCH METHOD

This is normative legal research using statutory, case and conceptual approaches. Primary materials comprise Law Number 21 of 2007 concerning the

1Republic of Indonesia, Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons, arts. 1 and 48.

2Republic of Indonesia, Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons, art. 48.

3Atambua District Court, Decision Number 102/Pid.Sus/2023/PN Atb (source manuscript; authentic judicial copy and pinpoint pages require verification).

Eradication of Trafficking in Persons, the procedural criminal law applicable to proceedings in 2023, the framework for witness and victim protection, and the court judgment identified as No. 102/Pid.Sus/2023/PN Atb. The analysis additionally distinguishes Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers from the superseded Law Number 39 of 2004. Literature on victimology, criminal procedure and remedies provides secondary context.[4]

The principal source supplied for the case is the manuscript's summary and extracts rather than an authenticated full-text judgment with stable page pinpoints. Consequently, statements about the court record are attributed to that manuscript and flagged where verification is incomplete. The legal analysis first identifies the offence expressly said to have been established, then compares the statutory elements, the alleged sequence of events, claimant standing, categories of loss, and documented procedural opportunities to request restitution. It refrains from inferring unpublished testimony, medical findings, a court's subjective motive or an unrecorded restitution application. Factual inconsistencies among witnesses are treated as issues requiring assessment, not silently reconciled.

RESULTS AND DISCUSSION

1. The Legal Nature and Procedure of Trafficking Restitution

Article 48 of Law Number 21 of 2007 creates a special restitution framework for victims of trafficking and their heirs. This framework should not be conflated with the joinder of a civil damages claim under Article 98 of the Criminal Procedure Code then applicable to the proceedings. The latter involves an application for a damages claim to be joined with an ongoing criminal process, while the special trafficking entitlement derives from the trafficking statute and the supplementary victim-protection regime. A court should identify which route was invoked and the consequences for standing, proof, timing and enforcement. Broad references to justice or to a judge's obligation to explore living legal values cannot replace the operational rules for making and determining a claim.[5]

The proper inquiry begins with the identity of the entitled person. Where the victim survives, personal losses and related expenses may be claimed in accordance with applicable law. Where the victim dies, the heirs' standing and the nature of inherited or directly sustained claims must be evidenced. A reasonable claim specifies the factual link to the offence, the amount and method of calculating each loss, and documentary or testimonial support. Loss of earnings requires a grounded income period and capacity assumption; treatment and repatriation require expense evidence; non-material harm requires legally cognizable grounds and reasoning. No amount should be inserted into a judgment analysis simply because the alleged trafficking was grave.[6]

4Republic of Indonesia, Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

5Republic of Indonesia, Law Number 8 of 1981 concerning Criminal Procedure, art. 98 (procedural law applicable to the 2023 proceedings).

6Republic of Indonesia, Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons, art. 48(2).

Responsibilities are distributed across institutions rather than concentrated in the trial judge. Investigators identify possible victims, prospective heirs and relevant records; prosecutors assess the case for claims that can be presented; LPSK may assist within its statutory authority; and the court considers the lawfully presented evidence and requests. Enforcement following an award entails a separate administrative and judicial stage. Each institution's omission must be demonstrated through records or an applicable duty; institutional criticism should not be inferred solely from the fact that an award is not printed in the judgment.

2. The Offence and Restitution Question in Decision Number 102/Pid.Sus/2023/PN Atb

According to the supplied manuscript, the Atambua case involved a defendant referred to as Vinsensius Seran Bria ("Vinsen") and the recruitment and transportation of an Indonesian victim and others to work on a palm-oil plantation in Malaysia. The source describes irregular cross-border arrangements, transfers of funds connected with the recruitment, illness and eventual death of a victim, and a sentence of eight years and six months' imprisonment with a monetary fine. These statements are case-summary assertions and have not been independently checked against the complete authenticated decision.[7]

The manuscript states that the offence was found proven under Article 4 of the Trafficking Law. That provision concerns bringing an Indonesian citizen abroad for exploitation, and its element structure must guide analysis; the source's extensive discussion of Articles 2 and 3 cannot be substituted for the norm on which the conviction actually rested. Article 2 principally concerns recruitment, transport and related domestic trafficking acts for exploitation; Article 3 concerns bringing a person into Indonesian territory. This distinction affects both case characterization and the evidentiary facts that are material. In evaluating Article 4, the relevant questions are whether the defendant was the responsible actor, whether the Indonesian victim was brought beyond national territory, and whether the purpose of exploitation was legally established.[8]

Witness descriptions attributed to the victim's family, accompanying workers and another person reportedly refer to recruitment promises, travel arrangements, payments, work, illness and the victim's return. Their evidentiary character is not uniform: some concern events personally observed, while others contain reported information, uncertain payment amounts or interpretations of illness. The record supplied is insufficient to resolve inconsistent locations, family relationships, payment units or the medical cause of death. A safe research conclusion separates those uncertainties and avoids publishing unneeded private bank-account identifiers. Irregular migration status does not automatically extinguish a person's status as a trafficking victim or the statutory right to seek restitution.[9]

7Atambua District Court, Decision Number 102/Pid.Sus/2023/PN Atb, as described in the submitted source manuscript; verify against official copy.

8Republic of Indonesia, Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons, arts. 2–4.

9Republic of Indonesia, Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

The manuscript further reports that the criminal ruling did not direct the defendant to pay restitution to the victim or the heirs. Even if that observation is confirmed from the dispositive section, it does not establish *why* no award was made. The case file must be examined for a written or oral request, supporting calculations, LPSK or prosecutorial submissions, specific consideration of restitution, and any express findings about standing or evidentiary sufficiency. In the absence of this material, the legally defensible finding is narrower: the submitted account identifies a potential gap between a statutory remedy and the recorded result, not a conclusively demonstrated judicial refusal contrary to Article 48.

A judge's reasoning should not be assessed through an invented account of bureaucratic "obstacles." In the source, the suggestion that an irregularly placed migrant worker lacked standing is an authorial explanation, not a verified finding of the court. The protection of migrant workers under Law Number 18 of 2017 and rights under the Trafficking Law must be treated as distinct but related regimes; procedural irregularity in recruitment may be a factual aspect of the trafficking conduct and is not itself a defense against a victim's remedy.[10]

Table 1. Evidentiary Matrix for Case No. 102/Pid.Sus/2023/PN Atb (Source: Supplied Manuscript; Judgment Pinpoints Pending)

Issue	Information described in source	Verification required
Court and offence	PN Atambua; conviction said to rely on Article 4 of Law No. 21/2007	Authenticated operative judgment and charged offence
Cross-border conduct	Recruitment and transportation to Malaysia described by witnesses	Witness transcripts, travel and recruitment records
Victim harm	Illness, death and claimed losses discussed	Medical evidence and causation findings; eligible loss items
Restitution request	No authenticated request or quantified schedule supplied	Application, prosecutor/LPSK recommendations and annexes
Judicial treatment	Source says no restitution in operative judgment	Dispositive section and exact reasoning with page references

The first step in interpreting the operative ruling is to identify the procedural object placed before the trial court. The criminal prosecution establishes whether the elements of a charged offence are proven beyond the relevant criminal-law threshold; a restitution claim establishes which losses are attributable to the offence and whether the court may grant the requested remedy. These determinations interact but require different evidence. A conviction under Article

10Republic of Indonesia, Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons, art. 48(1).

4 does not establish the amount of lost earnings, the authenticity of medical expenses, or the identity of all lawful heirs. Conversely, a restitution request should not be dismissed simply because its documentary evidence differs from that typically used to prove the trafficking offence. An adequate judgment explains the respective legal questions so that the prosecution, victim and defendant know which propositions were accepted, rejected or left undetermined.

The underlying description of the defendant's recruitment and travel arrangements must be assessed chronologically rather than as a loose collection of witness accounts. An investigator should first distinguish the period of recruitment and representations about work, then the method of departure and border crossing, the working conditions in Malaysia, the onset of illness, the return journey, and the events preceding death. Each stage may bear on a different legal element or category of loss. The source's references to offers of wages between eight and ten million rupiah, for example, cannot establish an amount of foregone earnings until the unit (week or month), duration, witness identity and documentary confirmation are checked. Similarly, a reported transfer related to recruitment should not be counted automatically as a loss suffered by the victim or heir without identifying the recipient and legal purpose of the payment.

Medical causation demands particular care. A witness may testify that the victim appeared ill, that arrangements were made for transport, or that access to care was delayed. These are observations. A clinical diagnosis, medical cause of death, or legal finding that the defendant's trafficking conduct caused death requires different evidence. For restitution, certain medical or transport expenses might be recoverable upon adequate proof even if the ultimate medical cause is not established; other claimed damages may depend on a stronger causal connection. Treating testimony that a victim became sick as equivalent to expert proof of the cause of death would unfairly prejudice both the victim's claim and the defendant's right to contest it. The present submission does not provide a full medical record or pinpoint findings; those matters must remain open.

The supplied excerpts also describe differences among witnesses as to locations, family connections and monetary amounts. Such inconsistencies require source criticism rather than editorial harmonization. A witness speaking from direct experience should be distinguished from one repeating statements made by another person. Minor discrepancies about chronology may coexist with reliable testimony on recruitment, but contradictions that affect the asserted loss or chain of responsibility must be expressly addressed. In a properly documented matrix, each proposition is linked to the specific witness, document, page and procedural function. Without identifiable page numbers, the current article can propose that method and report the source manuscript's account, but cannot claim that every material contradiction was examined and resolved by the court.

The status of an irregular migrant worker is a separate doctrinal question. Law Number 18 of 2017 addresses the protection of Indonesian migrant workers and restrictions on unauthorized placement activities, whereas the Trafficking Law protects victims against exploitation-related conduct. Neither statute supports a general proposition that crossing a border without proper placement documentation forfeits protection under Article 48. Indeed, irregular arrangements may help explain a victim's vulnerability or the mechanism of

trafficking. The existence and scope of restitution nevertheless depend on a victim's status under the applicable trafficking offence, standing of the claimant, proof of causally connected loss, and fulfillment of procedural requirements. Those questions must not be replaced by a binary assumption that formal employment registration either creates or destroys all compensation rights.

The narrow evidentiary finding must be kept distinct from institutional recommendations. The submitted text asserts that no restitution amount was ordered, but it does not present the prosecution's requisition, any LPSK assessment, or a specific passage where the court expressly rejects a submitted claim. The authors should therefore avoid phrases such as 'the panel faced obstacles because the victim was not registered' unless supported by the judicial reasons. The record could be consistent with several different explanations: no request was made; a request was incomplete; a disputed amount was not proven; the court failed to address an adequate request; or relevant documentation was omitted from the source manuscript. The correct scholarly conclusion is to identify precisely what additional record would distinguish these possibilities rather than selecting one without evidence.

3. Toward an Enforceable, Victim-Centered Restitution Procedure

The required institutional response is a documented chain rather than a presumption that every conviction must automatically contain a specified monetary order. At the investigation stage, officials should record the victim or lawful heirs, explain available remedies, identify loss categories and preserve supporting documents. At prosecution, an itemized request and evidence should be assembled and communicated in accordance with the applicable procedural regime. At adjudication, the court should state whether the claim was submitted and whether each supported category is granted, rejected or cannot be determined, with reasons responsive to the record. After the decision, the competent institution should trace the enforceability, payment and any outstanding remedy. A harmonized case checklist would reduce the risk that a right acknowledged in legislation disappears before the dispositive stage.

For cases involving a deceased migrant worker, special attention is warranted to heir identification and loss causation. Travel irregularity, an absence of formal employment documentation, or cross-border activity may complicate proof but cannot by themselves answer whether the statutory conditions for restitution are satisfied. Conversely, the gravity of the trafficking conviction is not a substitute for proof of each category of recoverable loss. The solution is to improve early claim identification and accessible documentation, not to dispense with procedural guarantees for the defendant.

CONCLUSION

Decision No. 102/Pid.Sus/2023/PN Atb is a first-instance Atambua District Court case, not a Supreme Court judgment. On the supplied manuscript’s account, the court convicted the defendant in a trafficking case involving movement to Malaysia, while the recorded operative ruling did not award restitution. Article 48 of Law No. 21 of 2007 recognizes restitution rights for victims and their heirs; however, the submitted materials do not establish whether the requisite application and evidentiary assessment occurred. It would therefore be premature

to declare that the trial judges breached the law or to attribute the absence of an award to the victim's informal migrant status. Further verification must examine the authentic judgment and the claim file. The prescriptive priority is a stage-by-stage restitution protocol covering identification, submission, assessment, reasons, operative order and enforcement, while retaining the distinction between the trafficking-specific mechanism and the older criminal-procedure route for joined civil damages.

REFERENCES

Gosita, Arif. Masalah Korban Kejahatan. Jakarta: Akademika Pressindo, 1993.

Harahap, M. Yahya. Hukum Acara Pidana. Jakarta: Sinar Grafika, 2005.

Husni, Lalu. Pengantar Hukum Ketenagakerjaan Indonesia. Jakarta: RajaGrafindo Persada, 2006.

Makarao, Moh. Taufiq. Pokok-Pokok Hukum Acara Pidana. Jakarta: Rineka Cipta, 2009.

Marlina, and Azmiati Zuliah. Hak Restitusi terhadap Korban Tindak Pidana Perdagangan Orang. Bandung: Refika Aditama, 2015.

Republic of Indonesia. Law Number 8 of 1981 concerning Criminal Procedure (applicable to the 2023 proceedings).

Republic of Indonesia. Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons.

Republic of Indonesia. Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

Republic of Indonesia. Law Number 13 of 2006 concerning Witness and Victim Protection, as amended by Law Number 31 of 2014.

Atambua District Court. Decision Number 102/Pid.Sus/2023/PN Atb (complete authenticated judgment and page pinpoints to be verified).

Vitasari, Salsabila Dewi, Satria Sukananda, and Sandra Wijaya. "Pelaksanaan Pemberian Restitusi terhadap Korban Tindak Pidana Perdagangan Orang." Bibliographic details require publisher verification.