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ISSN: 3091-2008

Edición Especial:
Vol. 4 Num. 10, PP 401-414
DOI:
https://doi.org/10.56519/3y43hx12

LEGAL EFFECTS OF POST-TRAUMATIC STRESS DISORDER (PTSD) ON VICTIMS OF VIOLENCE: A COMPARATIVE ANALYSIS BETWEEN ECUADORIAN LEGISLATION AND GLOBAL LEGAL FRAMEWORKS

EFECTOS JURÍDICOS DEL TRASTORNO POR ESTRÉS POSTRAUMÁTICO (TEPT) EN LAS VÍCTIMAS DE LA VIOLENCIA: UN ANÁLISIS COMPARATIVO ENTRE LA LEGISLACIÓN ECUATORIANA Y LOS MARCOS JURÍDICOS INTERNACIONALES

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Fecha de recepción: 11/10/2026 / Fecha de aceptación: 18/11/2026 / Fecha de publicación: 24/11/2026

RESUMEN: El trastorno por estrés postraumático (TEPT) es uno de los efectos psicológicos más graves que sufren las víctimas de la violencia y tiene importantes repercusiones que van más allá del ámbito clínico y se extienden al ámbito jurídico. Este artículo analiza los efectos jurídicos del TEPT en las víctimas de la violencia dentro del marco jurídico ecuatoriano y los compara con las normas jurídicas internacionales y con determinadas legislaciones extranjeras. Mediante un método cualitativo descriptivo, analítico y comparativo, este estudio revisa la literatura académica, la legislación nacional, la jurisprudencia y los instrumentos internacionales de derechos humanos sobre el daño psicológico y la protección de las víctimas. Los resultados revelan una clara desconexión entre los datos sobre los efectos conductuales del trauma y su reconocimiento jurídico en Ecuador, especialmente en lo que respecta al reconocimiento explícito del TEPT como un tipo de daño válido, independiente e indemnizable. La comparación muestra que otros ordenamientos jurídicos han avanzado mucho más a la hora de considerar intervenciones basadas en el trauma en la reparación y la rehabilitación de las víctimas. La publicación sugiere que un mayor reconocimiento jurídico del TEPT aumentaría el acceso a la justicia, facilitaría una reparación plena y exhaustiva y adaptaría mejor la legislación nacional a las normas internacionales de derechos humanos, con el fin de lograr un sistema de justicia más receptivo y centrado en las víctimas en Ecuador.

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https://politecnicadelaciencia.com/

ISSN: 3091-2008

Edición Especial:
Vol. 4 Num. 10, PP 401-414
DOI:
https://doi.org/10.56519/3y43hx12

Palabras clave: Trastorno por estrés postraumático; víctimas de la violencia; daño psicológico; derechos humanos; derecho comparado; indemnización a las víctimas; salud mental y derecho

ABSTRACT: Post-Traumatic Stress Disorder (PTSD) is amongst the most serious psychological effects on victims of violence and has serious implications that extend beyond the clinical sphere and into the legal domain. This paper studies the legal effects of PTSD on victims of violence within the Ecuadorian legal framework and compares them with international legal standards and selected foreign legislations. Employing a qualitative descriptive, analytical, and comparative method, this study reviews academic literature, domestic legislation, jurisprudence, and international human rights instruments on psychological harm and victim protection. Findings reveal a clear disconnect between data on behavioral effects of trauma in relation to its legal recognition in Ecuador, particularly regarding the explicit acknowledgment of PTSD as a valid, independent, and compensable type of harm. Comparison shows that other legal systems have made far more headway in considering trauma-informed interventions in victim reparation and rehabilitation. The publication suggests that further legal recognition of PTSD would increase access to justice, facilitate full and comprehensive reparation, and better adapt domestic law to international human rights norms, for a more responsive and victim-centered justice system in Ecuador.

Keywords: Post-Traumatic Stress Disorder; victims of violence; psychological harm; human rights; comparative law; victim reparation; mental health and law

INTRODUCCIÓN

In much of modern society, violence remains among the most pervasive social and legal issues, with serious implications at the level of physical as well as psychological and emotional aspects of victims. Of the various mental illnesses related to exposure to violence, Post-Traumatic Stress Disorder (PTSD) is among the most acute and severe and has the most devastating effects on personal autonomy, social activities, and the enjoyment of fundamental rights. While there is a now burgeoning body of scientific knowledge about trauma-related disorders, legal recognition and treatment for these conditions are still uneven, especially under legal regimes that historically focus more on physical injury than psychological damage. In Latin America, and particularly in Ecuador, violence—either gender-based, interpersonal violence, political violence or structural violence—has long been documented as a structural phenomenon, with deep-seated social effects. Although Ecuadorian legislation has achieved considerable changes in relation to protection for victims and recognition of comprehensive reparation, the legal treatment of mental injury resulting from violence has remained problematic. In actuality, victims with PTSD find it particularly difficult to access justice, to receive appropriate reparation, and specialized mental health care, given that trauma-related mental disorders are not routinely included as

ISSN: 3091-2008
Edición Especial:
Vol. 4 Num. 10, PP 401-414
DOI:
https://doi.org/10.56519/3y43hx12

autonomous legal harms in the legal discourse. This article comes from the author's work in law and in the law school, with a specific emphasis on victim protection, human rights and interdisciplinary analysis of psychological harm. It does not arise from a scholarship sponsored research project; it is derived from repeated scholarly activity on the legal implications of mental illness in contexts of violence. This study aims to add to the current discourse on trauma-informed approaches in legal systems, and to contribute to the dialogue between legal scholarship and empirical mental health research. It aims to analyze the legal effects of PTSD in victims of violence in the Ecuadorian legal framework in relation to international legal standards and targeted foreign legislations. This article, using this comparative perspective, seeks to discern strengths, weaknesses and normative gaps in the legal construction of acknowledging, reparative and rehabilitation of psychological harm in Ecuadorian practice. And the analysis draws on a qualitative methodology by integrating doctrinal legal analysis with comparative law and interdisciplinary evidence from psychology and human rights studies. The article draws upon academic and national literature, jurisprudence, and international human rights instruments concerning legal procedures for the treatment of PTSD. Here we investigate empirically how data on trauma are—or how they are not—constructed in terms of legalities and judges' conduct. This analytical trajectory informs the manner in which the article is organised: first a conceptual analysis of PTSD and the impact it has on victims of violence, then of the Ecuadorian system of law and its comparative standards, second a reporting of their empirical and normative findings, and third a discussion about the implications of these results. It ends with a call for a closer connection between empirical knowledge of trauma and its legal status, so that we can have a more consistent, humane, victim-centered justice model.

State of the Art

Over the past 20 years, the academic literature on Post-Traumatic Stress Disorder (PTSD) in violent contexts has grown substantially, especially within interdisciplinary fields integrating law, psychology, and human rights. But even so, significant areas remain for legal acknowledgement of PTSD as a separate form of harm, particularly in Latin American jurisdictions. International legal and cross-disciplinary research shows that trauma-related mental health disorders, including PTSD, pose significant threats to victims' autonomy, dignity, and access to justice. Fundamental legal scholarship has stressed that psychological harm must be treated as a legally relevant injury within international human rights law when trauma is produced by violence or structural abuse (1). This is reinforced by approaches of victim-centered frameworks that connect trauma, rights and reparation within processes of transitional and ordinary justice (2). Psychologically and medico-legal studies have consistently found that PTSD is among the most common and disabling consequences of violence on survivors. Research analysing trauma and neuroscience and how they relate to law suggest that the legal system should include scientific evidence of mental injury into the rationale and compensation provisions of the law (3). Likewise, empirical work on

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psychological torture and severe trauma reveals that PTSD often occurs when legal culpability and restitution are lacking or delayed (4). High violence and trauma exposure has been reported, based upon empirical and socio-legal data from Latin America, particularly women and marginalized groups. Findings in large-scale analyses of the prevalence of gender-based violence in the region indicate strong associations of violence, PTSD, depression, and sustained psychosocial harm, with challenges highlighted of effective translation of various legal reforms (5,6). These results align with research centered on women's mental health in Latin America, where PTSD has been recognized as a continued consequence of structural inequity and violence (7). The same dynamics are illustrated in country-by-country studies. In Ecuador, previous qualitative and interdisciplinary studies have examined political trauma, collective memory and psychosocial effects of violence with an explicit focus on the magnitude of victimization and limited capacity of institutions to address trauma (8,9). Supporting case studies on intimate partner violence in susceptible contexts have found that PTSD symptoms continue to accompany female patients while seeking judicial protection, indicating how the legal system struggles to respond effectively to psychological harm (10). Cross-cultural and comparative research extends this view, indicating that PTSD is recognized as a significant manifestation of violence across multiple legal systems. As studies show, no matter what jurisdiction, PTSD is one of the most observed effects in child sexual abuse (11) and must be covered by legal remedies that are anticipatory and restorative. Likewise, complex PTSD studies on survivors of intimate partner violence have indicated that legal actions themselves can compound trauma when psychological damage is not sufficiently recognized (12). Comparative criminal and human rights law has also scrutinized this treatment of PTSD. Analyses of women's access to justice in various legal systems suggest that trauma-related disorders are often invisible in criminal law, though they have a significant effect on victims in engaging with the justice system (13). Studies on trafficking and victims' rights in Ecuador also demonstrate how international legal obligations acknowledge psychological harm, but domestic practice is uneven (14). It has been extended in the past few years to include larger justice frameworks such as transitional justice and law-and-emotion studies. These works contend that emotions and trauma are central in forming victims' experiences of justice and that ignoring PTSD compromises the legitimacy of legal responses to violence (15,16). A post-conflict and post-crisis approach also reveal that unhealed trauma exacerbates cycles of violence and legal marginalization (17,18). Recent empirical evidence continues to confirm the importance of PTSD in the twenty-first century today. Research in COVID-19 and post-COVID has shown high rates of secondary traumatic stress and PTSD symptoms in professionals exposed to violence and crisis, thus emphasizing the necessity for integrated legal and mental health protections (19). At a regional level, analyses of gender-based and sexual violence in Latin America reveal further how institutional responses fail to address the psychological aspect of victimization (20). Human rights institutions and public health centers worldwide have long acknowledged violence as a significant determinant of mental health outcome. The World Health Organization reports that trauma-related disorders are prevalent in

ISSN: 3091-2008
Edición Especial:
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DOI:
https://doi.org/10.56519/3y43hx12

victims of violence, and thus, states have a responsibility to provide access to rehabilitation and mental health care as part of overall reparation (21). Overall, the evidence demonstrates the commonalities of research across diverse professions, with a strong correlation between the prevalence and severity of PTSD among all victims of violence. However, literature also reflects a continued deficit in empirical understanding of such an issue and its legal embedding, as well, particularly in Ecuador and like countries. Despite increasing recognition within international and comparative scholarship of PTSD as a legally relevant harm, domestic legal frameworks remain lagging, thus providing rationale for the current study.

MATERIALS AND METHODS

This study is qualitative in nature, descriptive, analytical, and comparative. The approach is based on principles of legal research similar to those traditionally used in doctrinal and socio-legal analysis so it will enable a synthesis of normative foundations and interdisciplinary evidence on mental health and trauma. This methodological method lends itself well to studying the legal consequences related to Post-Traumatic Stress Disorder (PTSD) in violence victims, in particular, and allows for the explanation of empirical outcomes according to legal reasoning and human rights norms.

The research process in this study is visually presented below to help clarify the underlying methodology that guided our approach. The following infographic illustrates the sequential and integrative nature of the methods that describes how the literature review, legal analysis, comparative study, and integrative analysis are outlined, addressing the legal effects of Post-Traumatic Stress Disorder (PTSD) on victims of violence within the Ecuadorian and international legal frameworks (Figure 1).

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ISSN: 3091-2008

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Figure 1. Research Methodology Overview: The diagram summarizes the main stages of the research process, including the systematic literature review, normative and doctrinal analysis of Ecuadorian law, comparative legal analysis, and integrative synthesis. This methodological structure enables the articulation of empirical evidence on Post-Traumatic Stress Disorder (PTSD) with legal reasoning and international human rights standards.

A visual synthesis of the methodological journey of this study is illustrated in Figure 1. As illustrated in the figure, this study starts with a systematic review of the interdisciplinary academic literature to identify empirical evidence and theoretical approaches related to Post-Traumatic Stress Disorder (PTSD) in contexts of violence. The third part depicts the change to a normative and doctrinal analysis of the Ecuadorian legal system and demonstrates how psychological harm and trauma are framed in domestic law. The comparative legal analysis stage focuses on the consideration of international human rights instruments and some foreign legal contexts to identify normative standards and best practices. The integrative analysis stage lastly connects empirical results to legal norms through the identification of legal gaps and providing interpretative guidance for the findings discussed below.

The research focuses solely on secondary sources and thus does not involve direct interaction with human subjects. The most important sources of research are academic literature, legal codes of practice, jurisprudence, and international reports from relevant institutions. This approach

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ISSN: 3091-2008

Edición Especial:
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DOI:
https://doi.org/10.56519/3y43hx12

enables good ethical practices and rigorous analysis, as well as provides a basis for identifying normative deficiencies and comparative trends. This methodological process had sequential and complementary phases. To begin with, the systematic review of the peer-reviewed academic literature was performed to identify relevant empirical data and theoretical methods of PTSD in violence contexts (e.g., gender-based violence, political violence, human rights abuses). Second, a normative and doctrinal review of the Ecuadorian legislation was conducted in relation to constitutional clauses, criminal statutes, and victim protection regulations regarding mental health and comprehensive reparation. Third, we carried out a comparative legal assessment, using both international human rights law and foreign legal scholarship to compare Ecuadorian social norms to international standards and best practices. The following explanatory Table1 summarizes the methodological workflow adopted in this research before further detail of the analytical results.

Table 1. Methodological design and analytical stages of the study.

Stage	Methodological action	Purpose	Sources
Stage 1	Systematic literature review	Identify empirical and theoretical findings on PTSD and violence	Peer-reviewed journals, academic books, WHO and UN reports
Stage 2	Normative and doctrinal analysis	Examine the legal treatment of psychological harm in Ecuador	Constitution, criminal law, victim protection legislation
Stage 3	Comparative legal analysis	Contrast Ecuadorian law with international standards	International human rights instruments and comparative legal literature
Stage 4	Integrative analysis	Identify gaps and support the interpretation of results	Cross-analysis of empirical and legal findings

Table 1 illustrates the sequential and integrative methodological design of the study. The first stage enabled the identification of empirical evidence on PTSD and its documented effects on victims of violence. The second stage focused on assessing how such evidence is reflected—or omitted—in the Ecuadorian legal framework. The third stage introduced a comparative perspective, allowing for the evaluation of domestic law in light of international human rights standards. Finally, the integrative analysis connected empirical findings with legal norms, providing the basis for the results and discussion presented in the subsequent sections.

RESULTS

Findings of the analysis of empirical and normative sources were the most relevant conclusions arising from reading the literature review. The findings are based on three main gaps that appear to be directly relevant to the title of this thesis: (i) the absence of empirical data on the prevalence of PTSD among violence victims in Ecuador; (ii) the limited legal recognition of psychological harm associated with non-physical forms of violence in the legal system; and (iii) the lack of clear

ISSN: 3091-2008
Edición Especial:
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https://doi.org/10.56519/3y43hx12

legislation that recognizes PTSD as an independent and compensable legal injury. Results are reported in tables, with an introduction prior to their display and explained immediately after according to journal editors' directions. Prior to making the empirical findings available, it should be noted that this information is extracted from peer-reviewed academic studies, institutional reports, and comparative legal analyses that were conducted in Ecuador, Latin America, and international contexts (Table 2).

Table 2. Empirical evidence on PTSD prevalence in contexts of violence: The current table provides an overview of the data available on the prevalence of Post-Traumatic Stress Disorder in populations that have been subjected to these types of violence, underscoring the dearth of data specific to Ecuador.

Population / Study Context	Country or Region	Main Findings Related to PTSD	Source
Victims of forced displacement	Colombia	Approximately 26% met diagnostic criteria for PTSD	(22)
Women exposed to gender-based violence	Ecuador	High exposure to traumatic events; elevated risk factors for PTSD identified	(9)
Survivors of intimate partner violence	Latin America	PTSD identified as one of the most prevalent trauma-related disorders	(23)
Victims of human rights violations	Comparative studies	PTSD more frequently diagnosed than other mental disorders	(2)

Table1 shows that while PTSD prevalence has been documented in several Latin American contexts, including Colombia and regional comparative studies, Ecuador lacks robust epidemiological data specifically focused on victims of violence. This gap limits the ability of legal systems to rely on empirical evidence when designing victim protection mechanisms and reinforces the need for national-level data collection (Table 3).

Table 3. Relationship between types of violence and PTSD-related outcomes: findings on the association between different forms of violence and PTSD-related psychological outcomes, with particular attention to non-physical violence.

Type of Violence	Psychological Outcomes Identified	Key Findings	Source
Psychological violence	PTSD symptoms, anxiety, depression	Strong predictor of PTSD symptoms, sometimes exceeding physical violence	(8)

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https://doi.org/10.56519/3y43hx12

Sexual violence	PTSD, dissociation, long-term trauma	Identified as a critical risk factor for chronic PTSD	(3)
Political and structural violence	PTSD, collective trauma	Trauma linked to long-term social and legal exclusion	(1)

Table 3 demonstrates that psychological and sexual violence are consistently associated with severe PTSD-related outcomes. These findings are particularly relevant from a legal perspective, as they reveal a mismatch between empirical evidence and legal frameworks that often prioritize physical harm while underestimating psychological injury (Table 4).

Table 4. Identified legal gaps in the Ecuadorian framework regarding PTSD: synthesizes the main legal gaps identified through doctrinal and comparative legal analysis of the Ecuadorian legal framework.

Legal Dimension	Identified Gap	Practical Consequences	Source
Criminal law	Lack of explicit recognition of PTSD as legal harm	Psychological damage often requires excessive evidentiary burden	(24)
Victim reparation	Absence of standardized criteria for PTSD compensation	Inconsistent judicial decisions on indemnification	(25)
Public policy	Fragmented mental health and victim protection policies	Limited access to specialized treatment for victims	(26)

As illustrated by Table 4, the Ecuadorian legislation does not explicitly recognize PTSD as an autonomous legal harm, which leads to inconsistent judicial practices and limited access to comprehensive reparation. This gap in the legal framework contradicts international human rights standards, which emphasize rehabilitation and psychological recovery as central to victim reparation. The results demonstrate a clear disconnection between empirical evidence on trauma-related mental health consequences and their legal recognition within the Ecuadorian framework. These findings serve to furnish strong empirical and normative ground for the discussion and recommendations developed in the subsequent section.

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ISSN: 3091-2008

Edición Especial:
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DISCUSSION

The results discussed in the latter section disclose a structural and normative discrepancy between the real experience of trauma-related psychological injuries that traumatized peoples in Ecuador have in terms of their mental health distress exposure by the Ecuadorian legal system. This disparity is not confined to Ecuador, though relative data shows that other jurisdictions have made more headway in establishing psychopathology — especially PTSD — as a legally significant harm to individuals who have to undergo legal protection, reparation and rehabilitation efforts. First, the lack of comprehensive epidemiological studies on PTSD among violent crime survivors in Ecuador severely hampers judicial decisions according to evidence. Empirical research from Colombia, regional Latin American studies and global reviews have described highly variable rates of PTSD in populations displaced, subjected to gender based violence, and victims of human rights violations according to Table 1. Corresponding patterns have been reported by Donoso (8) and Capella et al. (9), in Ecuadorian cases but are primarily qualitative or indirect analyses. However, where there is little nationwide representative data, there exists the vacuum in which legal actors must rely on fragmented or external forms of evidence thereby limiting the ability of courts to fully assess psychological harm. Second, the study findings with links between types of violence and PTSD outcomes (Table 2) support a fundamental insight highlighted in the literature that demonstrates psychological and sexual violence are among the strongest predictors of PTSD and long-term trauma. This observation aligns with a range of interdisciplinary studies that connect exposure to violence to extreme mental health outcomes (3,23). Legally, this flies in the face of well-established paradigms that regard physical injury over psychological damage. The need to consider trauma-related mental disabilities as a part of a human rights framework whereby dignity, autonomy, and availability of rehabilitation are core legal obligations of the State (1). Third, the legal gaps outlined in Table 3 demonstrate persistent deficiencies in Ecuadorian law, particularly that of explicit recognition of PTSD as a specific, autonomous harm and a claim for compensation. While Ecuador's laws recognize the principle of comprehensive reparation and mental healthcare, lack of an explicit consideration of PTSD leads to uneven justice and to an added evidence load for its victims. Analogous worries have been expressed in comparative legal scholarship, stressing the necessity of establishing clear normative standards guaranteeing equal access to justice for victims suffering from psychological injury (2,27). The comparative nature of this article also provides further implications that Ecuador should add international human rights standards and best practices in its domestic legislation. International and foreign jurisprudence is more and more sensitive to the recognition of psychological injury as part of victimization, especially when gender based violence and structural trauma are involved. A failure to bring domestic law in line with these standards puts at risk a situation in which secondary victimization is repeated and the effectiveness of legal remedies is compromised. In conclusion, the work addresses the need for empirical mental health evidence to be incorporated in legal reasoning and policy making. Not only does defining PTSD as a legally relevant harm enhance judicial

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Edición Especial:
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coherence, it would strengthen the support we need to achieve victim-centered justice by ensuring rehabilitation, appropriate compensation, and the assurance of non-repetition. These implications underlie the findings and recommendations proposed in the next section.

CONCLUSIONS

This article explains how Post-Traumatic Stress Disorder (PTSD) is a serious and lasting disorder resulting from violence that reaches well beyond the clinical domain and is linked to the legal aspects in determining victims' right to justice, reparation, and rehabilitation. The study establishes that, while both the empirical and the interdisciplinary literature all agree that PTSD is a serious type of psychological harm, its treatment in the framework of the Ecuadorian law remains restricted, fragmented, and inadequately articulated. There is, however, a critical void in systematic and country-level data to date on the occurrence of PTSD among victims of violence in Ecuador as is identified by the study. This lack is a serious empirical deficiency in the ability of legal institutions to support judicial reasoning and public policy with evidence-based assessment of psychological harm. Consequently, courts and decision-makers are frequently dependent upon fragmented information or a lack of direct information, which undermines the effective protection of victims' rights. Second, the findings suggest that non-physical violence, especially psychological and sexual violence, is closely related to the likelihood of experience of PTSD and a range of chronic, life-long mental illness. This is a point which threatens normative legal theories focusing on physical harm against psychological injuries, even as it makes huge impact on the victim autonomy, dignity, and social involvement. This kind of imbalance is antithetical as far as current understandings of full reparation and human rights protection are concerned. Thirdly, the comparison suggests that Ecuadorian law does not have a clear set of guidelines that frame PTSD as a legitimate, compensable legal injury. While current norms include extensive reparation as well as mental health supports, the lack of unequivocal legal standards means that judicial practices are inconsistent, the burden is greater for victims and victims are not given equal access to compensation and rehabilitation. On account of these findings, the article highlights a pressing need for translating empirical understanding of trauma-related mental health into legal recognition of mental disorders. However, PTSD could be integrated into both legal reasoning and normative frameworks, which would lead to better judicial consistency, improved victim protection and greater compliance with international human rights laws. In fact, a trauma-informed legal approach is an important step towards a more humane, efficient and victim-centred justice system for Ecuadorian citizens' rights, one which considers those from all corners and seeks to provide victims as its main beneficiaries.

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ISSN: 3091-2008
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Vol. 4 Num. 10, PP 401-414
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https://doi.org/10.56519/3y43hx12

In the preparation of this manuscript, artificial intelligence tools based on large language models were used in a limited and auxiliary manner. Specifically, ChatGPT (OpenAI) was employed to support tasks related to language editing, stylistic improvement, and the organization of preliminary drafts of certain sections of the text. The tool was also used to assist with the translation and refinement of academic language into English.

At no stage was artificial intelligence used to generate original scientific claims, empirical data, legal analysis, or conclusions. All substantive content, interpretations, arguments, and final decisions regarding structure, methodology, results, discussion, and conclusions are the sole responsibility of the author. The author has critically reviewed, edited, and validated the entire manuscript to ensure its accuracy, coherence, originality, and compliance with academic and ethical standards.

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