

Law Enforcement Against International Human Trafficking

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Abstract. *International human trafficking is a serious crime that causes harm to millions of individuals in various parts of the world. The purpose of this article is to examine the challenges and prospects in law enforcement efforts against international human trafficking. Through an analytical approach, this research will investigate various aspects included in the relevant international legal framework, effective law enforcement strategies, as well as cooperative efforts between countries in handling human trafficking cases.*

Key words: *human trafficking, international law, handling human trafficking cases*

INTRODUCTION

International human trafficking is a serious and detrimental violation of human rights, and demands a serious response from the global community. These actions not only violate international legal norms, but also destroy human dignity. This paper aims to analyze the challenges and prospects in law enforcement against international human trafficking using an analytical approach. This research will investigate various aspects, including relevant international legal frameworks, effective law enforcement strategies, and cooperation between countries in dealing with human trafficking cases. The author uses a normative legal research approach, which is a decision law approach that is the main basis for this research.

Research methods

The author uses a normative legal research approach, where the main focus is on the analysis of legal decisions. This approach is the main basis for carrying out normative legal research.

DISCUSSION

The term Human Trafficking (Human Trafficking)

Human trafficking, which in English is called "Human Trafficking," consists of the words "trafficking," which means illicit sale, and "human," which refers to humans. It is closely related to activities that resemble slavery, where people are sold for the purpose of making a profit, such as by forcing them to work or be exploited unfairly. The term "trafficking" is usually associated with merchants, who are called "traffickers." The origins of the term can be traced back to the concept of "sales," especially in the context of trafficking in

women in the early 20th century.¹. Official definitions and guidelines for dealing with human trafficking are found in UN legal instruments, such as in the UN Convention, especially in article 3, which addresses efforts to prevent, suppress and punish trafficking in human beings, especially women and children:

*"Recruitment, transportation, transfer, accommodation, or acceptance of individuals through coercion or, fraud, betrayal, abuse of power or vulnerable positions, or the provision or receipt of benefits with the intent to gain approval from someone controlling another individual for the purpose of exploitation, at least encompassing exploitation of another individual's prostitution or other forms of sexual exploitation, forced labor or service, slavery, or practices akin to slavery, servitude, or organ trafficking.."*²

Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons (PTPPO), buying and selling human beings is defined as a series of actions. The actions mentioned are acts of human exploitation that involve the use of violence, pressure, or abuse of power to recruit, transport, accommodate, sending, moving, or receiving vulnerable individuals with the intent of exploiting them³. This can occur domestically or across borders and often involves debts or payments to parties who control the individual. This exploitation can take the form of prostitution, forced labor, slavery, servitude, or organ trafficking.

The definition of human trafficking, as it relates to existing definitions, highlights its similarity to the elements of a criminal offense. This act is considered a global crime due to its transnational nature, affecting not only individual countries but spanning across borders⁴.

The definition that explains the crime of human trafficking, when compared with existing definitions, shows that this definition has similarities with the elements of crimes that can be charged. Human trafficking is considered a global crime due to its cross-border nature, Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which is an addition to the UN Convention Against Crime⁵Transnational Organized, explains human trafficking as a crime that is not only limited to one country but also crosses national borders.:

Human trafficking involves acts that violate human rights, including exploitation in

¹Cahya Wulandari & Sonny Saptioajie Wicaksono, 'The Crime of Human Trafficking, Especially Against Women and Children: A Problem and its Handling in the City of Semarang', Yustisia Edition 90, September-December 2014

²CahyaWulandari&SonnySaptioajieWicaksono,Lo.Cit

³ See General Section Explanation of Law no. 21 of 2007

⁴ Ni Putu Rai Yulianti & Dewa Gede Sudika Mangku, 'Legal Protection for Women Victims of Trafficking in Indonesia in an International Human Rights Perspective', International Journal of Criminology and Sociology, Volume 9, 2020.

⁵ Masvisii Nur Hidayati, 'Efforts to Eradicate and Prevent Trafficking in Persons Through International Law and Indonesian Positive Law', Al-Azhar Indonesia Journal Social Institutions Series, Vol. 1, No. 3, March 2012

various forms such as sexual, forced labor, or organ trafficking. Victims often do not give full consent and are often influenced by the treatment they receive. It is important to note that human trafficking also includes the exploitation of children under the age of 18. Therefore, there is a need for comprehensive international efforts to eradicate human trafficking and protect victims, taking into account their vulnerability to devastating exploitation⁶.

History of Human Trafficking in Indonesia & Internationally

Initially, human trafficking was not considered a violation of human rights (HAM), but rather as slavery and prostitution. The practice of slavery has existed since the days of feudalism, where the principle of "strength equals power" applied, allowing stronger groups to control weaker groups. The conquest of territories outside Europe by several European countries also led to an increase in the practice of slavery. History records early examples of slavery in Sumerian or Iraqi society, dating back thousands of years⁷.

In addition, communities in America, China, the Middle East, and Africa also experienced similar experiences to Sumer in terms of conquest and the practice of slavery. Over time, the practice of conquest resulted in mutually beneficial relationships between the conquering group and other groups, which could occur through marriage or trade activities. The development of trade then led to an increase in the number of slaves used as labor to meet the needs of certain communities. In that period, slavery and prostitution were considered commonplace and not considered crimes⁸.

In Indonesian history, there are records of the practice of slavery and prostitution, especially during the reign of the kingdom in Java. Women were often treated as merchandise in the kingdom at that time, used as property or trading commodities by nobles and feudal elites. Kings, who were often considered noble and majestic figures, often had several concubines, most of whom were daughters of noble families living within the kingdom.⁹ In addition to noble daughters, the practice of having concubines also involved women from commoner backgrounds being sold or surrendered by their families as a sign of loyalty to the king or to improve their family's social status. There were also concubines offered by other kingdoms, although to date there are no records of kingdoms carrying out this practice. The

⁶ Muhammad Kamal, 'Human Trafficking: Overcoming the Crime of Human Trafficking in Indonesia', Accessed from: <https://books.google.co.id/books?id=UJ67DwAAQBAJ&printsec=frontcover#v=onepage&q&f=false>, On May 19, 2022, At 16:43.

⁷ Muhammad Kamal, 2019, Op. Cit., p. 9.

⁸ Muhammad Kamal, Loc. Cit., p. 11-12

⁹ Ibid

story about concubines in this context is still a circulating legend¹⁰.

Based on John Ingleson's research in the article, the practice of prostitution in Indonesia reached its peak around 1811 and experienced a significant increase around 1870. Factors such as infrastructure development by Daendels and the implementation of the cultuurstelsel system by the Dutch government influenced the development of prostitution during that time. This shows that historical dynamics and colonial policies played an important role in the form and level of prostitution practices in Indonesia in the 19th century.¹¹.

After World War II, human rights issues, especially those related to women and human trafficking, became a major focus on the international agenda. The formation of organizations such as the Commission for the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979 was an important milestone in efforts to strengthen women's authority in various fields. This reflects an emphasis on human rights principles, as stated in the Universal Declaration of Human Rights, which recognizes women's right to make decisions as an integral part of human rights.¹².

A. Human Trafficking Factors in Indonesia

The factors that cause human trafficking in Indonesia can vary, and some of them include:

a. Poverty

One of the main factors causing the increase in human trafficking cases in Indonesia is poverty. Data from the Central Statistics Agency, in September 2021, around 9.71% of Indonesia's population lives in poor conditions, which is equivalent to around 26.50 million people. Predictions from According to research conducted by the Institute for Demographic and Poverty Studies (IDEAS), it is estimated that the poverty rate in Indonesia in 2022 will increase to around 10.81%, causing around 29.3 million people to live in poverty..Hal This is caused by a lack of social protection which causes economic instability for the poor, especially due to the impact of the pandemic and the crisis which has not been fully resolved¹³.

The impact of poverty is the increasing number of human trafficking cases in Indonesia. This is caused by the urge to earn money quickly amidst difficult economic conditions. Many people look for shortcuts without realizing that they are becoming victims of human trafficking, a

¹⁰ Ibid., p. 13

¹¹ Muhammad Kamal, 2019, Op. Cit., p. 14

¹² Central Statistics Agency, "Percentage of Poor Population in September 2021 drops to 9.71 percent", Accessed from: <https://www.bps.go.id/pressrelease/2022/01/17/1929/persentase-penbangun-miskin-september-2021-turun-jadi-9-71-persen.html>,

¹³ Kompas, Ade Miranti Karunia & Akhdin Martin Pratama, "IDEAS Research: RI's Poverty Rate Will Soar in 2022", Accessed from: <https://money.kompas.com/read/2021/12/09/091539726/riset-ideas-angka-kemiskinan-ri-melonjak-di-2022?page=all>, On May 20, 2022, 15.09

practice that does not respect humanity.

b. Education

Apart from the poverty factor, lack of access to education is also one of the main causes of increasing cases of human trafficking in Indonesia. Data from the Directorate of Population and Civil Registration (Dukcapil), only a small portion of the Indonesian population has succeeded in pursuing tertiary level education, while the majority have only achieved education. elementary and intermediate¹⁴. The results of the National Socioeconomic Survey (Susenas) by the Central Statistics Agency (BPS) in 2020 also show that a significant number of the Indonesian population is still illiterate. High levels of illiteracy and lack of access to education are the main triggers for increasing cases of human trafficking in Indonesia¹⁵.

c. Tradition factor

""Traditional factors have a unique role in the problem of human trafficking. There are several aspects that must be considered in understanding how tradition contributes to human trafficking, such as the impact of globalization and lack of education which encourages Indonesian society to become tolerant of this practice and seek quick results. Apart from that, the lack of spirit of hard work and innovation makes Indonesian society more consumerist¹⁶."

"This situation creates a view in society that success is linked to the ownership of material goods such as cars, houses and land, even if obtained through unethical means. The lack of social oversight to maintain morality within the community is also a traditional factor that contributes to strengthening the case human trafficking."

"Traditional factors that trigger cases of human trafficking are something worrying and need to be changed by involving participation from all levels of society. Collaboration between the government, community leaders, entrepreneurs and the younger generation is very important in forming traditions that oppose the practice of human trafficking.

d. "Other Causative Factors

Other factors such as financial exhaustion, disasters, ceasefires, and political conflicts can lead to instability and mass migration in society. This created discomfort among residents and prompted many individuals to seek shelter in safer places¹⁷.

¹⁴Databoks, Viva Budy Kusnandar & Annisa Mutia, "Only 0.02% of Indonesia's population has education up to doctoral degree in June 2021", Accessed from:[https://databoks.katadata.co.id/datapublish/2021/11/20/ merely-002-penresiden-indonesia-educated-up to S3-in-June-2021](https://databoks.katadata.co.id/datapublish/2021/11/20/merely-002-penresiden-indonesia-educated-up-to-S3-in-June-2021),

¹⁵bid.

¹⁶Kompas, Ayunda Pininta Kasih, "2.9 Million Indonesians Are Still Illiterate, Most in Papua", Accessed from:<https://edukasi.kompas.com/read/2021/09/06/170506771/29-juta-penbangun-indonesia-masih-buta-aksara-terbesar-di-Papua>

¹⁷Helena Bellarina Waworuntu, Thesis: "Judicial Overview of Human Trafficking as a Transnational Crime According to National Law and International Law", (Manado: UNSRAT, 2022), Page 2

e. The Role and Efforts of International Law in Eradicating Human Trafficking

International Law is a system of rules that applies between countries and has relationships through agreements. It is a collection of legal rules recognized and applied by the international community. Thus, International Law includes all principles and regulations governing relations between states, as well as relations between states and other legal subjects, such as international organizations, non-state entities, or individuals, that cross state boundaries.¹⁸

International Law is a set of rules agreed by countries in the world to regulate their relations. Like law in general, its aim is to create order and justice between the applicable countries. This means that international law ensures that the behavior of states is recognized and respected by other states, thereby creating harmony and justice in international relations.

In 2009, Indonesia took a series of important steps in efforts to end human trafficking at the national and international level. This includes the ratification of the Palermo Protocol through Law Number 14 of 2009 as well as the ratification of the Protocol to Prevent, Take Action and Punish Human Trafficking, Especially Women and Children, as part of the UN Convention on Transnational Organized Crime. This action shows Indonesia's commitment to fighting human trafficking and increasing protection for women and children who are vulnerable to such exploitation.

"Indonesia agrees with Palermo because it realizes the need for comprehensive international action to address human trafficking, especially girls and children. Although there are many related international agreements, there is no global agreement that covers all aspects of human trafficking. International agreements such as the Palermo Protocol necessary to protect vulnerable individuals and provide strict punishment to perpetrators of human trafficking crimes.

Article 4 of the Palermo Protocol stipulates that the protocol applies to handle, investigate and prosecute criminal acts of a transnational nature and committed by organized crime groups, as well as to protect the rights of individuals who are victims of these criminal acts. Actions regulated in the Palermo Protocol not only include actions that are intentionally carried out, but also include attempts, involvement as additional perpetrators, and orders to other people to commit criminal acts.

In Article 10 of the Palermo Protocol it is explained that enforcing regulations, immigration agencies, or other authorities are expected to cooperate by exchanging

¹⁸Sugeng Istanto, *International Law Revised Edition*, (Yogyakarta: AtmaJaya Yogyakarta, 2014), p. 5

information in accordance with their national laws, as part of their efforts to eradicate human trafficking:

Human trafficking involves the use of fake travel documents or no documents at all, and is carried out by organized groups that use a variety of methods to recruit and transport victims via varying routes.

Additional steps that can be taken by countries that are parties to efforts to prevent and combat human trafficking include measures related to monitoring. Article 11 of the Palermo Protocol regulates actions related to preventing and identifying human trafficking in border areas, including document control, verification of document authenticity, and security measures.:

Overall, the Palermo Protocol sets out a series of steps that countries must take to prevent and address human trafficking. This includes increased border controls to prevent and detect human trafficking, adoption of legislative measures to prevent the use of commercial transportation in human trafficking, as well as law enforcement through sanctions and visa measures against perpetrators. In addition, the Protocol encourages cooperation between border control agencies to strengthen prevention and enforcement efforts."

B. International Legal Protection for Human Trafficking Victims

Before discussing how individuals are protected in international law, it is important to understand their position in the realm of international law. Individuals are considered subjects of international law because that law establishes specific rights and obligations that apply to them. The position of individuals as subjects of international law is further strengthened by the growth in the number of International treaties do not officially establish direct rights and obligations for individuals, but this does not reduce their status as subjects of international law. The protection of individuals in international law is often linked to their nationality.

because many international agreements bind countries and their citizens, as well as countries that provide protection to their citizens. However, international law also provides protection to individuals regardless of their nationality.

Some of the international legal protections are as follows:¹⁹

1. Right to Confidentiality of Victim's Identity

Article 44 paragraph (2) UUPTPO states that victims will be protected in the event of physical threats or pressure from outside parties related to their testimony, so that victims do not

¹⁹Anggie Rizqita Herda Putri & Ridwan Arifin. "Legal Protection for Victims of Human Trafficking Crimes in Indonesia (Legal Protection for Victims of Human Trafficking Crimes in Indonesia)". *Res Judicata* Volume 2, Number 1, June 2019

need to feel afraid.

2. Right to Receive Restitution

Article 48 paragraph (1) of the Law on the Eradication of Criminal Acts of Trafficking in Persons provides the legal basis for restitution, as explained in Article 1 point 13 of the UUPTPO. Restitution, as regulated in this regulation, refers to the payment of compensation for losses determined to the perpetrator based on a court or judge's decision which has permanent legal force, related to material and non-material losses experienced by the victim or his heirs. In accordance with Government Regulation Number 3 of 2002, restitution is the return of losses to the victim or their family from the perpetrator or third party, which can take the form of returning property, paying compensation for loss or suffering, or reimbursement of costs for certain actions...

3. Rights to Health, Social Affairs, Return and Reintegration

Article 51 paragraph (1) UUPTPO states that victims of human trafficking have the right to receive health and social rehabilitation, as well as repatriation and social reintegration from the government if they experience physical or mental suffering due to acts of human trafficking. victims, both physically and mentally, are restored so that they can return to society as before and live a normal life.

CONCLUSION

The function of international law in efforts to overcome human trafficking in Indonesia has great significance, especially through the enforcement of the Palermo Protocol which is recognized through Law Number 14 of 2009. This step is aimed at increasing effectiveness in preventing and prosecuting human trafficking, especially against girls and children. Apart from that, international law also provides security to victims of human trafficking with the aim of protecting their rights. This includes the right to privacy of victims' identities, restitution, as well as health, social rehabilitation, repatriation and reintegration programs.

This shows that the implementation of international law, such as the Palermo Protocol, within Indonesia's national legal framework, such as Law Number 14 of 2009, is an important step in efforts to eradicate human trafficking. Protection for victims, especially in terms of identity confidentiality, restitution and rehabilitation, is a real action to overcome the negative impacts of human trafficking.

SUGGESTION

Human trafficking is a cruel crime. Government involvement, as well as international and national legal frameworks, have a very important role in overcoming this. The

government's tasks include strengthening cross-border cooperation and with international institutions to prevent human trafficking and structured cross-border crime.

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