

Legal Review of the Criminal Act of Human Trafficking of Minors

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ABSTRACT

This research is motivated by trafficking activities, which are often used for sexual exploitation purposes and for work in rough places that provide low wages. According to internal reports, trafficking is a significant problem in Indonesia. Many children are exploited in domestic slavery, commercial sexual exploitation, rural agriculture, mining, and fisheries. Victims are initially recruited with sweet promises and are eventually forced to become prostitutes. The legal research method used in this study is normative juridical research, which is research conducted or aimed only at written regulations with the nature of descriptive-analytical research, which is a method that functions to describe or provide an overview of the object being studied. The data source used is secondary data with qualitative data analysis. The results of this study show that The main factor in the rampant trafficking of women and children is poverty; they try to improve the economy by looking for work. However, their dream of finding work is not as easy as imagined because of the bitter suffering they get. Instead of getting a job, they are being bought and sold. Efforts to prevent the crime of human trafficking or trafficking can be made in several ways, namely improving community education, especially alternative education for girls, including educational facilities and infrastructure.

Keywords:

Children;
Crime;
Education;
Efforts;
Women.

INTRODUCTION

Human trafficking is closely related to human dignity. The increasing problem of human trafficking in various countries, including Indonesia and other developing countries, has become the centre of attention of all communities, especially the United Nations (U.N.). The U.N. Protocol 2000 on Preventing, Eradicating and Punishing the Crime of Human Trafficking, Especially Children (Palermo Protocol) was approved and signed by various countries, including Indonesia (Nuraeni & Kania, 2017).

Human trafficking is a severe violation of the law because it robs human dignity and honour. It results in material and immaterial losses. (Takariawan & Putri, 2018). Based on empirical evidence, children are the group of human trafficking crimes that are most often victims. Victims are trafficked not only for prostitution or other forms of sexual exploitation but also for forms of exploitation such as forced labour for forced servitude slavery. The perpetrators of human trafficking are carried out by recruiting, transporting, moving, hiding or utilizing the person in exploitation practices with all forms of threats of violence, use of violence, kidnapping, forgery, fraud, abuse of power, or giving payment to obtain the consent of the person who has control over the victim.

Of around 19 neighbouring countries that have been the destinations for human trafficking from Indonesia from March 2015 to September 2019, the most sending workers are Malaysia, with a total of 2,689 people, including 2,020 adult women and 385 girls, and the rest are adult men and boys. In other words, the majority of human trafficking are women and children (Perempuan, 2015).

In 2020, based on records from the International Organization for Migration (I.O.M.) in Indonesia, the number of Human Trafficking Crimes received by I.O.M. increased to 154 cases. The Women's Empowerment and Child Protection

(K.P.P.P.A.) recorded an increase in T.P.P.O. cases during the pandemic, from 213 cases (2019) to 400 cases (2020). In North Sumatra, especially in the city of Medan, data on the increase in human trafficking cases has also increased. According to data from the Ministry of Women's Empowerment and Child Protection through the P.P.P.A. Symphony, from January to June 2020, there were 60 cases of sexual exploitation of adult women and 60 child victims of human trafficking (Liani et al., 2022).

The human trafficking law applicable in Indonesia is regulated in the Criminal Code, which is contained in Article 297 of the Criminal Code, that trafficking in women and underage boys will be subject to sanctions in the form of a sentence of 6 years imprisonment and the revocation of several rights (Sinlaeloe, 2017). The criminal law on human trafficking in Indonesia has been revised and perfected in Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Human Trafficking. This law strictly regulates the sanctions for perpetrators of the crime (Roziq, 2020). I quoted the opinion of Muljanto, who said that criminal law is a part of the entire law in force in a country that determines which actions are permitted and which are prohibited, accompanied by threats and certain criminal sanctions for those who violate. In theory, sanctions are an intentional addition of misery, which is the intention that distinguishes criminal law from other laws. A crime must have legal consequences for the perpetrator, usually in punishment or criminal sanctions. According to Article 10 of the Criminal Code, there are two categories of criminal penalties, namely the main penalty consisting of the death penalty, imprisonment, detention, fines, and closure. The second category is additional penalties for revoking certain rights and announcing the judge's decision (Suyanto et al., 2016).

METHOD

The legal research method used in this study is normative juridical research, which is research conducted or aimed only at written regulations with the nature of descriptive-analytical research, which is a method that functions to describe or provide an overview of the object being studied. The data source used is secondary data with qualitative data analysis. Data obtained from the results of literature or review of various literature or library materials related to the problem or research material is often referred to as legal material. Primary legal material is binding legal material or material that is closely related to the issue being studied. The data analysis method used to manage and analyze the data obtained during the study is a qualitative analysis carried out by systematically describing the data collected using qualitative measures. Then, it is defined so that an understanding and comprehension are obtained.

RESULTS AND DISCUSSION

1. Forms of Human Trafficking in Indonesia

There are many types and kinds of human trafficking modes, but the most prominent ones are caused by poverty, low education, disharmonious families/divorce, natural disasters, and gender bias. In addition, the state's financial condition does not meet the community's needs, and the low understanding of morals and religious values results in an increasing demand for work abroad. With the lure of large salaries and no special skills required, the lack of job opportunities in the country, a consumerist culture, and environmental factors also support the occurrence of human

trafficking crimes. Perpetrators often use the mode to trap victims in debt (Henny Nuraeny, 2022).

The forms of human trafficking that occur from one country to another have different characteristics. However, in general, the forms include sexual exploitation, forced labour, domestic slavery, illegal adoption of children between countries, debt trapping, mail-order brides and trafficking in human organs (Ismaidar & Surbakti, 2024).

Based on research conducted by institutions in Indonesia, the forms of human trafficking are very varied. Harkristuti Harkrisnowo said some of the findings recorded in the field are as follows (Darmayanti et al., 2022):

- a. Sending Indonesian migrant workers abroad without official documents or with falsified official documents and under the guise of various legal activities, for example, "cultural missions";
- b. Placement of workers in the country for sexual exploitation;
- c. The holding of a time-limited marriage is only to legalize the sexual relationship in question for a certain period by receiving financial compensation (contractual marriage), which male foreign workers with Indonesian women usually carry out;
- d. Organizing international marriages through mail-order brides and the bride does not know the actual conditions of her prospective husband;
- e. Recruitment of children to work on journals with meagre wages, working conditions that threaten their physical, mental and moral health, and
- f. Adoption of a baby without proper process (due process of law)

As technology and transportation between countries develop, it is possible for human trafficking to increase across national borders. The cases that arise may be difficult to resolve. To overcome this problem, effective and efficient legislation is needed to prevent and enforce the law against human trafficking cases, especially those that cross the borders of the Republic of Indonesia (Novianti et al., 2018).

In the historical record of human trafficking, women and children have a very vulnerable position to become victims of this human trafficking crime. Laws and regulations related to human trafficking, such as Law Number 35 of 2014 concerning Child Protection and Law Number 7 of 2002 concerning the ratification of C.E.D.A.W., are one of the legal instruments that provide a legal basis for enforcing the law and providing legal protection both preventively and repressively for victims of human trafficking, especially women and children (Susanti et al., 2022).

Since the enactment of Law Number 21 of 2007 concerning the crime of human trafficking, it has become increasingly clear what the attitude of the Indonesian government is towards these cases of human trafficking. Demands The punishment imposed on the perpetrators is imprisonment and a fine. The victims receive proper treatment and protection from the government, from the regional level, to assist victims abroad. Human trafficking does not only occur to Indonesian citizens who are sent abroad, but some foreign citizens are sold and treated as enslaved people by employing them as commercial sex workers (Lubis et al., 2020).

Related to this, Article 3 of Law Number 21 of 2007 concerning the Crime of Human Trafficking provides a punishment that is not light. In Indonesia itself, several activities are indicated to be human trafficking. One of the activities that most often causes cases of human trafficking is sending workers abroad, especially female workers (T.K.W.). In many instances that occur to female workers, the elements in

Article 1 of Law Number 21 of 2007 are usually fulfilled. The elements contained in this Article include (Novianti et al., 2018):

- a. There are acts of recruitment, transportation, shelter, sending, transferring, or
- b. Acceptance of a person by threat of violence, use of violence, kidnapping, confinement,
- c. Forgery, fraud, abuse of power or a position of vulnerability, debt trapping or giving payments or benefits to obtain
- d. The consent of a person having control over that person, carried out within the country, for exploitation or resulting in the exploitation of that person.

The forms of trafficking in women and children are very diverse but, in reality, are the same as trafficking in women and children that occurs in European countries. One example of a form of human trafficking is the case of human trafficking uncovered by the National Police in 2023, where the National Police named approximately 900 suspects of human trafficking, with the number of victims of T.P.P.O. rescued as many as 2,425 people according to the National Police, the mode used by the perpetrators of T.P.P.O. varies. One of them is making victims illegal migrant workers or Domestic Helpers (P.R.T.) in as many as 516 cases. Then, the mode of making victims as Ship Crew (A.B.K.) in as many as nine instances, becoming Commercial Sex Workers (C.S.W.) in as many as 219 cases and child exploitation in as many as 59 cases (Alunaza et al., 2022). However, to facilitate identification, several forms or actions can be categorized as forms of trafficking in women and children based on research conducted by the Child and Women Protection Agency that the forms of trafficking in women and children that occur in Indonesia are as follows (Bambar, 2022):

- a. Adoption/adoption of children through procedures or sale to local citizens/foreign nationals
- b. Ordering a bride or requesting a bride from certain places to be made a contract wife
- c. Involving children in the illegal drug trade
- d. Exploiting child labour for profit
- e. sexual exploitation pedophilia
- f. Pornography of women and children
- g. Trafficking of women and children for forced labour
- h. Employing women and children for begging or begging on the streets
- i. Employing women and children in sex work or prostitution activities

The main factor of the rampant trafficking of women and children is poverty; they try to improve the economy by looking for work. However, their dream of finding work is not as easy as imagined because of the bitter suffering they get. Instead of getting a job, it turns out they are traded.

2. Actions to Prevent Human Trafficking Crimes

Efforts to prevent human trafficking can be made in several ways, namely, by mapping human trafficking in Indonesia for both domestic and international purposes. Second, public education should be improved, especially alternative education for girls, including educational facilities and infrastructure. Third, public knowledge can be increased by providing the broadest possible information about human trafficking and its related aspects. Fourth, efforts must ensure accessibility for families, especially women and children, to obtain education, training, increased income and social services. These methods seem ideal, but how they are implemented remains to be seen (Widiastuti, 2010).

These efforts also require the involvement of all government sectors, the private sector, and NGOs—international agencies, community organizations, and individuals, including the mass media. As one form of implementation of these methods, the steps that have so far only been taken by the Women's Empowerment Office to minimize trafficking practices are by holding training for village heads on administrative orders. One of the main objectives of administrative order is to anticipate the practice of identity fraud, which is increasingly rampant in processing T.K.I. requirements. In this case, many forms of activities can affect the community in general, including women who are vulnerable to trafficking. The community, in general, is very susceptible to becoming victims of human trafficking if they do not have adequate knowledge about this problem.

For this reason, it is necessary to carry out a massive campaign (socialization) to disseminate information about what and how trafficking practices (human trafficking) must be watched out for. This socialization effort is part of an education program that can empower prospective workers. They need to gain comprehensive knowledge about where job offers are and what the consequences are (Efritadewi et al., 2023).

With this education (training), prospective workers will feel safe because no costs burden them. Generally, the practice of human trafficking begins with irresponsible actions from several parties (job seekers) who recruit prospective workers with specific promises. Of course, prospective workers who come from rural areas and are in economic trouble easily accept the offer. Usually, they only think that getting a job is essential. When caught in financial trouble, they end up accepting jobs carelessly. They pay little attention to the consequences later (Efritadewi et al., 2023).

The next step in preventing human trafficking is to eradicate poverty, gender inequality, limited employment opportunities and increasing consumerism. These factors need attention to be resolved immediately. In addition, efforts to prevent and eliminate human trafficking require strict law enforcement. Without law enforcement, prevention and eradication of human trafficking will be in vain because perpetrators of human trafficking will be increasingly accessible to carry out their actions. The increase in cases of human trafficking is not balanced by strict law enforcement; this is because only less than 1 per cent of cases are brought and resolved in court. Law No. 21 of 2007 has formulated criminal sanctions of up to 15 years in prison and a fine of hundreds of millions of rupiah.

Discussion

The study above describes various forms of human trafficking in Indonesia, including sexual exploitation, forced labour, domestic slavery, illegal adoption, debt bondage, and organ trafficking. Factors such as poverty, low education levels, family instability, and natural disasters are the leading causes of human trafficking. The study also highlights that women and children are the most vulnerable groups to become victims.

Moreover, standard methods used by traffickers include sending migrant workers abroad without proper documentation or with falsified documents, contract marriages, and mail-order brides. The development of technology and transportation has exacerbated the situation, making human trafficking increasingly challenging to address, especially across national borders.

Efforts to prevent human trafficking in Indonesia involve various strategies such as mapping cases, improving education, raising awareness about the dangers of human trafficking, and increasing access to education and social services. These

measures require the involvement of all sectors, including the government, private sector, NGOs, and the media. However, effective implementation of these efforts remains a challenge.

Strict law enforcement is also crucial in preventing and combating human trafficking. Although laws such as Law No. 21 of 2007 on the Eradication of Human Trafficking Crimes are in place, law enforcement remains suboptimal, as evidenced by the low number of cases brought to court.

Conclusion

This study shows that human trafficking in Indonesia is a complex issue involving various forms of exploitation occurring both domestically and across borders. The primary causes of human trafficking are poverty, low education levels, and social instability. Furthermore, women and children are the most vulnerable to this crime.

Efforts to prevent and combat human trafficking require a holistic approach involving all stakeholders, including the government and society. Education and awareness about the dangers of human trafficking need to be enhanced, while strict and consistent law enforcement must be carried out to prosecute offenders. However, significant challenges remain regarding the implementation and effectiveness of preventive measures.

Overall, this study provides important insights into the forms of human trafficking in Indonesia and the steps needed to address it. However, the effectiveness of these efforts largely depends on the cooperation of all involved parties and a solid commitment to protecting human rights, especially for the most vulnerable.

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