



Human Trafficking Crimes from the Perspective of the Police, Prosecutors, and the Witness and Victim Protection Agency

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Abstract

Human trafficking constitutes a serious form of exploitation for commercial purposes and is widely regarded as a manifestation of modern slavery. Despite the existence of victims' apparent consent in certain cases, such consent does not negate the exploitative nature of the crime, as victims are often placed in positions where refusal is impossible. In Indonesia, the persistence and increasing number of human trafficking cases raise significant concerns regarding the effectiveness and quality of law enforcement. As a response to global and national commitments, Indonesia has ratified the Palermo Protocol through Law No. 14 of 2009 and strengthened its domestic legal framework through Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking. Law enforcement efforts in combating human trafficking involve multiple institutions, including the police, the public prosecutor's office, and the Witness and Victim Protection Agency (LPSK). The police are responsible for investigation and uncovering trafficking networks, while prosecutors exercise dominus litis authority during prosecution, including asset confiscation, license revocation, and restitution for victims. Meanwhile, LPSK plays a vital role in ensuring the physical, psychological, and procedural protection of victims. This study employs a normative juridical research method with qualitative analysis, examining statutory regulations and legal doctrines related to human trafficking. The research aims to assess the effectiveness of law enforcement practices, identify existing obstacles, and emphasize the urgency of integrated, victim-oriented approaches to achieve substantive justice and improved governance in handling human trafficking crimes.

I. INTRODUCTION.

The crime of human trafficking is an act of exploitation for commercial purposes. Law enforcement against human trafficking is interesting to study, given all the accompanying problems, especially as the number of human trafficking cases increases year after year. The issue of law enforcement relates to the quality of law enforcement itself amidst the numerous human trafficking cases.

Human trafficking is defined as a model of modern slavery, even though there is agreement from the person who has control over the victim, in the end the victim is unable to refuse work that is illegally ordered by another person even though the victim does not want it (Sarson, 2017).

Indonesia has ratified the Palermo Protocol through Law No. 14 of 2009 as a global commitment to prevent and reduce the practice of human trafficking. Previously, national regulations regarding this crime were strengthened through Law No. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking. In this regulation, human trafficking is defined as a series of acts of recruitment, transportation, harboring, sending, or receiving a person through illegal means such as threats, violence, fraud, abuse of power, and debt bondage, for the purpose of exploitation. This definition emphasizes that victims are still considered exploited even if there is an element of consent from the controlled party.

Combating human trafficking in Indonesia involves various law enforcement agencies,

including the police, the prosecutor's office, and the Witness and Victim Protection Agency (LPSK). The police play a role in the investigation and inquiry process, focusing on identifying perpetrators, their modus operandi, and syndicate networks. The prosecutor's office exercises a dominus litis function during the prosecution phase through the authority to freeze assets, revoke business licenses, and implement restitution for victims. Furthermore, the LPSK plays a crucial role in providing physical and psychological protection and fulfilling victims' procedural rights to ensure substantive justice. The collaboration between these three agencies reflects the recognition that human trafficking is not merely a criminal offense but also a crime against humanity, requiring an integrated approach between enforcement and victim protection.

Given the complexity of human trafficking, this research is crucial to provide a more comprehensive understanding of the nature of the crime, the perspectives of law enforcement, and the urgency of victim protection. It also aims to critically analyze the effectiveness of law enforcement and the obstacles in its practice, thereby contributing to the development of more effective and humane handling strategies.

II. RESEARCH METHODS.

This research uses a normative juridical approach, a legal research method that examines written legal norms, both in the form of laws and relevant legal doctrines. This approach was chosen because the main focus of the research is on the analysis of legal provisions governing the management of human trafficking crimes and their application from the perspective of Special Criminal Law. The primary data used are sourced from primary legal materials such as the 1945 Constitution, Law No. 14 of 2009, the 2014 Law on Witness and Victim Protection, and the Republic of Indonesia Prosecutor's Office Regulation No. 3 of 2024. In addition, secondary legal materials such as scientific journals and textbooks are used to support the normative analysis.

Data collection was conducted through library research, analyzing the contents of legal documents and relevant literature. The analysis technique used was qualitative, interpreting the regulations and principles of Islamic criminal law and then linking them to the management practices of the police, the prosecutor's office, and witness and victim protection agencies. This analysis was conducted systematically to assess the consistency between legal norms and practices related to human trafficking and to identify legal aspects that require strengthening within a good governance framework.

III. RESULTS AND DISCUSSION.

A. Discussion.

a. Definition of the Crime of Human Trafficking.

The definition of human trafficking was introduced in 2000, when the United Nations General Assembly adopted a protocol to prevent, suppress, and punish human trafficking, particularly against women and children, which became known as the Palermo Protocol. The definition of human trafficking in the Palermo Protocol has also been adopted in Law No. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (PTTPO Law), as follows:

"The act of recruiting, transporting, harboring, sending, transferring or receiving a person by means of threats of violence, kidnapping, confinement, forgery, fraud, abuse of power or a position of vulnerability, debt bondage or payment to obtain the consent of a person who has control over the other person, whether carried out within the country or between countries, for the purpose of exploitation or causing the person to be exploited."

From the above understanding, it can be interpreted that human trafficking is an act that fulfills the elements of the process according to Burke's opinion which states that there are 3 main components of human trafficking, namely recruitment, movement and exploitation, all of which lead to critical aspects of human trafficking.

Human trafficking has become widespread, taking the form of both organized and unorganized criminal networks, posing a threat to society, the nation, and the state, as well as to norms of life based on respect for human rights. This is because the goal of human trafficking is exploitation, or anything that results in the exploitation of people.

The question that can be asked is, what is exploitation? Based on the provisions of Article 1 number 7 of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, exploitation is an act with or without the consent of the victim which includes, but is not limited to, prostitution, forced labor or service, slavery or practices similar to slavery, oppression, extortion, physical, sexual exploitation, reproductive organs, or illegally removing or transplanting organs and/or body tissue or utilizing a person's energy or ability by another party to obtain benefits, both material and immaterial.

This interpretation is also contained in the circular letter of the Deputy Attorney General for General Crimes regarding the pattern of handling cases of human trafficking crimes number SE-185/E/Ejp/03/2005 dated March 10, 2005, which outlines that an incident can be categorized as human trafficking if it fulfills at least one element of each of the process, method and purpose.

b. Human Trafficking Crimes from a Police Perspective.

From a police perspective, human trafficking is a serious problem, classified as a transnational and well-organized crime. As a state instrument, the Indonesian National Police (Polri) plays a crucial role in preventing and eradicating this crime, particularly the trafficking of women, which is on the rise in Indonesia.

The definition of the crime of human trafficking in Indonesia according to Law Number 21 of 2007, human trafficking is the act of recruiting, transporting, or receiving a person with the threat of violence, use of violence,

kidnapping, fraud, or abuse of power for the purpose of exploitation.

The main elements of this crime include the act (recruitment, transportation, and concealment), the method of controlling the victim (threats, coercion, deception), and the purpose of exploitation, such as forced labor, slavery, sexual exploitation, and organ removal. Understanding these elements of the crime is crucial for the police to complete the investigation and prosecution process. These elements include:

- 1) Action (Act): Recruitment, transportation, harboring, sending, transferring, or receiving.
- 2) Modus Operandi (Means): Threats, use of violence, kidnapping, fraud, abuse of power or vulnerable position, etc.
- 3) Purpose: Exploitation, which can be in the form of sexual exploitation, forced labor, slavery, organ harvesting, etc.

The police have also identified various operational methods used by perpetrators of TPPM (Human Trafficking Crimes). This method often involves false promises, such as high-paying jobs abroad or marriage. Victims typically come from vulnerable groups, such as women and children, who are economically weak or lack education. TPPM (Human Trafficking Crimes) cases often involve syndicates, both nationally and internationally, such as:

1. Recruitment: Victims are promised decent jobs abroad, often without a legal and transparent process.
2. Transportation: Victims are taken to their destination, often through illegal routes or with false documents.
3. Exploitation: Upon arrival at their destination, victims are forced to work under inhumane conditions, without pay, or are sexually exploited.

Factors Causing Human Trafficking, there are several main factors causing human trafficking from the police perspective, namely:

1. Economic poverty and lack of employment opportunities in the area of origin.
2. Low level of education and skills of victims.

3. Socio-cultural factors such as consumer lifestyles and changes in gender relations within the family.
4. Market demand for cheap female labor in the nightlife industry and other sectors.
5. Social disintegration and low social awareness in society.

Police Strategy: To address these challenges, the Indonesian National Police (Polri) is striving to optimize handling through a management control system approach that encompasses planning, implementation, and evaluation of actions. The National Police is also implementing repressive measures, such as investigating and prosecuting perpetrators, as well as preventive measures to educate and prevent human trafficking through coordination with various relevant parties, as follows:

- 1) Investigation and Probe: The police initiate an investigation based on a report or information received. This process requires specialized expertise, including coordination with other agencies such as Immigration and the Ministry of Foreign Affairs.
- 2) Arrest and Detention: Perpetrators of TPPM can be arrested and detained. The penalties for perpetrators of TPPM are very severe, namely imprisonment for a minimum of 3 years and a maximum of 15 years and a fine of at least Rp120,000,000 and a maximum of Rp600,000,000 (Article 2 of the PTPPO Law).
- 3) Victim Protection: The police collaborate with agencies such as the Witness and Victim Protection Agency (LPSK) and the Social Services Department to ensure victims receive physical, psychological, and rehabilitation protection. This protection includes safe houses, counseling, and legal assistance.

Enforcing the law and protecting victims is certainly not easy, as the police still face obstacles in solving cases and providing protection. Here are some of the obstacles the police face in providing legal protection to victims of human trafficking:

- 1) Restitution: Obstacles/problems encountered in the implementation of restitution include the nature of the "criminal sanction" of restitution, which can be replaced with another criminal sanction, namely imprisonment. The subsidiary nature of this restitution sanction can reduce the opportunity for victims to receive compensation in the form of restitution imposed on perpetrators of human trafficking. If the perpetrator is unable to pay restitution, it can be replaced with imprisonment.
- 2) Rehabilitation The obstacles faced by the police in the process of fulfilling the rehabilitation rights of victims are that the victims themselves often refuse to be rehabilitated because the victims and the victims' families do not understand the rights of the victims, in addition, the victims and the victims' families also assume that when dealing with the police and other legal processes it will require a lot of money so that the victims' families prefer to be sent back to the victims' original homes.
- 3) There are challenges faced in providing counseling services to victims. Victims are often reluctant to provide information due to their trauma, making it difficult for them to recount the incident. Furthermore, threats from the perpetrator or their family can make victims afraid to open up to counselors.
- 4) Legal aid is provided from the beginning of the judicial process until the court issues a final and binding decision. The police face challenges, both in quality and quantity, with inadequate law enforcement officers specialized in investigating human trafficking cases. The investigations stem specifically from trafficking victims themselves, who do not want their cases investigated, want to return to their hometowns quickly, and are unfamiliar with the recruiting agents.
- 5) Victims: Obstacles to providing protection to victims come not only from law enforcement officials but also from the victims themselves. Based on interviews, victims often do not feel

they are victims, resulting in reluctance to provide information. Most victims caught in human trafficking choose not to admit they are victims of human trafficking because they do not want their cases prosecuted.

c. Criminal Acts of Human Trafficking based on the Prosecutor's Office.

According to the perspective of the Indonesian Attorney General's Office, the crime of human trafficking is the act of recruiting, transporting, harboring, sending, transferring or receiving a person by means of threats or use of violence, fraud, abuse of power or vulnerable position, or other means so that the person is exploited for commercial purposes.

TPPO is a general crime whose handling process involves the prosecutor's office as the Public Prosecutor in accordance with the provisions of Law No. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking.

The Prosecutor's Office has an important role in enforcing the law on human trafficking, which is closely related to criminal acts in the employment sector, especially in cases of exploitation of workers who are recruited illegally and then subjected to inhumane physical and psychological treatment.

The Prosecutor's Office is responsible for handling the prosecution process after the police investigation phase is complete, with the authority to bring suspects to court, check the completeness of case files, and monitor files to ensure they comply with legal requirements.

The role and authority of the prosecutor's office are regulated in the Republic of Indonesia Prosecutor's Office Regulation Number 3 of 2024 concerning the Fourth Amendment to the Attorney General's Regulation No. PER-006/A/Ja/07/2017, which regulates the handling of human trafficking cases and labor crimes by Directorate C and Directorate III Subdirector III.C in the Prosecutor's Office. In carrying out its duties, the prosecutor's office faces challenges such as issues of independence and issues of judicial mafia that can hinder professionalism.

Legally, the Prosecutor's Office is a non-departmental institution that exercises state power, particularly in prosecution (*dominus litis*), meaning only the Prosecutor's Office has the authority to file criminal charges in court. In human trafficking cases, the Prosecutor's Office acts as a bridge between the investigation and the trial of the case, ensuring that the legal process follows the rules and that the protection of the victim's rights is upheld.

Simply put, from the perspective of the prosecutor's office, the crime of human trafficking is a very serious crime that requires a lot of integrated, professional legal handling, and is based on firm regulations for the protection of human rights and upholding the supremacy of law in Indonesia.

Based on Law Number 21 of 2007 concerning the Eradication of Human Trafficking, the Prosecutor's Office has the same authority as regulated in the Criminal Procedure Code No. 8 of 1981 and Law No. 11 of 2021 concerning Amendments to Law No. 16 of 2004 concerning the Indonesian Prosecutor's Office. However, in Law Number 21 of 2007 concerning the Eradication of Human Trafficking, there are additional authorities held by the Prosecutor's Office in handling human trafficking cases, including the following:

- 1) The Public Prosecutor can state in his criminal charges that the crime will be punishable by imprisonment and a fine and carry out the revocation of business permits, confiscation of assets resulting from criminal acts, revocation of legal entity status, dismissal of management and prohibition of corporate management from establishing corporations in the same business sector (Article 15 Paragraphs (1) and (2) of Law Number 21 of 2007).
- 2) The Public Prosecutor has the authority to order financial service providers to block the assets of any person suspected or accused of committing the crime of human trafficking (Article 32 of Law Number 21 of 2007).
- 3) The public prosecutor may present witnesses and/or victims in court via audio-visual

communication devices if the witnesses and/or victims are unable to attend (Article 34 of Law Number 21 of 2007).

- 4) In the prosecution process, the public prosecutor conveys the right of witnesses and/or victims to be accompanied by advocates and other necessary companions (Article 35 of Law Number 21 of 2007).
 - 5) The Public Prosecutor can provide information related to the prosecution and examination process in court to the victim (Article 36 of Law Number 21 of 2007).
- d. The Crime of Human Trafficking According to the Witness and Victim Protection Agency.

Human Trafficking (TPPO) is a crime for which the LPSK (Lembaga Penitaaan Perempuan) has the authority to provide protection to witnesses and victims. Human trafficking is a form of human exploitation that destroys lives and robs individuals of their freedom.

The protection provided by the LPSK includes physical protection, fulfillment of procedural rights, facilitation of restitution, medical and psychological assistance, temporary living expenses, and psychosocial rehabilitation for victims. In practice, the LPSK actively provides protection to witnesses, victims, and families of victims of human trafficking (TPPO) so they feel safe and can participate in the judicial process.

Based on Law No. 13 of 2006 concerning Witness and Victim Protection, and its revision through Law No. 31 of 2014, the LPSK is tasked with providing protection to victims of criminal acts, including human trafficking. This protection includes victims' procedural rights and psychosocial recovery, as well as the right to compensation and restitution from the perpetrator of human trafficking. The LPSK has made efforts to calculate the restitution owed to victims and assisted in incorporating it into the prosecutor's demands to achieve a fair verdict.

The LPSK plays a crucial role in providing a sense of security, protection, and fulfillment of the rights of victims of human trafficking, who often experience profound physical and psychological trauma. The LPSK also facilitates

victims' access to justice and rehabilitation, enabling them to recover socially and psychologically.

This protection is not only physical but also legal and social to prevent secondary victimization (further harm to the victim) during the legal process. The LPSK (Lembaga Penitaaan Perempuan) has also developed various protection programs for victims and witnesses of human trafficking, including:

- 1) Physical protection for victims and witnesses. Fulfillment of procedural rights in the legal process.
- 2) Facilitating restitution or compensation for victims.
- 3) Medical assistance and psychological and psychosocial rehabilitation. Temporary living expenses assistance.
- 4) Protection for the families of victims and witnesses who provide important information.

From the perspective of victimology (an approach to crime studies that focuses on victims and the process of becoming victims) as studied by LPSK, victims of TPPO are seen as individuals who experience physical, mental and/or economic suffering due to criminal acts.

Victimology develops the understanding that victim protection is not only about punishing the perpetrator, but also about restoring the victim's rights and well-being after the crime. Protection of victims of human trafficking (TPPO) is accompanied by fair and humane treatment, as well as compensation, rehabilitation, and restitution by the responsible parties.

The LPSK (Lembaga Penanggulangan Kesehatan Masyarakat, LPSK) has also taken proactive action in handling human trafficking cases, including protecting witnesses and victims in major cases such as the human cage case in Langkat. The LPSK faces challenges in the form of court decisions acquitting defendants, hindering justice for victims of human trafficking. However, the LPSK remains committed to providing maximum protection to victims and witnesses throughout the legal process.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Human trafficking is a highly complex crime against humanity, involving violations of human dignity and human rights. This practice arises from economic factors, low education, weak oversight, and the demand for labor and sexual exploitation. The resulting impacts not only harm the victims physically and psychologically, but also threaten social stability, morality, and national security. Therefore, prevention efforts must be carried out comprehensively through firm law enforcement, international cooperation, community empowerment, and increased public awareness.

These measures are expected to reduce human trafficking cases and better protect victims' rights. Human trafficking is a highly complex crime against humanity, involving violations of human dignity and human rights. This practice arises from economic factors, low education, weak oversight, and the demand for labor and sexual exploitation.

The resulting impacts not only harm victims physically and psychologically, but also threaten social stability, morals, and national security. Therefore, mitigation efforts must be comprehensive through firm law enforcement, international cooperation, community empowerment, and increased public awareness. These measures are expected to reduce human trafficking cases and better protect victims' rights.

B. Suggestion.

That concludes our discussion. We hope it's beneficial to us and our readers in general. As authors, we acknowledge that this paper is far from perfect. Therefore, we always welcome constructive criticism and suggestions to improve our future papers.

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