

JURIDICAL REVIEW OF LAW NO. 21 OF 2007 ON THE PROTECTION AND ERADICATION OF HUMAN TRAFFICKING AS A TRANSNATIONAL HUMAN RIGHTS VIOLATION IN INDONESIA

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Article	Abstract
Keywords: Human Trafficking, Law Number 21 of 2007, Transnational Crime, Human Rights. DOI: 10.28946/scls.v3i1.4785	Human Trafficking (TPPO) is a structured and systematic form of crime that violates human rights as the inherent rights of human beings as creations of God Almighty. This crime not only occurs in Indonesia but has also become a transnational crime, in which the rampant practice of human trafficking is often not accompanied by optimal protection for victims and effective countermeasures against perpetrators. Based on this, this paper aims to examine how national law regulates the crime of human trafficking, as well as how the Indonesian national legal system provides protection and countermeasures, by considering the factors that cause the crime of human trafficking. The research method employed in this paper is a juridical-normative approach, which examines and analyzes the implementation of legal provisions in legislation concerning human trafficking crimes, utilizing secondary data derived from library research. Therefore, this paper will discuss Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, which not only regulates criminal sanctions for perpetrators and the protection of victims' rights but also examines how countermeasures are taken against the crime of human trafficking. Consequently, the results of this study demonstrate that Law No. 21 of 2007 has comprehensively regulated the scope of TPPO, encompassing both criminal aspects for perpetrators and protection for victims including restitution, rehabilitation, and confidentiality of identity. Thus, this regulation becomes a concrete instrument for strengthening cooperation with various stakeholders and serves as a key factor in the success of preventing, protecting, and eradicating trafficking in persons as a transnational crime, particularly in Indonesia.

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A. INTRODUCTION

Crime or criminal acts are forms of deviant behavior that continuously evolve alongside the development of society, as reflected in the legal maxim *Ubi Societas Ibi Ius*, which means where there is society, there is law¹. One form of crime that has evolved alongside the development of society is the violation of human rights. Theoretically, human rights are defined as fundamental rights inherent in every individual by nature and are considered essential and fundamental as a gift from God that must be respected, preserved, and protected. In this context, human rights are universal, meaning they apply everywhere and to everyone, and cannot be taken away or denied by anyone. This is in line with the provisions of Article 1, Point 1 of Law No. 39 of 1999 on Human Rights, which states "Human rights are a set of rights inherent in the nature and existence of human beings as creations of the Almighty God, and they are His gift that must be respected, upheld, and protected by the state, the law, the government, and everyone, for the sake of the honor and protection of human dignity."². Based on this, rights are essential to protect oneself and uphold human dignity, as well as to serve as a moral foundation for actions and behavior toward others³. Therefore, as an appreciation of God's creation, it is only fitting that human beings be valued with the utmost respect.

In contemporary times, humans are often treated as mere animals. For millennia, slavery has been an integral part of human history. Even today, slavery has evolved into what is now recognized as human trafficking. With advancements in technology and the rapid pace of globalization, crimes against humanity have become easier to perpetrate and increasingly difficult to monitor. Human trafficking is among the fastest-growing crimes worldwide. Consequently, it has become one of the top five major global crimes that must be urgently addressed, as its repercussions affect not only economic aspects but also political, cultural, and humanitarian dimensions (Novianti, 2014)⁴.

The crime of human trafficking has now become a serious issue at both regional and global levels. Human trafficking itself is not a new phenomenon; however, in recent years, this problem has surfaced and gained the attention not only of the Indonesian government but also of the international community, as it has become a transnational crime. Human trafficking generally constitutes a violation of human dignity and fundamental rights, involving cruel treatment and even forms of enslavement. Such treatment is experienced as the helplessness of victims trapped within complex networks that are extremely difficult to identify, resulting in significant challenges in finding effective solutions⁵.

Human trafficking, which predominantly involves women and children, represents a form of modern slavery as a consequence of the multidimensional crisis experienced by Indonesia⁶. Over time, the practice of human trafficking has increasingly demonstrated both its quality and quantity. According to the Women and Children Protection Information System (SIMFONI) and the Ministry of Women's Empowerment and Child Protection (KPPPA), there were 1,418 reported cases of human trafficking and 1,581 victims of human trafficking crimes

¹ Nurhayati, "Anak Sebagai Korban Tindak Pidana Dalam Trafficking," 2015, 1-17.

² Firdaus Arifin, *Hak Asasi Manusia Teori, Perkembangan Dan Pengaturan*, ed. Khalaf Nabil Al Thafa, 1st ed. (Yogyakarta: Penerbit Thafa Media Yogyakarta 2019, 2019).

³ Nurliah Nurdin and Astika Ummy Athahira, *HAM, Gender Dan Demokrasi (Sebuah Tinjauan Teoritis Dan Praktis)*, ed. Riyanto and Andrian, *Jurnal Ilmu Pendidikan*, 1st ed., vol. 7 (CV Sketsa Media, 2022).

⁴ Novianti, "Tinjauan Yuridis Kejahatan Perdagangan Manusia (Human Trafficking) Sebagai Kejahatan Lintas Batas Negara," *Jurnal Ilmu Hukum* 2, no. 3 (2014): 51-62.

⁵ Edghar Abdullah Albab et al., "Tinjauan Yuridis Terhadap Pelanggaran HAM Dalam Human Trafficking Dari Perspektif Hukum Internasional," *Jurnal Hukum Dan HAM Wara Sains* 1, no. 2 (2022): 144-59.

⁶ Hanafi Rachman, "Penegakan Hukum Terhadap Tindak Pidana Perdagangan Orang Dalam Sistem Peradilan Pidana Di Indonesia" (Universitas Indonesia, 2012).

in Indonesia from 2020 to 2022. The data indicates that 50% of the trafficking victims were children, 46.14% were women, and 2.89% were men⁷. In relation to this issue, a report from the *International Organization for Migration* (IOM) on child trafficking data over the past twenty years also indicates a tendency that children are at a higher risk of being trafficked compared to adults⁸. On the other hand, women also face the same risk of experiencing gender-based violence during migration journeys, including forced labor exploitation (95%) and sexual exploitation (5%)⁹.

Thus, human trafficking, especially involving women and children in Indonesia, constitutes a blatant violation of fundamental human rights, whether overt or covert. Women and children are trafficked like commodities through deception, disregarding the fact that they are God's creations who possess rights and obligations that must be protected and who inherently have dignity¹⁰. Therefore, it is only appropriate that every human being has the right to a decent life, freedom, security, and happiness (Universal Declaration of Human Rights)¹¹.

The increasingly alarming and distressing flow of human trafficking severely infringes upon the fundamental rights and freedom of the victims, the majority of whom are women, and impedes the growth and development of children. Ultimately, this situation slows down the process of building a potential and quality human resource base. Therefore, the eradication of human trafficking crimes must be carried out consistently to respect, protect, and fulfill the rights of every citizen, with due regard to law enforcement against human trafficking within both the national legal system and international law (Serlika, 2020)¹².

Therefore, in order to combat human trafficking crimes, Indonesia has undertaken various efforts, including adopting legal instruments through Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, which comprehensively regulates the eradication of human trafficking, ranging from criminal sanctions against perpetrators to protection for victims. Thus, substantively, this regulation has become a concrete instrument. However, on the other hand, given the persistence of human trafficking cases, the regulation has not yet been fully effective in practice, indicating a gap between the legal substance and its implementation. This condition demonstrates that, in addition to the need for renewal and strengthening of more responsive and integrated policy implementation to address the complexities of human trafficking as a transnational crime that violates human rights, active involvement and optimal coordination among all relevant parties are also crucial factors in ensuring the effectiveness and maximizing the impact of such policies.

⁷ Ajeep Akbar Qolby, Abellya Manalu, and Andre Milen Pratama, "Strategi Konstruktif Dalam Mencegah Dan Mendeteksi Secara Dini Tindak Pidana Perdagangan Orang Di Wilayah Perbatasan Indonesia-Malaysia," *Journal of Law and Border Protection* 7, no. 1 (2025): 1-18.

⁸ IOM, "Hari Dunia Anti Perdagangan Orang 2024: Menciptakan Lingkungan Migrasi Yang Aman Untuk Melawan Perdagangan Orang" (Jakarta: International Organization for Migration (IOM), 2024).

⁹ Kirana, "Peringatan Hari Perdagangan Orang Sedunia 2024: Potret Buruk Penanganan Kasus Perdagangan Orang Terhadap Buruh Migran" (Jakarta Selatan: Serikat Buruh Migran Indonesia dan Solidaritas Perempuan (SBMI), 2024).

¹⁰ Wulandari Cahya dan Wicaksono Sonny Saptaji, "Tindak Pidana Perdagangan Orang (Human Trafficking) Khususnya Terhadap Perempuan Dan Anak: Suatu Permasalahan Dan Penanganannya Di Kota Semarang," *Fakultas Hukum Universitas Negeri Semarang* 3, no. 3 (2014): 15-26, <https://doi.org/https://doi.org/10.20961/yustisia.v3i3.29272>.

¹¹ Sri Rahayu Wilujeng, "Hak Asasi Manusia: Tinjauan Dari Aspek Historis Dan Yuridis" 11, no. 1 (2013): 1-8.

¹² Serlika Aprita and Yonani Hasyim, *Hukum Dan Hak Asasi Manusia*, 1st ed. (Jakarta: Mitra Wacana Media, 2020).

B. RESEARCH METHODS

The research method employed in this paper is a juridical-normative approach. This approach is used to examine the legal norms contained in statutory regulations, as well as to analyze the implementation of positive legal provisions (legislation) and written documents in action (factual) in a specific legal event occurring within society¹³. Subsequently, all data obtained from this approach will be analyzed using a qualitative analytical method, which is a method that reveals facts in depth based on the scientific characteristics of individuals or groups to understand and uncover the underlying aspects behind a phenomenon¹⁴. In this context, the qualitative approach also produces descriptive analytical data in the form of written statements. This descriptive-analytical method examines and analyzes articles of legislation and depicts how such legislation is implemented, taking into account the limitations of the law along with its strengths and weaknesses from both juridical and non-juridical factors. Furthermore, it analyzes all data obtained from the practical implementation of positive law related to the aforementioned issues.

The data presented as facts in this paper are derived from secondary sources. Secondary data originate from library research, with legal materials coming from primary legal sources, which are authoritative in nature, meaning they possess legal authority¹⁵. Based on this, Soerjono Soekanto states that secondary legal materials consist of all legal publications that are not official legal documents¹⁶. Therefore, data collection in this paper relies on sources such as legislation, legal textbooks, legal journals, and expert legal opinions that discuss current developments or issues relevant to the subject matter. In addition, non-legal materials such as non-legal academic books that are relevant to the topic are also used to support the quality and effectiveness of this paper¹⁷.

C. RESULT AND DISCUSSION

1. Legal Provisions on the Crime of Human Trafficking Under National and International Law

a. Factors Causing the Crime of Human Trafficking

When examining past cases, it becomes clear that the primary causes behind the prevalence of human trafficking are wide-ranging; there is no single specific factor that can be identified as the sole cause of the crime of trafficking in persons.¹⁸. This can be attributed to a variety of conditions and diverse issues, which include the following:

¹³ Muhaimin, *Metode Penelitian Hukum*, ed. Fatia Hijriyanti, 1st ed. (Mataram: Mataram University Press, 2020).

¹⁴ Sigit Sapto Nugroho, Anik Tri Haryani, and Farkhani, *Metodologi Riset Hukum*, ed. M.H Dr. Sarjiyati, S.H., 1st ed. (Surakarta: Oase Pustaka, 2020).

¹⁵ Peter Mahmud Marzuki, *Penelitian Hukum*, ed. Tamba, 15th ed. (Jakarta: Kencana, 2021).

¹⁶ Marzuki, "Metode Penelitian," 2017, 37–41.

¹⁷ Marzuki, *Penelitian Hukum*.

¹⁸ Nurul Izza, "Tinjauan Yuridis Terhadap Tindak Pidana Perdagangan Orang/Eksploitasi Seksual Terhadap Anak Dibawah Umur Di Sinjai (Analisis Surat Putusan Nomor: 63/Pid.Sus/2020/Pn.Snj)." Institut Agama Islam Muhammadiyah Sinjai, 2021." (INSTITUT AGAMA ISLAM MUHAMMADIYAH SINJAI, 2021).

1) Sosio-Economic Factors

Economically, individuals with low incomes (the poor) face difficulties in improving their standard of living and often lack access to adequate employment opportunities¹⁹. Individuals who lack sufficient skills and education tend to earn wages that are only enough to meet their daily needs. Consequently, people with low living standards are generally more easily persuaded to be trafficked under the pretense of being offered jobs that promise a better life. This situation is further exacerbated by a large population and the difficulty of finding employment, particularly for women. Moreover, the position of women in a patriarchal culture often subjects them to pressure from their surrounding environment. These conditions frequently lead to women and children becoming more vulnerable and easily trapped in the cycle of human trafficking.²⁰

2) Cultural Factors

Cultural factors represent one of the unique aspects of the crime of human trafficking. From this perspective, the wave of globalization combined with low levels of education has contributed to the emergence of a permissive and consumerist culture within society. In addition, the lack of social control in maintaining moral values also plays a significant role in the occurrence of human trafficking cases.²¹

3) Law Enforcement Factors

Law enforcement is a crucial factor in combating human trafficking crimes. Weak integration between agencies can hinder the tracking of syndicate networks and potentially neglect the rights of victims. Therefore, strengthening the capacity of law enforcement officials in handling cases is a strategic step to enhance the effectiveness of law enforcement against human trafficking crimes. Consequently, addressing these crimes requires sectoral cooperation among law enforcement institutions, considering that law enforcement is a system whose units cannot be separated from one another.²²

4) Political Factors

The most essential aspect in combating human trafficking crimes is the political commitment of the government as well as coordination among institutions. In this context, political commitment is demonstrated not only through the formulation of legislation but also in the form of national policies and support for implementing agencies at various levels of government. Initiatives undertaken by the state to eradicate human trafficking are crucial in demonstrating that the country has a genuine political commitment to combat these crimes.²³

b. Legal Regulation Regarding Human Trafficking Crimes Under National Law

Human trafficking is an extraordinary crime aimed at obtaining profit by trading and exploiting human beings. Victims of trafficking often suffer cruel torture resulting in physical,

¹⁹ Yohanes Suhardin, "Tinjauan Yuridis Mengenai Perdagangan Orang Dari Perspektif Hak Asasi Manusia," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 20, no. 3 (2008): 411-588, <https://doi.org/10.22146/jmh.16289>.

²⁰ Asdi Syukur Dalimunthe, Taufik Siregar, and Rizkan Zulyadi, "Kajian Hukum Tindak Pidana Kejahatan Terhadap Kesusilaan Ditinjau Dari UU No 21 Tahun 2007," *JUNCTO: Jurnal Ilmiah Hukum* 3, no. 2 (2021): 102-10, <https://doi.org/10.31289/juncto.v3i2.488>.

²¹ Helena Bellarina Waworuntu, Natalia L. Lengkong, and Deicy N. Karamoy, "Tinjauan Yuridis Human Trafficking Sebagai Kejahatan Transnasional Menurut Hukum Nasional Dan Hukum Internasional," *Lex Privatum* 10, no. 2 (2020): 1-13.

²² Ibid.

²³ Ibid.

sexual, and psychological trauma. According to the United Nations (UN) Resolution opposing the Trafficking of Women and Children, “Human trafficking is defined as the illicit and illegal transfer of persons across national and international borders, especially from developing countries and countries in economic transition, with the purpose of forcing women into situations of oppression and exploitation, both sexual and economic. It also includes other illegal acts related to human trafficking such as forced domestic labor, sham marriages, illegal labor, and fraudulent adoption for recruitment, trafficking, and criminal syndication.”²⁴. Therefore, there is a critical need for national legal regulations to combat human trafficking crimes.

National law refers to regulations established based on the country’s ideology and constitution, namely Pancasila and the 1945 Constitution (UD 1945), which are grounded in the nation’s noble values. In Indonesia, one of the implementations of the law is carried out through legislation, as it provides greater legal certainty. This commitment is manifested in Law No. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (TPPO). Before the enactment of Law No. 21 of 2007, human trafficking was already regulated in the Indonesian Criminal Code (KUHP) under Article 297, which states that “*Trafficking of women and underage boys is punishable by imprisonment of up to six years.*” However, this regulation was considered ineffective because the penalties imposed were too lenient and did not fulfill the sense of justice.²⁵ This article also does not explicitly and concretely provide provisions for the protection of victims and witnesses. Furthermore, it does not stipulate the type of restitution (compensation) for victims and their families, nor does it offer a specific and comprehensive definition of human trafficking offenses themselves. Therefore, based on a normative approach, this regulation often fails to consider the socio-psychological conditions of victims in handling human trafficking cases and tends to focus solely on proving the criminal elements against the perpetrators. This highlights the importance of applying victimology theory—an approach that views victims not merely as legal objects but also as subjects who require comprehensive, effective, and sustainable protection and restoration of their rights.²⁶

Thus, the urgency of enacting this specific law stems from the expanding network of organized crimes, both transnational in nature, and as a demonstration of respect for human rights. Law No. 21 of 2007 is comprehensive in preventing and combating human trafficking, as it explicitly defines the scope of human trafficking offenses. These include recruitment for exploitation purposes regulated in Article 2(1); bringing individuals into Indonesian territory for exploitation in Article 3; taking Indonesian citizens abroad in Article 4; recruiting children with the intent to exploit as stated in Article 5; sending children resulting in exploitation as in Article 6; inducing others to commit trafficking offenses as per Article 9; using or exploiting victims as outlined in Article 12; and other related offenses regulated from Articles 19 to 24. Based on these provisions, there are no restrictions related to specific genders or ages. Although in many cases, victims are predominantly women and children. This demonstrates that Law No. 21 of 2007 is designed with a universal approach that regards every individual as a subject of legal protection without discrimination, reaffirming the state’s seriousness in addressing all forms of human exploitation through various methods and criminal schemes.

²⁴ Mufidah, *Mengapa Mereka Diperdagangkan? Membongkar Kejahatan Traffking Dalam Perspektif Islam, Hukum Dan Gender*, ed. Miftahus Sholehudin, 15th ed. (Malang: UIN Maliki Press, 2011).

²⁵ alfian Alfian, “Upaya Perlindungan Hukum Terhadap Korban Tindak Pidana Perdagangan Orang,” *Fiat Justisia Jurnal Ilmu Hukum* 9, no. 3 (2015): 332–38.

²⁶ Sumisa Theja, “Perlindungan Hukum Bagi Korban Tindak Pidana Perdagangan Orang (TPPO),” *Islam Circle* 5, no. 2 (2024): 18–26.

c. Legal Regulation Regarding Human Trafficking Crimes Under International Law

According to Mochtar Kusumaatmadja, "*International law is the entirety of rules and legal principles that regulate relations or issues crossing national borders (international relations) which are not of a civil nature.*"²⁷. Thus, international law governs all matters occurring beyond the borders of a country, including crimes against human beings. In line with this, the United Nations, which plays a role in advancing human rights, formulated a protocol to prevent, suppress, and punish trafficking in persons, especially women and children (the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children), known as the Palermo Protocol. Indonesia subsequently ratified this protocol through Law No. 14 of 2009.²⁸ The Palermo Protocol not only strengthens but also enhances international cooperation to prevent, address, and provide protection and assistance to victims of human trafficking crimes. Therefore, it is understood that the scope of the Palermo Protocol includes prevention, investigation, prosecution, and victim protection related to transnational offenses involving organized criminal groups. The acts criminalized under the Palermo Protocol are not limited to offenses committed intentionally but also include attempts to commit offenses, participation as an accomplice, and directing others to commit offenses.

The Palermo Protocol also clearly regulates provisions regarding efforts to prevent human trafficking. Article 10(1) of the Palermo Protocol states that law enforcement agencies, immigration authorities, and other state institutions should cooperate through information exchange that enables them to determine: a) whether individuals crossing international borders using another person's documents or without documents are involved in human trafficking; b) the types of travel documents used by perpetrators to cross international borders for trafficking purposes; and c) the tools and methods employed by organized criminal groups for trafficking, including recruitment and transportation of victims, routes and networks between individuals and groups involved in trafficking, and other actions that facilitate their detection. Article 11 of the Palermo Protocol also regulates additional measures that each country may undertake to prevent and combat human trafficking, including those related to border areas, security, and the control, legitimacy, and validity of documents. Therefore, violations of these provisions will result in criminal sanctions against those who breach document requirements and will strengthen cooperation between border control agencies through continuous communication.²⁹ Because at both the national and international levels, legal implementation requires not only written regulations but also must be supported by awareness and a robust enforcement system.

2. Legal Protection for Victims of Human Trafficking Crimes and Their Mitigation under National Law in Indonesia

A criminal incident will inevitably cause losses, both material and immaterial, to its victims. A victim is defined as an individual who has suffered harm as a result of a crime and whose sense of justice has been directly disturbed due to their experience as a target of the criminal act. In line with this, Article 1(3) of the Law on the Eradication of Human Trafficking defines a victim as "a person who experiences psychological, mental, physical, sexual,

²⁷ Waworuntu, Lengkong, and Karamoy, "Tinjauan Yuridis Human Trafficking Sebagai Kejahatan Transnasional Menurut Hukum Nasional Dan Hukum Internasional."

²⁸ Ibid.

²⁹ Nabila Adifia Azzahra and Handoyo Prasetyo, "Tinjauan Yuridis Terhadap Kasus Tindak Pidana Perdagangan Manusia Dalam Lingkup Internasional," *Media Hukum Internasional* 2, no. 2 (2024): 660–66, <https://doi.org/https://doi.org/10.5281/zenodo.12549074>.

economic, and/or social suffering caused by the crime of human trafficking."³⁰ Substantively, the definition of a victim in the aforementioned law aligns with the definition found in Article 1(3) of Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 on the Protection of Witnesses and Victims, which defines a victim as a person who suffers physical, mental, and/or economic harm caused by a criminal act.

Unfortunately, attention to the rights of victims of human trafficking within the criminal justice system remains minimal. In this regard, the state has an obligation to provide protection for its citizens. This responsibility is constitutionally affirmed in the Preamble of the 1945 Constitution of Indonesia, which states that one of the purposes of establishing the Government of the Republic of Indonesia is to protect all Indonesian people and the entire homeland of Indonesia. In this context, victim protection in human trafficking crimes has been implemented based on the Law on the Protection of Witnesses and Victims. For example, Article 4 explains that *"the protection of witnesses and victims aims to provide a sense of security to witnesses and/or victims when giving testimony in every criminal court process."*³¹ Legal protection for victims of such crimes is manifested in various forms, including the provision of restitution and compensation, medical services, and legal assistance. In addition, victim protection may also encompass abstract (indirect) forms of protection, which can only be experienced emotionally (psychologically), such as a sense of satisfaction, as well as concrete (direct) forms of protection that can be tangibly enjoyed.

a. Victim Protection under Law No. 21 of 2007 on the Eradication of Human Trafficking Crimes

According to Article 45(1) of the Law on the Eradication of Human Trafficking Crimes, "To protect witnesses and/or victims, each province and regency/city is required to establish special service units at the local police offices to conduct examinations at the investigation level for witnesses and/or victims of human trafficking crimes," which is further regulated under Article 46(1).³² Article 47 also stipulates that the Indonesian National Police are obliged to provide protection before, during, and after the investigation process if the victim and their family receive threats endangering their safety, life, and/or property. Furthermore, Article 54 explains that for victims abroad who require legal protection, the Government of the Republic of Indonesia, through its representatives, is obligated to protect the victims and make efforts to repatriate them to Indonesia at the state's expense. Thus, protection for victims under the Law on the Eradication of Human Trafficking Crimes is not only realized through the prosecution of perpetrators but also through the fulfillment of rights, which include:

1) Victims' Rights and Restitution

Restitution, as defined in Article 1 point 13 of the Law on the Crime of Human Trafficking, is interpreted as "compensation payment imposed on the perpetrator based on a legally binding court decision for material and/or immaterial losses suffered by the victim or their heirs."³³ Furthermore, it is also explained in the provisions of Article 48 Paragraph (1) of the Law on the Crime of Human Trafficking that "Every victim of human trafficking or their

³⁰ "Undang-Undang Republik Indonesia Nomor 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang," Pub. L. No. 21, 1 (2007).

³¹ "Undang-Undang Republik Indonesia Nomor 31 Tahun 2014 Tentang Perlindungan Saksi Dan Korban," Pub. L. No. 31, Peraturan.Bpk.Go.Id 1 (2014).

³² Undang-Undang Republik Indonesia Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.

³³ Ibid.

heirs has the right to obtain restitution."³⁴. This indicates that the state recognizes the victims' rights to receive compensation for the suffering they have endured. It is not merely financial compensation but a form of legal acknowledgment of the victims' losses, both material and immaterial. This means placing the restoration of the victims' rights and dignity as the primary goal in the criminal justice process. Thus, restitution plays an important role not only as a legal instrument but also as a form of the state's moral and social responsibility in ensuring justice for the victims.³⁵

2) Victims' Rights to Rehabilitation

According to Article 1 point 14 of the Law on the Eradication of the Crime of Human Trafficking, rehabilitation is defined as "the recovery from disturbances to physical, psychological, and social conditions so that one can resume their role normally within the family and society."³⁶. Thus, Article 51 Paragraph (1) also provides protection for victims, stating that "Victims have the right to receive health rehabilitation, social rehabilitation, repatriation, and social reintegration from the government if they suffer physical or psychological harm as a result of the crime of human trafficking."³⁷. This regulation reflects the state's commitment to comprehensively restore the physical, psychological, and social conditions of the victims. Rehabilitation is understood not only as medical recovery but also encompasses social recovery and reintegration into community life.³⁸

3) Victims' Rights to Identity Confidentiality

In addition to regulating the confidentiality of identity as stated in Article 44 Paragraph (1), which provides that "Witnesses and/or victims of human trafficking crimes have the right to confidentiality of their identity," the Law on the Eradication of the Crime of Human Trafficking also regulates sanctions for anyone who discloses the confidential identity of victims. Article 24 states that "anyone who discloses the identity of a witness or victim, despite being informed that such identity must be kept confidential, shall be subject to imprisonment for a minimum of 3 (three) years and a maximum of 7 (seven) years, and a fine of no less than IDR 120,000,000.00 (one hundred twenty million rupiahs) and no more than IDR 280,000,000.00 (two hundred eighty million rupiahs)."³⁹. This regulation is an important step in ensuring the effectiveness of such protection and demonstrates the state's serious commitment to the safety and dignity of victims as part of respecting human rights. It constitutes an essential form of legal protection for the security and comfort of victims during the judicial process. Therefore, the implementation of the principle of access to justice becomes crucial to ensure that victims' rights are fulfilled substantively. The state must guarantee the availability of effective legal assistance and accessible procedures, especially for vulnerable groups. Thus, through these legal provisions, the state is expected to fulfill its duty to protect victims from human trafficking crimes and to prevent the recurrence of such offenses.

³⁴ Ibid.

³⁵ Gesty Permatasari, Handri Wirastuti Sawitri, and Antonius Sidik Maryono, "Pelaksanaan Pemberian Restitusi Terhadap Korban Tindak Pidana Perdagangan Orang (Studi Kasus Di Kejaksaan Negeri Indramayu)," *Soedirman Law Review* 1, no. 1 (2019): 52-61, <https://doi.org/https://doi.org/10.20884/1.slr.2019.1.1.31>.

³⁶ Undang-Undang Republik Indonesia Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.

³⁷ Ibid.

³⁸ Ni Luh Putu Lusi Ayupratiwi, "Peran Hukum Internasional Dalam Upaya Pencegahan Dan Pemberantasan Human Trafficking Di Indonesia," *Jurnal Pendidikan Kewarganegaraan Undiksha* 10, no. 3 (2022): 235-52, <https://doi.org/10.23887/jpku.v10i3.52030>.

³⁹ Undang-Undang Republik Indonesia Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.

b. Countermeasures Against Human Trafficking Crimes in Indonesia

Human trafficking is an extraordinary crime against humanity. Therefore, various efforts to combat it must be carried out through unconventional means. In Indonesia, combating human trafficking crimes can begin with prevention efforts and then be followed by law enforcement actions. The countermeasures against this crime include both substantive criminal law and procedural criminal law. In terms of substantive criminal law, its forms and types consist of general criminal offenses regulated in the Criminal Code (KUHP), and special criminal offenses regulated outside the Criminal Code, one of which is stipulated in Law No. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking. These various legal policies are certainly necessary to effectively combat and enforce the law against human trafficking crimes.

However, enforcing various efforts to eradicate human trafficking is certainly not an easy task, but at the very least, it can help minimize the occurrence of human trafficking through prevention. Therefore, the primary focus in empowering potential and actual victims to avoid being trapped and exploited in human trafficking is not only through providing services such as legal assistance (advocacy, restitution, and rehabilitation) but also through supervision and awareness-raising, legal reforms, law enforcement, as well as community roles and participation. In line with this, efforts to prevent human trafficking crimes are also based on Article 58 of the Law on the Eradication of the Crime of Human Trafficking, which states, "To carry out the eradication of human trafficking crimes, the Government and Regional Governments are obliged to take measures for the prevention and handling of human trafficking crimes."⁴⁰ Up to Presidential Regulation No. 49 of 2023 concerning the Second Amendment to Presidential Regulation No. 69 of 2008 on the Task Force for the Prevention and Handling of Human Trafficking Crimes. This human trafficking task force consists of representatives from government elements, law enforcement, community organizations, non-governmental organizations, professional organizations, and researchers/academics.⁴¹ In this regard, the main tasks are not only to coordinate efforts for the prevention and handling of human trafficking but also to carry out advocacy, socialization, training, and cooperation among relevant parties. Additionally, the task force monitors the implementation of victim protection measures, including health rehabilitation, social rehabilitation, repatriation, and social reintegration. Furthermore, it oversees the progress of law enforcement activities and conducts reporting and evaluation of human trafficking eradication efforts, including reporting information and data related to human trafficking.

In line with this, the Indonesian National Police (POLRI) also plays an important role in efforts to combat human trafficking cases. This is evident in the establishment of the Women and Children Service Unit (UPPA), which provides protection for crime victims and law enforcement against perpetrators. However, it is important to remember that all efforts to prevent human trafficking crimes must align with human rights principles outlined in national and international legal regulations, such as equality, justice, empowerment, participation, and accountability. This means treating everyone equally regardless of their background. These principles also guide special attention to vulnerable and marginalized groups, empowering them to protect themselves. Therefore, cooperation among all parties including the government, law enforcement agencies, and civil society is necessary to ensure

⁴⁰ Ibid.

⁴¹ "Peraturan Presiden Republik Indonesia Nomor 49 Tahun 2023 Tentang Perubahan Kedua Atas Peraturan Presiden Nomor 69 Tahun Tentang Gugus Tugas Pencegahan Dan Penanganan Tindak Pidana Perdagangan Orang," Peraturan.Bpk.Go.Id § (2023).

that policies and practices implemented truly protect and restore victims' rights as a form of respect for human dignity.

Thus, it should be noted that in the context of combating human trafficking crimes, the legal approach must also be based on a multidisciplinary approach, involving not only criminal law aspects but also social, economic, and psychological approaches. The eradication of human trafficking must be linked to social protection policies and human development so that efforts are not merely reactive but also preventive. The concept of criminogenic needs can also be applied, where the focus is not only on punishment but also on addressing the root causes that lead individuals to become involved in this crime (Muliadi, 2024)⁴². Thus, the strategy to combat human trafficking must reflect a comprehensive understanding of this crime as a complex social phenomenon involving multiple actors.

D. CONCLUSION

Human trafficking is an extraordinary crime that has become a global issue, including in Indonesia. This crime contradicts the dignity and worth of human beings as creations of God Almighty. Although there are no specific causes for human trafficking, it is generally driven by social, economic, cultural, and political factors, as well as weak law enforcement. Therefore, Indonesia requires efforts to protect and combat human trafficking crimes, which are regulated in Law No. 21 of 2007 on the Eradication of Human Trafficking Crimes. This regulation not only stipulates criminal sanctions for perpetrators but also provides protection and restoration of victims' rights through restitution, rehabilitation, and confidentiality of identity. In line with this, Indonesia has also ratified the Palermo Protocol at the international level through Law No. 14 of 2009, which strengthens the role of the Police through the Women and Children Service Unit (UPPA) and implements advocacy, education, and social reintegration programs for victims. These efforts represent concrete and systematic measures undertaken in accordance with both national and international legal provisions. Thus, these legal regulations serve as concrete instruments to reduce and eliminate human trafficking crimes in Indonesia as a whole.

⁴² Muliadi and Idul Adnan, "Analisis Hukum Dan Kebijakan Dalam Penanggulangan Perdagangan Orang Di Indonesia," *Al-Balad: Jurnal Hukum Tata Negara Dan Politik Islam* 4, no. 1 (2024): 23–35, <https://doi.org/https://doi.org/10.59259/ab.v4i1.163>.

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