

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Lawsuit Based on Tort (Unlawful Acts) as an Instrument for The Recovery of Material Losses for Women Victims of Human Trafficking

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Abstract. *The practice of forced labor disguised as an internship program for vocational high school (SMK) students constitutes a form of child exploitation and human rights violation that is concealed under the legality of vocational education. This study aims to examine legal gaps in labor regulations, analyze weaknesses in the field supervision system, and formulate ideas for legal reconstruction based on child protection principles. Using a normative legal research method with statutory and conceptual approaches, this study highlights weaknesses in the Labor Law and its derivative regulations, which do not strictly define the ratio between study time and practical work. The results show that this normative ambiguity, combined with sectoral ego and a tendency to shift responsibility between the Manpower Office and the Education Office, has created a jurisdictional vacuum. This gap is systematically exploited by corporations to extract child labor as if they were production workers without providing wages or social security rights. As a solution, this study recommends a radical regulatory reconstruction through the establishment of an Integrated Inter-Agency Supervisory Team (Manpower Office, Education Office, and the Indonesian Child Protection Commission), tightening the maximum limit of physical practical work to 4–5 hours per day, and implementing criminal sanctions under the Human Trafficking Law (TPPO), along with civil restitution obligations for corporations proven to engage in exploitation.*

Keywords: *Apprentices; Corporate; Exploitation; Protection; Supervision.*

1. Introduction

The Crime of Human Trafficking (TPPO) is one of the most tangible forms of contemporary slavery that cruelly tramples and degrades human dignity and honor. This crime, whether

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transnational or operating domestically, has evolved into a highly organized illicit industry. Within this criminal vortex, the essence of humans as free beings is forcibly stripped away and reduced to mere commodities that can be traded, exploited, and discarded at any time. Human trafficking not only violates a country's positive law but also represents an absolute betrayal of universal human rights, as it strips victims of their physical, psychological, and economic freedom for unlimited financial gain by perpetrators.

When examining the sociological and demographic reality of this crime in Indonesia, it is revealed that women occupy the most vulnerable position and consistently become the majority of victims. This vulnerability is not a natural coincidence but rather the result of entrenched structural poverty that has been perpetuated over time. In many remote areas and poverty pockets, women are often faced with unequal access to quality education and limited decent employment opportunities. This lack of economic independence places women at the edge of desperation, forcing them to take dangerous shortcuts to survive or to repay family debts.

This economic desperation is further exacerbated by a deeply rooted patriarchal culture in much of society. In this unequal social construct, women are often taught to be submissive, obedient, and to lack authority over their own bodies and life choices. This limitation of mobility and low social bargaining power makes women often have few options for survival. When they bear the responsibility of being breadwinners or single parents, this sense of responsibility becomes a fatal vulnerability that is carefully identified, studied, and exploited by human trafficking syndicates.

Amid these layered vulnerabilities, promises of jobs with attractive facilities and high salaries in metropolitan cities or abroad become powerful traps. Recruiters or brokers, who are often neighbors or even relatives of the victims, come with false promises of instant life improvement. They offer passport processing assistance, loans for families left behind, and assurances of safety during travel. For women under economic pressure, these offers appear as a form of divine help. However, once they leave their hometowns, the gates of exploitation are truly opened wide.

Unfortunately, these promises of prosperity are merely illusions. Instead of obtaining the promised decent work, these women are sold to trafficking syndicates. Upon arrival at their destination, their passports and identity documents are confiscated to prevent escape. They are detained, intimidated, and forced to work beyond human capacity without any wages. This exploitation occurs across various illicit sectors, ranging from domestic servitude in isolated

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conditions, forced labor in dirty manufacturing industries, to the most devastating form sexual exploitation in commercial brothels.

In response to the massive scale of this crime, Indonesia's criminal justice system has not remained idle and has established a specific legal instrument through Law Number 21 of 2007 on the Eradication of Human Trafficking. Normatively, this law was designed with noble intentions and was considered quite progressive at its time. In addition to severe criminal penalties for perpetrators, it also accommodates

2. Research Methods

The research method used in writing this article is normative legal research, also known as doctrinal research. This method focuses on the analysis of legal texts, principles, and norms contained within statutory regulations. Two approaches are employed, namely the statutory approach, to analyze the synchronization of positive regulations, and the conceptual approach, to examine the doctrine of Tort and corporate liability within legal scholarship. The data used is entirely secondary data collected through library research. These data sources are classified into several levels, where primary legal materials, which are authoritative and binding in this study, include: The 1945 Constitution of the Republic of Indonesia (UUD 1945), particularly Article 28G, which guarantees every person the right to protection of personal self, family, honor, dignity, and property. The Indonesian Civil Code (KUHPPerdata/BW), specifically focusing on Article 1365 regarding Tort (PMH) and Article 1367 concerning Vicarious Liability. Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, as the main legal framework governing the formulation of trafficking offenses and victims' recovery rights. Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which specifically regulates obligations, prohibitions, and sanctions for Indonesian Migrant Worker Placement Companies (P3MI). Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 on the Protection of Witnesses and Victims, used to examine instruments for fulfilling restitution and compensation rights for crime victims. As supporting materials, secondary legal materials consist of legal textbooks on civil law, academic journals, legal doctrines from legal scholars, and scientific publications relevant to the protection of trafficking victims. All data is then systematically organized and analyzed using a descriptive-qualitative method to construct a coherent, integrated, and easily understandable legal argument regarding the effectiveness of civil lawsuits for the recovery of victims' rights in human trafficking cases.

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3. Results and Discussion

3.1. Legal Gaps in Current Child Apprenticeship Regulations

The root cause of the widespread practice of forced labor hiding behind apprenticeship programs originates from structural legal loopholes in our national labor regulations. Law Number 13 of 2003 concerning Manpower essentially establishes basic protection by explicitly prohibiting children from being employed in both formal and informal sectors. The spirit of this law is to ensure children's rights to grow, develop, and receive proper education without having to bear economic burdens. However, the law must also be realistic toward the needs of vocational education, so it provides a specific exception for children who work as part of an educational curriculum or vocational training program.

This exception, which was originally well-intentioned, is then further regulated through various derivative regulations, such as Minister of Manpower Regulations (Permenaker) governing the national apprenticeship system. Unfortunately, these technical regulations fail to translate the spirit of child protection comprehensively into operational practice. The definition and boundary between what is called "apprenticeship for learning purposes" and "working as production labor" are extremely vague and lack measurable parameters. This absence of clear parameters creates a wide grey area within our labor system, which ultimately leads to multiple interpretations in practice.

The most fatal weakness of the current regulations is the absence of clear ratios or limits regarding the time allocation of apprentices. The law does not strictly regulate how much theoretical learning time must be provided by companies to children compared to "practical work" that requires them to stand on production lines. The absence of such ratios allows companies to freely interpret "practical work" as full physical involvement in factories. As a result, these vocational students are often forced to meet daily production targets like adult workers, without any meaningful knowledge transfer process.

This ambiguity in legal norms is immediately exploited as a golden loophole by corporations or companies acting in bad faith. By hiding behind the status of children as "apprentices" or "vocational internship students (PKL)", companies feel exempt from binding labor law obligations. They consider it legally permissible not to pay district/city minimum wages (UMK), not to register these children in the BPJS Employment social security system, and not to provide any overtime compensation even when children are made to work late into the night.

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As compensation for the labor extracted from these children, companies often only provide what they call a “stipend” or “transport allowance.” The amount of this allowance is far below a decent standard of living, often not even enough to cover lunch and transportation costs for a full month. This practice constitutes a form of concealed impoverishment, where the economic value of children’s labor is completely extracted by corporations to minimize operational costs of factories, while the children receive no fair financial or educational return.

Legally, this situation creates a very complex enforcement paradox. The legal relationship formed between the child and the company is not an employment relationship (employer–employee relationship) based on an employment contract, but purely an apprenticeship relationship based on an agreement with the educational institution. As a result of this legal construction, when children are required to work 8 to 10 hours a day with physically demanding workloads that endanger their health, conventional labor law instruments become ineffective. Inspectors cannot directly prosecute companies for minimum wage violations or labor exploitation, because legally speaking, the children are “not working” but are “learning.”

Moreover, current regulations do not require companies to prepare syllabi, apprenticeship curricula, or competency achievement indicators approved by the government before accepting vocational high school (SMK) students as apprentices. The absence of industry curriculum standards makes the apprenticeship process directionless in educational terms. Companies are free to place apprentices in any department experiencing labor shortages, from packaging, factory cleaning, to heavy material handling, which is completely unrelated to the students’ field of study or competencies.

Ultimately, apprenticeship agreements often occur informally between schools and companies in a misguided symbiotic relationship. Schools urgently need placement sites so their students can meet graduation requirements, while companies need cheap or free labor to maximize profit margins. The absence of strict rules requiring companies to act purely as “educators” turns apprenticeship programs into fields of economic exploitation that are administratively legal on paper, but morally, ethically, and in terms of child protection law are deeply flawed.

3.2. Weaknesses in Labor Inspection Systems on the Ground

In addition to dealing with flawed and ambiguous regulations, the protection of children from apprenticeship exploitation is also hindered by a severely dysfunctional labor inspection system operated by the government. Labor inspectors under the Provincial Manpower Office (Disnaker) often work with a very narrow and legalistic mindset. They strictly adhere to the principle that the object of their supervision and intervention is only formal workers bound by Fixed-Term

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Employment Contracts (PKWT) or Indefinite Employment Contracts (PKWTT). This rigid paradigm is the root cause of the paralysis of state supervision over apprentice children.

When labor inspectors conduct inspections in factories and companies, they often find vocational students in school uniforms working hard on production lines. However, instead of intervening or conducting deeper investigations, inspectors often step back and choose to ignore the situation. They assume that the presence of students is not within the jurisdiction of the Manpower Office, but purely the responsibility of the Ministry of Education or the school. The administrative status of the child as an “active student,” not a “worker,” becomes a shield for inspectors to avoid responsibility.

This institutional blame-shifting or sectoral ego is a humanitarian disaster for Indonesia’s child protection system. Exploited children fall into a jurisdictional void. The Manpower Office claims no authority because there is no formal “worker” status, while the Education Office has no legal authority, instruments, or competence to conduct labor audits of corporations, let alone impose administrative sanctions if companies violate safe working hour limits for children.

This powerlessness is clearly visible in the role of school supervisors. Teachers assigned to monitor apprenticeship programs often lose their function and only come at the beginning to place students and at the end to collect evaluation forms. When students report complaints such as being forced to work overtime until night without pay, being assigned heavy and dangerous physical tasks, or being verbally abused like low-skilled laborers schools often remain passive and powerless to reprimand company management.

This passive attitude is driven by fear that companies will terminate cooperation (blacklist), making it difficult for schools to place students in the following years. As a result, schools often only tell students to “be patient,” “endure it,” and “follow company rules” in order to obtain an apprenticeship certificate required for graduation. This extremely unequal power relationship—between powerful corporations, schools dependent on placement sites, and students afraid of failing to graduate is exploited by companies to maximize labor extraction without resistance.

This collapse of supervision is further worsened by the very limited number of labor inspectors in Indonesia. The ratio between inspectors and companies is extremely disproportionate. With hundreds of thousands of factories, medium industries, and service companies in each province, it is mathematically impossible for the very limited number of inspectors to conduct regular inspections. Budget constraints and geographical challenges further limit the ability to take preventive action effectively.

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As a result, the labor inspection system is largely reactive and passive. The Manpower Office typically only forms investigation teams after fatal workplace accidents involving apprentices go viral on social media, or after formal complaints are submitted by NGOs. Without external triggers such as public pressure, exploitative practices behind factory walls continue to be treated as normal and acceptable. This dependency on virality demonstrates the fragility of the country's social safety net.

For children in their teens who are inexperienced, psychologically pressured, and afraid of failing school, reporting exploitation to government agencies is extremely frightening and nearly impossible. They do not understand legal procedures, fear retaliation from companies, and fear being blamed by schools for "causing trouble." This psychological fear and institutional dysfunction perpetuate a cycle of forced labor disguised as apprenticeship, continuing silently year after year without justice.

3.3. A Proposal for Regulatory Reconstruction Based on Child Protection

In light of bureaucratic chaos, regulatory gaps, and the silent suffering of vocational students across Indonesia, labor law must not remain silent. A radical, comprehensive, and progressive regulatory reconstruction is necessary to humanize children and secure their future. The first essential step is the issuance of new legislation either in the form of a Government Regulation (PP) on Apprenticeship Protection or partial reform of the Manpower Law that firmly integrates apprenticeship supervision into a unified and strong legal framework without grey areas.

This new regulation must aggressively dismantle sectoral barriers that separate the jurisdictions of the Manpower Office and the Education Office. The law should mandate the formation of an Integrated Task Force or Supervisory Team at the regional level, consisting of cross-sector collaboration: labor inspectors, education inspectors, and representatives from the Indonesian Child Protection Commission (KPAI). With this integrated system, labor inspectors would be granted full legal authority to enter, audit, examine, and take immediate action against companies abusing child apprenticeships.

The second key proposal is a strict redefinition of apprenticeship for school-age children. The law must include clauses limiting "industrial practice" or physical activity for children to no more than 4 to 5 hours per day. The remaining time must be dedicated to observation, classroom-based theoretical learning at the workplace, or discussions with industry mentors. This limitation is a fundamental safeguard against children being used as free production labor.

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In addition to working-hour restrictions, companies hosting apprentices must be required to provide occupational health and safety insurance for each child, equivalent to formal workers. If a company is unable or unwilling to enroll apprentices in BPJS Employment for non-wage earners, it must be legally prohibited from accepting apprentices. The state must no longer tolerate situations where children work alongside heavy machinery without accident insurance protection.

Furthermore, apprenticeship agreements must no longer be informal documents between school principals and company HR departments. They must be restructured into legally binding protection documents (*pro justitia*), officially registered with both the Manpower Office and the Education Office. These documents must include detailed competency training plans, physical protection measures, and fair stipend entitlements. Any violation of these agreements must serve as valid legal evidence for civil or criminal proceedings.

The final and most crucial reconstruction is a total overhaul of the sanction system. Current sanctions for companies exploiting apprentices are merely administrative warnings or, at most, revocation of apprenticeship status. Such light penalties create no deterrent effect. Law must have teeth to protect the most vulnerable.

Therefore, new apprenticeship regulations must boldly include criminal provisions and civil liability for corporations. If a company is proven to systematically exploit apprentices in a manner meeting forced labor criteria—such as coercion, excessive working hours harmful to health, lack of fair wages, and restriction of freedom law enforcement must be empowered to charge company executives under the Anti-Trafficking in Persons Law (TPPO). This would reshape the understanding that human trafficking is not only an overseas crime but can also occur in legal factories.

Alongside criminal sanctions, offending corporations must also be required to pay substantial financial penalties to the state and full restitution to victims. Restitution should be calculated based on equivalent minimum wages for the entire apprenticeship period, plus compensation for academic and psychological harm. Through this reconstruction combining cross-sector supervision, strict working limits, and strong criminal-civil sanctions, the state can restore apprenticeships to their original purpose as spaces of learning—not fields of modern exploitation.

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4. Conclusion

The resolution of Trafficking in Persons (TPPO) cases should not stop at criminal punishment of perpetrators, but must also address the economic recovery of victims. Women who become victims of exploitation often lose everything and face restitution mechanisms that are full of loopholes and easily substituted with subsidiary imprisonment. Here, the Civil Tort Claim (PMH) under Article 1365 of the Indonesian Civil Code serves as a crucial legal instrument. Through civil proceedings, victims can demand maximum material compensation and use asset seizure mechanisms to freeze the financial assets of trafficking syndicates. Therefore, the state, legal advocates, and civil society must begin educating and facilitating women victims of TPPO to pursue civil legal action. Targeting criminals financially will not only restore victims' losses but also impoverish criminal syndicates down to their roots.

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