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Corporate Criminal Liability Formulation and the Application of Beneficial Ownership in Human Trafficking Syndicates

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Abstract. *The Crime of Human Trafficking (TPPO) in the era of globalization has evolved into an organized crime that often hides behind the legality of corporate entities or shell companies. This practice cunningly employs nominee schemes or "puppet directors" to create a corporate veil that shields the masterminds from legal accountability, while also serving as a strategy to evade the obligation to pay compensation (restitution) to victims. This study aims to examine the urgency of integrating the doctrine of corporate criminal liability with Beneficial Ownership tracing instruments in order to dismantle the impunity enjoyed by human trafficking syndicates. The method used is normative (doctrinal) legal research with a statutory approach and a conceptual approach. The primary legal materials analyzed include the Human Trafficking Law, the New Criminal Code, and Presidential Regulation Number 13 of 2018. The results of the study indicate that the identification of beneficial owners provides strong normative justification for law enforcement authorities to pierce the corporate veil. Through follow-the-money investigations, the true masterminds can be designated as suspects, and all of their personal assets lose legal immunity and become subject to state seizure. This study concludes that the confiscation of assets owned by beneficial owners constitutes an absolute guarantee for the full execution of restitution payments. This progressive measure realizes restorative justice by not only impoverishing and dismantling the financial machinery of human trafficking syndicates, but also restoring the dignity, honor, and future of victims of exploitation.*

Keywords: *Corporate; Crime; Human; Restitution; Trafficking.*

1. Introduction

The Unitary State of the Republic of Indonesia was established upon highly noble moral and philosophical foundations, namely Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD 1945). Essentially, the Second Principle of Pancasila, "Just and Civilized

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Humanity," provides a moral foundation obligating the state to always respect, honor, and uphold the dignity and worth of every human being without exception. This noble aspiration is further reinforced imperatively in the Fourth Paragraph of the Preamble to the 1945 Constitution, which mandates that the primary purpose of the Government of Indonesia is to protect the entire Indonesian nation and all of its people. The Constitution grants an absolute mandate that the state must be present as a protective shield ensuring the safety, freedom, and welfare of every citizen against all forms of oppression, exploitation, and slavery in any form.

However, the noble ideals embodied in the nation's foundational philosophy and constitution now face an extraordinarily serious humanitarian threat, namely the widespread crime of Human Trafficking (TPPO). This crime represents a form of modern slavery that blatantly tears apart the values of Pancasila by reducing human beings endowed with reason and dignity into mere economic commodities or merchandise to be bought and sold for financial gain. In reality, human trafficking practices often target the most vulnerable groups in society, particularly women and children from impoverished areas, whose human rights and futures are systematically destroyed. Allowing such crimes to persist is tantamount to betraying the humanitarian protection mandate pledged by the nation's founders in the 1945 Constitution.

Moreover, in today's modern era of globalization, characterized by high human mobility and capital flows, human trafficking can no longer be viewed merely as a conventional crime. It is no longer carried out sporadically by isolated individuals or small-scale labor brokers operating at the village level. Instead, human trafficking has horrifyingly mutated and evolved into a giant multinational industry worth billions of dollars. This underground industry is controlled, designed, and operated by transnational organized crime syndicates that function with highly hierarchical, systematic, and professional structures resembling those of large multinational corporations.

These organized crime syndicates have become increasingly sophisticated and cunning in designing their operational systems. Unlike the past image of criminals operating secretly in dark alleys or illegal ports, modern human trafficking syndicates confidently hide behind the grandeur of high-rise buildings in elite business districts. They deliberately establish and operate various corporate business entities that outwardly appear legitimate, lawful, and compliant with administrative licensing requirements. Labor outsourcing companies, travel agencies, vocational training institutions, and cargo shipping companies are often engineered and used merely as business "fronts" or shell entities to facilitate the recruitment, smuggling, and exploitation of human beings.

The manipulative use of corporate structures provides enormous dual benefits for the continuity of these illicit operations. First, by possessing corporate legality, syndicates gain broad access to global banking facilities, immigration systems, and official transportation networks, making their trafficking activities appear to be ordinary business operations and thus less suspicious. Second, and most crucially, the corporate legal entity functions as a thick defensive fortress that conceals criminal traces and protects the intellectual actors (masterminds) from the scrutiny of law enforcement authorities. They exploit the complexity of corporate administration to create significant distance between criminal acts committed in the field and the individuals who actually issue the orders.

When confronting criminal organizations that hide behind legal entities and business licenses, traditional criminal law often encounters severe structural and conceptual deadlocks. Historically and doctrinally, conventional criminal law was designed solely to prosecute and punish natural persons. Classical criminal law requires proof of criminal intent or a guilty mind (mens rea) on the part of the physical perpetrator. When human trafficking crimes are planned, financed, and executed through or in the name of a company, rigid law enforcement officials often struggle to determine precisely who should bear criminal responsibility and be imprisoned.

This enforcement deadlock becomes increasingly evident when authorities attempt direct action in the field. Often, they succeed only in arresting operational directors, field managers, or corporate administrators whose names are formally listed in the corporation's founding documents. However, imprisoning only those whose names appear on such documents does not dismantle or halt the operations of human trafficking syndicates. Frequently, the directors or managers apprehended are merely "puppets" or nominees such as drivers, low-level staff, or even fictitious persons who are cheaply paid by the real masterminds to serve as legal scapegoats should the company ever be raided by authorities.

In response to such deceptive practices that undermine the justice system, modern legal science has introduced the concept of corporate criminal liability as a progressive legal breakthrough. This concept breaks with traditional boundaries by recognizing that corporations can also act as criminal law subjects capable of bearing fault. The presence of this concept is crucial so that the corporate entity itself—as the shell facilitating criminal activity—can be prosecuted and punished appropriately by the courts. Sanctions may include substantial financial penalties, revocation of business licenses, confiscation of all assets, and even forced dissolution of the company for having financed and facilitated human trafficking that degrades human civilization.

Nevertheless, in practice, punishing and dissolving the corporate entity alone has proven insufficient to achieve complete justice, because the masterminds who enjoy trillions of rupiah in criminal proceeds can still escape freely and easily establish new companies using other false identities. To address this high-level deception, modern law introduces a powerful analytical instrument known as Beneficial Ownership. This concept originally emerged from the global anti-money laundering legal regime and was specifically designed to identify the actual natural person who receives the greatest financial benefit and exercises ultimate control over a company's policies, regardless of whose name is legally recorded in the notarial deed.

Given the dangerous evolution of contemporary human trafficking syndicates, the formulation of an integrated approach combining corporate criminal liability and Beneficial Ownership tracing has become an urgent and non-negotiable necessity in national law. By applying the Beneficial Ownership concept to human trafficking investigations, law enforcement authorities gain the power to pierce the corporate veil and directly target the intellectual actors who have long considered themselves immune from legal consequences. Uncovering the identity of beneficial owners is not merely intended to satisfy the state's desire to imprison major criminals, but rather to achieve a far more noble humanitarian objective: pursuing their illicit wealth. The assets hidden by beneficial owners constitute the primary key and absolute guarantee for providing fair restitution and restoring the future of victims whose freedom has been taken away through human trafficking.

2. Research Methods

This study employs normative (doctrinal) legal research, focusing on the analysis of legal norms, principles, doctrines, and statutory regulations applicable in Indonesia. The approaches used include the statutory approach to analyze the synchronization and harmonization of regulations, particularly Law Number 21 of 2007 concerning the Eradication of Human Trafficking Crimes (TPPO), Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code), and Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Context of Preventing and Combating Money Laundering and Terrorism Financing Crimes. In addition, a conceptual approach is employed to examine the doctrine of corporate criminal liability and the theory of piercing the corporate veil. The data used consists entirely of secondary data collected through library research. The classification of legal materials used in this study is as follows: 1. Primary Legal Materials These consist of authoritative and legally binding national legislation, including: The 1945 Constitution of the Republic of Indonesia; Law Number 1 of 2023 concerning the Criminal Code (KUHP); Law Number 21 of 2007 concerning the Eradication of Human Trafficking Crimes;

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Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Context of Preventing and Combating Money Laundering and Terrorism Financing Crimes; and Supreme Court Regulation (PERMA) Number 13 of 2016 concerning Procedures for Handling Criminal Cases Involving Corporations.
2. Secondary Legal Materials: These consist of materials that provide explanations, interpretations, and analyses of primary legal materials. Such materials include textbooks on corporate criminal law, literature on beneficial ownership, scientific journals, and doctrines developed by experts relevant to the research topic. The collected legal data were then inventoried, systematically organized, and analyzed using a qualitative-deductive method. This analysis aims to present logical, rigorous, and comprehensible legal arguments in addressing the urgency of implementing beneficial owner identification to eradicate and confiscate the assets of corporate human trafficking syndicates.

3. Results and Discussion

3.1. The Construction of Corporate Criminal Liability in Human Trafficking (TPPO) Cases

The first and most fundamental step in taking firm action against human trafficking syndicates that hide behind business entities is ensuring that corporations can be held criminally liable. In classical criminal law doctrine, crime was always associated with the actions of a natural person, allowing corporations to often escape legal sanctions even when their organizational machinery facilitated criminal activities. However, with the increasing complexity of transnational crime, this paradigm must be abandoned. Modern law enforcement demands a clear legal construction that corporations are not merely immune legal fictions, but criminal law subjects capable of being held accountable for the humanitarian harm they cause.

The recognition of corporations as subjects of criminal offenses in cases of human exploitation has gained strong normative legitimacy through Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (TPPO). This law explicitly dismantles corporate immunity by stipulating that prosecution and criminal sanctions may be imposed on corporations and/or their management. This means that labor supply companies (outsourcing firms), travel agencies, or cargo companies can no longer rely on the classic excuse that unlawful detention or exploitation occurring in the field was merely the act of rogue employees acting outside corporate instructions.

This protective legal framework was further strengthened and refined through Law Number 1 of 2023 concerning the Criminal Code (the New Penal Code). The New Penal Code provides more comprehensive guidelines for corporate punishment, shifting the paradigm from individual

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liability alone toward institutional liability. Under this framework, a corporation may be held liable if the criminal act was committed by individuals holding functional positions within the corporation's organizational structure or by persons acting for and on behalf of the corporation. This provides a solid operational foundation for law enforcement authorities to bring rogue business entities before the courts.

To justify punishment against corporations, law enforcement instruments utilize the doctrine of vicarious liability. This doctrine asserts that an employer or corporation is legally responsible for wrongful acts committed by its agents or employees, even if the corporation did not directly order the unlawful conduct. The requirements for applying this doctrine are rational: the exploitative act must occur within the company's business operations, and most importantly, the act must generate financial benefits or unlawful operational cost savings for the corporation.

In addition to vicarious liability, law enforcement authorities also rely on identification theory. This theory operates by identifying the "directing mind and will" of the corporation. If a senior manager, operations director, or board member designs a manipulative labor recruitment scheme, withholds workers' identity documents, and permits forced labor to occur, then the mens rea (criminal intent) of those individuals is automatically attributed to the corporation itself. Through this theory, the corporation is considered to have consciously planned and executed the crime against humanity.

In court proceedings, if a corporate entity is proven beyond reasonable doubt to have served as a hub, facilitator, or primary instrument for smuggling and exploiting human beings, law enforcement authorities may and should impose a dual-track sanction system. The first sanction targets individual managers through imprisonment, while the second is imposed on the corporation itself. Corporate sanctions are severe and may include substantial fines multiplied by statutory provisions, confiscation of operational assets, freezing of business accounts, permanent revocation of business licenses, and in the most extreme cases, the forced dissolution of the corporate legal entity.

Institutional punishment of corporations is essential and strategic because human trafficking syndicates fundamentally require legitimate business structures to operate on a large scale. Without the cloak of a legally recognized company, such syndicates would not have access to immigration documents such as worker passports and visas, would be unable to organize group travel arrangements, and could not establish letters of credit with banks. The corporate legal entity functions as the primary engine enabling these criminal operations to cross international borders while appearing to be lawful migrant worker placement activities.

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If the state focuses only on punishing individual perpetrators without destroying the corporate shell, law enforcement will remain trapped in a futile cycle. Human trafficking syndicates need only replace imprisoned managers or directors with new individuals, inject additional capital, and continue operating through the same entity. Therefore, corporate criminal liability is an indispensable weapon for eliminating such business entities at their roots, ensuring that the machinery of exploitation is dismantled and can no longer ensnare new victims.

3.2. The Urgency of Applying Beneficial Ownership to Pierce the Corporate Veil

The greatest, most complex, and most resource-intensive challenge faced by law enforcement authorities in prosecuting corporate human trafficking syndicates is the widespread use of nominee arrangements or “borrowed names.” The masterminds and major financiers behind these crimes understand formal legal mechanisms very well. They often recruit economically disadvantaged individuals, low-level staff with little bargaining power, or even use fictitious identities to appear as chief directors or majority shareholders in corporate establishment deeds. Meanwhile, the true boss never appears in any formal organizational structure.

This manipulative practice hides safely behind the classical corporate law doctrine that strongly upholds the principle of separate legal entity. This principle establishes that a corporation is an independent entity separate from the personal assets and liabilities of its founders. As a result, a thick corporate veil emerges, preventing law enforcement authorities from identifying the real actors behind the scenes. When a company becomes involved in the unlawful detention of prospective migrant workers, formal law often targets only the unfortunate names recorded in corporate documents, while the true mastermind quietly enjoys the profits.

To tear apart this administrative façade, the state introduced a progressive legal instrument through Presidential Regulation Number 13 of 2018 concerning the Implementation of the Principle of Recognizing Beneficial Owners of Corporations. This regulation marked a turning point in the fight against corporate crime. It requires every corporation to declare the actual natural person who serves as the ultimate beneficial owner. The instrument was specifically designed to bypass layers of false documentation and directly target individuals who control the corporation’s financial lifeblood and operational policies.

Through the application of beneficial ownership concepts in human trafficking investigations, investigators from the Police, the Prosecutor’s Office, and the Financial Transaction Reports and Analysis Center (PPATK) are empowered to look beyond notarial documents. Investigators are encouraged to adopt a follow-the-money approach by comprehensively tracing financial flows.

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This approach is based on the premise that documents can be falsified, but the flow of illicit funds ultimately reveals the true owner.

In practice, investigators examine empirical indicators beyond formal legal documents. They seek detailed answers to questions such as: From whose personal account did the initial capital contribution originate? To whose overseas or anonymous accounts are dividends and profits from worker exploitation transferred each month? Which unidentified individual secretly controls the company's banking transaction approvals? Who actually gives daily operational instructions to the "puppet director"? These investigative questions are key to mapping the entire anatomy of the syndicate.

If a thorough investigation successfully identifies the true boss as the beneficial owner, then the ultimate doctrine of piercing the corporate veil can be applied. This doctrine allows the law to disregard the separate legal status of a corporation used fraudulently. Once the veil is pierced, the legal immunity of the mastermind collapses. The law no longer concerns itself with whether the person is formally listed as a shareholder; financial control alone may be sufficient to establish their status as the controller of the criminal enterprise.

The implications of this legal breakthrough are profound. The mastermind can be prosecuted not only as the principal offender or intellectual author (doenpleger) of human trafficking offenses but can also be charged simultaneously with Money Laundering (TPPU). Layered charges are particularly important because syndicates typically conceal and launder profits derived from human exploitation through seemingly legitimate businesses such as real estate investments or foreign exchange trading.

Ultimately, the urgency of beneficial ownership identification cannot be overstated within the modern law enforcement ecosystem. This instrument serves as a bridge between rigid corporate legal formalities and the realities of sophisticated white-collar crime. Only by combining corporate criminal liability with beneficial ownership tracing can Indonesian law enforcement dismantle the entire pyramid structure of human trafficking syndicates and ensure that major criminals hiding behind corporate structures no longer enjoy safe havens from justice.

3.3. Synergy Between Beneficial Ownership Tracing and the Fulfillment of Victims' Restitution Rights

Finding and imprisoning the beneficial owner or intellectual mastermind of a crime is not the endpoint of justice; it is merely the gateway to a more essential goal dignified recovery for

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victims. Law enforcement focused solely on physical punishment (retributive justice) can never restore the futures that victims have lost. Victims of human trafficking endure immense suffering, including physical abuse, psychological manipulation, and the theft of wages earned through their labor. Therefore, justice can only be considered fully realized when these multidimensional losses are compensated through restitution.

Ironically, restitution has often been the most frustrating stage of the criminal justice process for victims. When courts order shell corporations or puppet directors to pay billions of rupiah in restitution to dozens of trafficking victims, such decisions frequently fail to be enforced. This occurs because shell companies are often deliberately bankrupted or stripped of assets before judgment is delivered, while imprisoned puppet directors frequently come from impoverished backgrounds and possess no assets to seize.

This is where the synergy between beneficial ownership tracing and victim recovery becomes invaluable. Unlike puppet directors who possess no meaningful assets, the beneficial owner almost certainly accumulates substantial wealth from the exploitation of human labor. Profits generated through human trafficking are typically not held under the company's name but are hidden through high-value personal investments such as luxury homes, sports car collections, stock portfolios, offshore accounts, gold bullion, and cryptocurrency assets.

Once the beneficial owner's status and involvement are legally established and reinforced through a court ruling, a devastating legal consequence follows. Their personal wealth loses its immunity. Through the authority of investigators, prosecutors, and with assistance from PPATK, law enforcement agencies may immediately block bank accounts, freeze movable and immovable assets, and seize all personal investment instruments belonging to the beneficial owner for the benefit of the state and victims.

The confiscation of these illicit assets is not an arbitrary exercise of state power but rather a concrete manifestation of corrective justice. Assets seized by prosecutors are processed through transparent state auction mechanisms. The proceeds from these auctions are specifically earmarked to ensure that all restitution components calculated by the Witness and Victim Protection Agency (LPSK) are paid in full, eliminating the recurring excuse that "the offender lacks financial capacity."

The scope of restitution financed through the confiscated assets of beneficial owners is broad and crucial. These funds can compensate for unpaid wages lost during forced labor, medical treatment expenses for physical injuries, psychiatric therapy sessions for trauma recovery,

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transportation costs for repatriation, and compensation for immaterial suffering that has damaged victims' reputations and social well-being.

Through this legal framework, the state assumes direct responsibility for recovery and demonstrates that the law functions as a genuine shield for vulnerable citizens. If asset seizure mechanisms operate effectively, human trafficking agents and syndicates will lose incentives to continue their illicit businesses. They will realize that the risk posed by the state extends beyond imprisonment to total financial ruin capable of destroying their economic empires. The law thus transforms from a mere deterrent into an instrument of social engineering that protects human dignity.

Ultimately, the harmonious combination of corporate criminal liability and beneficial ownership disclosure creates a comprehensive system of restorative justice. On one hand, it financially cripples offenders and prevents them from funding future criminal operations. On the other hand, the confiscated assets help heal victims and restore their dignity, providing survivors of human trafficking with the resources needed to rebuild their lives, regain hope, and create a future that was once stolen by the greed of exploitative financiers.

4. Conclusion

Human Trafficking (TPPO) that cleverly hides behind shell companies represents a highly deceptive, organized form of modern slavery that undermines the fundamental values of Pancasila. These criminal syndicates deliberately exploit the complexity of business law to create distance between field-level perpetrators and the intellectual actors occupying positions of power. This form of corporate exploitation reduces human life to a commodity valued solely according to profit-and-loss calculations on corporate balance sheets. Faced with the escalation of such crimes, Indonesia's criminal justice system can no longer afford to act rigidly, formalistically, or be deceived by fictitious names and unfortunate "puppet directors" intentionally listed in corporate establishment documents. The state must respond with legal instruments that are more intelligent, precise, and capable of targeting the financial core of these syndicates. The integration of the doctrine of Corporate Criminal Liability with aggressive tracing of Beneficial Ownership is not merely a theoretical proposition but an urgent and necessary revolution in law enforcement. Through the integration of these progressive legal concepts, law enforcement authorities gain legitimate power to pierce the corporate veil. The follow-the-money approach ensures that legal accountability can penetrate deceptive administrative labyrinths and bring the true masterminds out of their comfort zones and into prison. More than merely incarcerating offenders, this framework provides strong legal justification for blocking, seizing, and confiscating the entire personal wealth of criminal kingpins without exception. At this point, legal justice reaches its highest and most noble essence. Illicit assets worth trillions of rupiah that are successfully traced and confiscated from beneficial owners are not simply spoils for the state; they become a concrete guarantee enabling the fulfillment of restorative justice. These liquidated assets must be used to pay victims' restitution in full, covering everything from stolen wages to the costs of physical recovery and psychological rehabilitation. By impoverishing predators of humanity and redistributing their wealth to restore the dignity of trafficking victims, Indonesian law fulfills its promise: placing humanity above all else and providing certainty and hope for those who have been most severely marginalized.

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