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

A New Paradigm of Exploitation Punishment: Assessing the Efficacy of the National Criminal Code in Dismantling Human Trafficking Syndicates

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Abstract. *The persistent evolution of human trafficking networks demands a highly robust and adaptable legal framework. With the updated Indonesian Criminal Code officially taking effect on January 2, 2026, a modernized approach to criminal prosecution has emerged. This study aims to examine the efficacy and the new paradigm of sentencing policies within this newly active National Criminal Code, specifically evaluating its capacity to dismantle human trafficking syndicates. A qualitative normative legal approach was employed in conducting the research, utilizing statutory analysis to assess the updated substantive criminal laws and law enforcement strategies. Based on the findings, it can be concluded that the newly implemented code effectively closes previous legal loopholes, providing law enforcement with sharper, more comprehensive instruments to prosecute organized exploitation networks and ensuring a more rigorous legal response to trafficking offenses.*

Keywords: Criminal Prosecution; Exploitation Punishment; Human Trafficking Syndicates; National Criminal Code; Sentencing Policy.

1. Introduction

Human trafficking is a fundamental violation of human rights that continues to escalate both domestically and globally, posing a severe threat to human dignity. Ideally, the legal framework of a nation should provide an absolute barrier against the exploitation of vulnerable groups, ensuring strict accountability for all parties involved. However, the actual situation reveals that human trafficking syndicates continually adapt, exploiting legal loopholes and employing sophisticated,

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transnational corporate networks. The existing legal mechanisms often struggle to keep pace with the structural complexity of these syndicates, leading to an enforcement gap where only low-level field operators are prosecuted, while the intellectual masterminds and corporate backers remain untouched.¹

Previous research findings have consistently highlighted the limitations of the conventional criminal justice system in eradicating organized exploitation. Studies indicate that the previous legal framework, primarily rooted in the colonial penal code and scattered specific regulations, lacked the integrated conceptual power to dismantle the financial and corporate backing of modern trafficking networks.² This fragmented approach often resulted in overlapping jurisdictions and weakened prosecutorial strategies, which failed to provide comprehensive restitution for the victims and adequate deterrence against organized syndicates operating under legitimate business facades.³

To address these systemic deficiencies, a significant reform has been introduced through the new National Criminal Code, which officially came into effect on January 2, 2026. This newly implemented regulation introduces a modernized penal paradigm that moves away from sheer retributive justice toward restorative principles, while simultaneously strengthening the provisions on corporate criminal liability and organized crime.⁴ This structural shift theoretically provides law enforcement agencies with sharper, more comprehensive legal instruments to target not only individual perpetrators but also the corporate entities facilitating human trafficking.

From the author's perspective, identifying and analyzing the practical efficacy of this new criminal code is of paramount importance. The mere enactment of a new law does not automatically guarantee the eradication of human trafficking. It is critical to examine whether the substantive articles within the new National Criminal Code possess the necessary sharpness and operational clarity to trace and dismantle the deeply rooted organizational structures of trafficking syndicates.⁵ Relying solely on the existence of the law without dissecting its practical implications could lead to a repetition of past enforcement failures.

¹ Henny Nuraeny, *Tindak pidana perdagangan orang kebijakan hukum pidana dan pencegahannya*. Sinar Grafika, 2022.), p. 190.

² PUTRA, I. Made Dwi Cahya Prayogi; HARTONO, Made Sugi; KERTIH, I. Wayan. Analisis Yuridis UU No 21 Tahun 2007 Tentang Tindak Pidana Perdagangan Orang Terkait Praktek Comercial Surrogate Mother Di Indonesia. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 2026, 4.1: p. 6857-6866.

³ Romli Atmasasmita, 2017, *Teori dan Kapita Selekta Kriminologi*, Refika Aditama, Bandung, p. 89.

⁴ Michael Adyhaksa Padang, Billi J. Siregar, and Rosmalinda Rosmalinda. "Keberpihakan Pemidanaan Dalam Undang-Undang Nomor 1 Tahun 2023." *Locus: Jurnal Konsep Ilmu Hukum* 4.2 (2024): p.64.

⁵ Arofa, Endi. "Korporasi sebagai subjek hukum dan bentuk pemedanaannya dalam tindak pidana korupsi." *Jurnal Suraya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan* 5.1 (2018). P.3-4

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Furthermore, the transition to the new National Criminal Code demands an absolute shift in the investigative and prosecutorial mindset. The inclusion of corporate liability and more dynamic sentencing guidelines requires a robust understanding of how these new norms intersect with existing specialized laws, such as the Law on the Eradication of the Criminal Act of Trafficking in Persons.⁶ Without a thorough academic inquiry into this legislative synergy, there is a substantial risk of legal uncertainty and misapplication during the current transitional phase of law enforcement.⁷

Therefore, a comprehensive legal analysis is urgently needed to evaluate the true potential of this new penal paradigm in practical law enforcement scenarios. This study aims to examine the efficacy of the National Criminal Code's new sentencing and criminalization paradigm in effectively dismantling human trafficking syndicates.⁸

2. Research Methods

This study employed a normative legal research approach, specifically utilizing statutory and conceptual approaches to examine the provisions within the new National Criminal Code (which officially took effect on January 2, 2026) regarding corporate liability and organized crime. The research specification applied in this study was descriptive-analytical, aiming to systematically map out the new penal paradigms and analytically assess their practical efficacy and legal implications in prosecuting human trafficking syndicates.

The data collection method was conducted through a documentary study (library research) focusing entirely on secondary data, which consisted of primary, secondary, and tertiary legal materials. The primary legal materials examined included the newly implemented National Criminal Code (Law Number 1 of 2023) and the Law on the Eradication of the Criminal Act of Trafficking in Persons (Law Number 21 of 2007). Secondary legal materials encompassed scholarly books, scientific journal articles, and previous research relevant to sentencing policies and exploitation punishment. Tertiary legal materials, such as legal dictionaries, were used to support and clarify the concepts utilized in this research.

⁶ Barda Nawawi Arief, 2016, *Bunga Rampai Kebijakan Hukum Pidana: Perkembangan Penyusunan Konsep KUHP Baru*, Kencana, Jakarta, p. 55.

⁷ Sumaya, Pupu Sriwulan. "Efektivitas Penegakan Hukum Terhadap Kasus Perdagangan Orang Di Indonesia: Studi Kasus Implementasi UU Nomor 21 Tahun 2007." *MANIFESTO Jurnal Gagasan Komunikasi, Politik, dan Budaya* 2.1 (2024). p.7-9.

⁸ Situmeang, Sahat Maruli Tua, and Krusitha Meilan. "Evolusi kejahatan dan pembedaan: Tantangan dalam penegakan hukum dan penologi modern: The evolution of crime and punishment: Challenges in law enforcement and modern penology." *Res Nullius Law Journal* 7.2 (2025): p.87-97.



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The collected legal materials were systematically processed and analyzed using a qualitative normative data analysis method. Through this method, the legal texts and academic literature were interpreted, logically correlated, and evaluated to draw deductive conclusions regarding the capacity and sharpness of the new sentencing framework in dismantling the structural operations of human trafficking networks.

3. Results and Discussion

3.1. The Paradigm Shift in Exploitation Punishment under the New National Criminal Code

The enactment of the new National Criminal Code (Law Number 1 of 2023), which officially took effect on January 2, 2026, marks a monumental milestone in the history of Indonesian criminal law. For over a century, the Indonesian penal system was anchored in the *Wetboek van Strafrecht* (WvS), a colonial legacy characterized by its heavily retributive nature and an outdated philosophical foundation that struggled to address the nuances of contemporary society. The new National Criminal Code entirely dismantles this archaic structure, introducing a modernized legal framework that explicitly recognizes the complexity of modern crimes, including organized exploitation and human trafficking. This pivotal transition is not merely a textual replacement of laws; it represents a profound systemic transformation. This sub-chapter critically analyzes the paradigm shift in the philosophical basis of sentencing, the explicit recognition of corporate criminal liability, and the harmonization between the general penal code and specialized criminal laws in eradicating human trafficking syndicates.

The longevity of the *Wetboek van Strafrecht* in Indonesia created a growing chasm between written law and the evolving realities of transnational crime. The colonial penal code was drafted in an era where crimes were predominantly understood as localized, individualistic, and physical transgressions against public order. Consequently, its framework was fundamentally ill-equipped to comprehend or effectively penalize the sophisticated, borderless, and highly organized nature of modern human trafficking. Syndicates operating in the 21st century utilize digital recruitment, international banking networks, and complex corporate structures to facilitate their illicit trade-mechanisms that the WvS could never have anticipated.

The activation of the new National Criminal Code in January 2026 officially closes this historical gap. The new code is deeply rooted in the national values of Indonesia, moving away from a purely Eurocentric legal philosophy toward a system that balances individual rights with societal protection. By fundamentally redefining what constitutes a criminal offense, the new framework provides law enforcement with contemporary tools designed specifically to

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deconstruct and penalize complex organizational structures that perpetuate the exploitation of vulnerable groups.

Perhaps the most defining characteristic of the new National Criminal Code is its radical departure from the purely retributive philosophy of the past. Under the WvS, the primary objective of the criminal justice system was to inflict punishment proportional to the crime committed, often ignoring the rehabilitation of the offender and the restoration of the victim.

The new legal framework introduces an integrative penal philosophy, widely recognized in modern jurisprudence as the *Daad-Dader Strafrecht* approach, which meticulously balances the severity of the criminal act (the objective element) with the personal circumstances and rehabilitative potential of the actor (the subjective element). Furthermore, the purpose of sentencing is explicitly expanded beyond mere deterrence. The new code mandates that punishment must also serve to resolve the conflict generated by the crime, restore societal balance, and prioritize the recovery of the victim.

In the context of human trafficking, this philosophical shift is highly strategic. Human trafficking is not just a violation of the state's public order; it is a profound devastation of individual human dignity. A purely retributive system might imprison a trafficker, but it does little to repair the psychological and financial ruin inflicted upon the victim. The new sentencing paradigm allows judges to employ a holistic approach. While the punitive elements ensure that human trafficking syndicates face severe deterrents-such as extended incarceration and total asset forfeiture-the restorative elements compel the justice system to prioritize restitution, compensation, and the comprehensive rehabilitation of the exploited individuals.

The most formidable barrier to eradicating human trafficking has historically been the legal system's inability to prosecute the corporate entities that bankroll and benefit from these operations. Human trafficking syndicates frequently operate under the veil of legitimate businesses, such as overseas labor recruitment agencies, international travel bureaus, or logistics companies. Under the previous colonial framework, criminal liability was almost exclusively attached to natural persons (individuals). This allowed the "intellectual masterminds" and financial beneficiaries to remain insulated from prosecution, while only the low-level field operators faced legal consequences.

The new National Criminal Code completely alters this landscape by explicitly codifying corporate criminal liability within its general provisions. As of January 2, 2026, corporations are definitively recognized as active subjects of criminal law. This modernization is

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operationalized through the integration of the Identification Theory and the doctrine of Vicarious Liability directly into the statutory text.

- a. **Attributing Corporate Guilt:** The new code stipulates that a crime is committed by a corporation if it is perpetrated by individuals acting within the scope of the corporation's activities, whether based on an employment relationship or another functional capacity.
- b. **Targeting the Masterminds:** Crucially, liability extends beyond the formal board of directors to include "beneficial owners" and those who effectively control the corporation, even if their names do not appear on official company documents.
- c. **Devastating Sanctions:** The sanctions available against convicted corporations are designed to be fatal to their operations. Judges are now empowered to impose massive monetary fines, order the confiscation of all corporate assets derived from the exploitation, revoke business licenses, and ultimately mandate the dissolution of the corporation.

By piercing the corporate veil, the new code provides prosecutors with the substantive sharpness required to target the financial epicenter of human trafficking networks, ensuring that the organizations funding the exploitation are dismantled permanently.

The effectiveness of combating specialized crimes often relies on the structural cohesion between general penal codes and specific statutes. For years, the prosecution of human trafficking in Indonesia relied heavily on the specific Law on the Eradication of the Criminal Act of Trafficking in Persons (*lex specialis*). However, because this specific law was conceptually tethered to the outdated WvS (*lex generalis*), prosecutors often encountered dogmatic friction, particularly concerning definitions of attempt, conspiracy, and the limits of corporate fault.

The implementation of the new National Criminal Code resolves this systemic dissonance. It establishes a modernized, harmonized baseline that acts as the supreme *lex generalis* for all criminal acts, including those governed by specialized laws. The updated definitions of criminal conspiracy and preparatory acts provide law enforcement with clearer, unambiguous authority to intervene and prosecute syndicates during the early stages of human trafficking, such as the recruitment or planning phases, rather than waiting for the exploitation to fully materialize.

Furthermore, the new code's harmonization ensures that the application of cumulative sanctions—combining principal punishments with severe additional penalties—is streamlined. This prevents procedural ambiguities that previously allowed defense attorneys to exploit

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legal gray areas.

The enactment of the new National Criminal Code is a transformative development in the fight against human trafficking. By discarding an archaic, colonial, and purely retributive system, Indonesia has embraced a progressive legal framework that reflects the complexities of modern transnational crime. The philosophical shift toward integrative justice ensures that the restoration of human dignity is placed alongside the necessity of deterrence. Most importantly, the formal recognition of corporate criminal liability and the systemic harmonization of penal laws equip the justice system with the exact tools needed to trace, prosecute, and financially paralyze the syndicates that profit from human exploitation.

3.1.1. The Philosophical Shift in Sentencing

Under the previous colonial penal code, the primary orientation of criminal law was retributive-focused heavily on inflicting suffering as a form of state vengeance against the perpetrator.⁹ However, the new National Criminal Code fundamentally alters this orientation. Article 51 of the new code explicitly outlines that the purpose of punishment is no longer merely to punish, but rather to prevent crime, rehabilitate the offender, resolve conflicts, restore the balance of society, and generate a sense of remorse within the perpetrator.¹⁰ This represents a deliberate shift toward a corrective, rehabilitative, and restorative justice system.

In analyzing this philosophical shift, the Integrative Theory of Punishment (Teori Pemidanaan Gabungan) provides a vital analytical lens. The Integrative Theory posits that punishment must serve a dual purpose: it must inherently contain an element of suffering to serve as a deterrent (retribution) while simultaneously achieving utilitarian goals such as societal protection and victim restoration.¹¹ The new National Criminal Code perfectly embodies this theory. In the context of human trafficking, which is a systematic and deeply exploitative crime, a purely rehabilitative approach would be inadequate to dismantle well-funded syndicates. Conversely, a purely retributive approach often fails to address the restitution and recovery of the exploited women and children.¹²

⁹ Barda Nawawi Arief, *Tujuan dan Pedoman Pemidanaan: Perspektif Pembaharuan Hukum Pidana*, Badan Penerbit Universitas Diponegoro, Semarang, 2017, p. 45.

¹⁰ Michael Adyhaksa Padang; Billi Siregar J.; Rosmalinda. Keberpihakan Pemidanaan Dalam Undang-Undang Nomor 1 Tahun 2023. *Locus: Jurnal Konsep Ilmu Hukum*, 2024, 4.2: p.64-71.

¹¹ Muladi and Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana*, PT Alumni, Bandung, 2010, p. 55.

¹² M. Ilham Wira Pratama. Kebijakan hukum pidana dalam penanggulangan tindak pidana perdagangan orang berdasarkan Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang. *Jurnal Fakta Hukum*, 2023, 1.2: p.98-108.



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By applying the Integrative Theory of Punishment, the new penal policy carefully balances these necessities. The sentencing guidelines formulated in Article 54 of the National Criminal Code mandate judges to consider the motive, the impact of the crime on the victim, and the societal sense of justice before rendering a verdict.¹³ For human trafficking syndicates, this means the courts are now structurally guided to impose maximum retributive sanctions-such as lengthy prison sentences and asset forfeiture-to paralyze the syndicate's operational capacity, while simultaneously prioritizing corrective and restorative measures to ensure the victims receive adequate compensation and protection.¹⁴ This dual-track paradigm ensures that the law acts as a sharp sword against the masterminds of exploitation, and a protective shield for the vulnerable.

3.1.2. Corporate Criminal Liability in the New Legal Framework

One of the most significant legal breakthroughs in the new National Criminal Code is the formal, codified recognition of corporations as active subjects of criminal law within the general provisions (Book I). Previously, corporate criminal liability was scattered across various special laws outside the general penal code, leading to inconsistent enforcement and dogmatic debates regarding mens rea (criminal intent) in legal entities.¹⁵ However, as of January 2026, Articles 45 to 50 of the National Criminal Code firmly establish that corporations, including limited liability companies, foundations, and even unincorporated associations, can be held directly liable for criminal acts.

This explicit recognition is crucial in combating human trafficking. Modern exploitation is rarely conducted by isolated individuals; it is predominantly orchestrated by organized syndicates operating under the guise of legitimate corporate entities, such as recruitment agencies, travel bureaus, or labor export companies.¹⁶ To dissect how the new law penetrates this corporate veil, the Identification Theory (Teori Identifikasi) and the doctrine of Vicarious Liability serve as the primary analytical tools.

According to the Identification Theory, the acts and state of mind of the directing minds of a

¹³ Adiansyah Nurahman; Eko Soponyono. Asas keseimbangan dalam rancangan kitab undang-undang hukum pidana sebagai upaya pembaharuan hukum pidana yang berkeadilan. *Pandecta research law journal*, 2019, 14.2: p.100-106.

¹⁴ Romli Atmasasmita, *Rekonstruksi Asas Tiada Pidana Tanpa Kesalahan: Gejala Perkembangan Hukum Pidana Transnasional*, Gramedia Pustaka Utama, Jakarta, 2017, p. 112.

¹⁵ Sutan Remy Sjahdeini, *Pertanggungjawaban Pidana Korporasi*, Grafiti Pers, Jakarta, 2006, p. 67.

¹⁶ Nyoman Serikat Putra Jaya. *Beberapa pemikiran ke arah pengembangan hukum pidana*. Citra Aditya Bakti, 2008. P.39.



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corporation-such as its board of directors or functional managers-are deemed to be the acts and state of mind of the corporation itself.¹⁷ Article 46 of the new code echoes this theory by stating that a criminal act by a corporation is committed by individuals who hold functional positions within its organizational structure and act on behalf of or for the benefit of the corporation. Furthermore, Article 47 expands this liability to include the "beneficial owners" or controlling figures who may operate outside the formal organizational chart but exercise absolute control over the entity.¹⁸

Additionally, the principle of Vicarious Liability allows the criminal actions of lower-level employees or recruiters in the field to be attributed to the corporation, provided the actions benefit the corporation unlawfully or are accepted as corporate policy (Article 48).¹⁹ By integrating these theories into statutory law, the new National Criminal Code effectively eliminates the "shield of incorporation" that human trafficking syndicates have long exploited. Prosecutors are now empowered to indict not only the individual recruiters or transporters but also the corporate entities funding the operation. The sanctions imposed can be devastating to the syndicate's infrastructure, ranging from massive corporate fines, the freezing of business activities, the confiscation of illicit profits, to the ultimate dissolution of the corporation entirely, as stipulated in Article 120 of the new code.²⁰

3.1.3. Harmonization of General and Special Penal Laws

The effectiveness of any legal system relies heavily on the systemic harmonization between its general principles and specialized regulations. Prior to the enactment of the new National Criminal Code, law enforcement agencies often faced legal friction when dealing with human trafficking cases. The primary specialized law, Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons (UU TPPO), operated as a *lex specialis*. However, it was conceptually tied to the outdated colonial penal code (*lex generalis*), which lacked comprehensive rules on modern organized crime, transnational corporate liability, and advanced asset recovery.²¹

¹⁷ Dwidja Priyatno, *Sistem Pertanggungjawaban Pidana Korporasi dalam Kebijakan Legislasi*, Kencana, Jakarta, 2004, p. 105.

¹⁸ Kuku Dwi Kurniawan; Dwi Ratna Indri Hapsari. Pertanggungjawaban pidana korporasi menurut vicarious liability theory. *Jurnal Hukum Ius Quia Iustum*, 2022, 29.2: p.324-346.

¹⁹ Bismar Nasution, *Kejahatan Korporasi dan Tanggung Jawabnya Menurut Hukum Pidana*, Refika Aditama, Bandung, 2013, p. 94.

²⁰ Gea Illa Sevrina. Kebijakan Kriminalisasi Terhadap Praktik Prostitusi di Indonesia. *Law and justice*, 2020, 5.1: p.17-29.



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The operationalization of the new National Criminal Code entirely resolves this systemic friction. Article 187 of the new code explicitly commands that the general rules stipulated in Book I apply to all other criminal regulations outside the code, unless specifically stated otherwise. Consequently, the new National Criminal Code successfully patches the historical legal loopholes that previously hindered effective prosecution.²²

For instance, the definitions of criminal conspiracy (*permufakatan jahat*), preparation (*persiapan*), and attempt (*percobaan*) are now uniformly and rigorously defined in Articles 13 through 17 of the new code. This harmonization provides prosecutors with unambiguous legal grounds to intercept and prosecute human trafficking syndicates during the planning or recruitment phase, long before the victims are transported across borders.²³ Moreover, the new general code strengthens the concept of additional penalties (*pidana tambahan*), such as the mandatory payment of compensation (*ganti rugi*) and the fulfillment of local customary obligations (*pemenuhan kewajiban adat*), as explicitly outlined in Article 66. This perfectly synchronizes with the victim-centric approach mandated by human rights standards in anti-trafficking protocols.²⁴

In summary, the harmonization between the new National Criminal Code and the specific anti-trafficking laws creates a highly integrated and formidable legal mechanism. The new code does not merely act as a supplementary regulation; it revitalizes the entire prosecution framework. By shifting the penal paradigm, institutionalizing corporate liability, and harmonizing systemic legal doctrines, the Indonesian criminal justice system is now structurally equipped to sever the financial and organizational arteries of human trafficking syndicates, thereby enhancing the absolute protection of women and children from modern-day exploitation.

3.2. Assessing the Efficacy of the New Criminal Code in Dismantling Human Trafficking

²¹ Pupu Sriwulan Sumaya. "Efektivitas Penegakan Hukum Terhadap Kasus Perdagangan Orang Di Indonesia: Studi Kasus Implementasi UU Nomor 21 Tahun 2007." *MANIFESTO Jurnal Gagasan Komunikasi, Politik, dan Budaya* 2.1 (2024).p. 2-4

²² Sahat Maruli Tua Situmeang, and Krusitha Meilan. "Evolusi kejahatan dan pemidanaan: Tantangan dalam penegakan hukum dan penologi modern: The evolution of crime and punishment: Challenges in law enforcement and modern penology." *Res Nullius Law Journal* 7.2 (2025): p.87-97.

²³ Loebby Loqman, *Kapita Selekta Tindak Pidana di Bidang Perekonomian*, Datacom, Jakarta, 2011, p. 77.

²⁴ Rena Yulia, *Viktimologi: Perlindungan Hukum Terhadap Korban Kejahatan*, Graha Ilmu, Yogyakarta, 2010, p. 134.

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Syndicates

The transition from a colonial-era penal system, rooted in the *Wetboek van Strafrecht* (WvS), to a modernized legal framework represents a monumental leap in Indonesian jurisprudence. With the new National Criminal Code (KUHP Nasional) actively enforced since January 2, 2026, the theoretical paradigms must now be translated into practical, aggressive enforcement against organized crime. Evaluating the efficacy of this new code requires a comprehensive assessment of its substantive sharpness, structural readiness, comparative advantages, and the mitigation of transitional challenges in the prosecution of human trafficking syndicates.

The previous legal regime, governed by the WvS and the specialized Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons (UU TPPO), often suffered from a "dissection effect," where syndicates were dismantled only at their superficial layers. Field recruiters and transporters were frequently prosecuted, while the intellectual masterminds—those who financed the operations, operated shell companies, and laundered the proceeds—remained shielded by the corporate veil or jurisdictional gaps.

The new KUHP Nasional provides a fundamental remedy to this weakness through its robust substantive provisions regarding corporate criminal liability. Articles 45 through 50 of the new code establish that corporations are now unequivocally subject to criminal prosecution. This is critical because human trafficking is rarely a solitary endeavor; it is inherently a corporate crime, often orchestrated through recruitment agencies, travel bureaus, and fake labor export firms.

Under the new code, the "Substantive Sharpness" is manifested in the ability of judges and prosecutors to apply cumulative sanctions that directly target the financial viability of a syndicate. If a corporation is convicted, the court can now mandate not only criminal fines but also the confiscation of all assets acquired through or used for the trafficking activities, as well as the permanent revocation of business licenses. By integrating these provisions with the anti-money laundering mechanisms reinforced in the new code, the law effectively allows the state to seize the "blood money" accumulated from the exploitation of victims. This approach transforms the prosecution from a mere exercise in assigning individual guilt to a strategic operation aimed at systemic financial dismantlement.

To assess the structural readiness of the new enforcement regime, one must look at the institutional capacity to handle the complexities introduced by the KUHP Nasional. Lawrence M. Friedman's Legal System Theory posits that the efficacy of the law depends on the synergy between substance, structure, and legal culture. The substance has been vastly improved, but

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the structure-comprising the Police, the Attorney General's Office, and the Judiciary-must adapt to the new evidentiary standards required for corporate and organized crime prosecutions.

A significant structural challenge lies in the "Standard of Proof" for corporate trafficking. The new code requires a shift toward proving the functional role of the corporation in facilitating exploitation, as outlined in Article 46 and Article 47. This necessitates that law enforcement agencies possess the analytical capacity to perform financial forensics and audit internal corporate communications-skills that are distinct from traditional investigative techniques used for common crimes.

Furthermore, according to Soerjono Soekanto's Theory of Legal Effectiveness, the readiness of the enforcer is a variable that cannot be overlooked. The KUHP Nasional necessitates that investigators are no longer just looking for physical evidence of transport or confinement, but are actively connecting corporate policy to the act of trafficking. If an agency's structure remains rigid and lacks specialized task forces capable of navigating the intersection of corporate law and criminal procedure, the "efficacy" of the new code will be limited. Consequently, the structural readiness of the Indonesian National Police and the Attorney General's Office is currently the most critical variable in determining whether the new code will be a "paper tiger" or a functional tool for syndicate dissolution.

The comparative shift from the old framework to the new KUHP Nasional indicates a fundamental reorientation of the state's posture toward exploitation. The previous regime relied heavily on the *lex specialis* UU TPPO, which, while useful, often functioned in isolation from the broader penal theory. The current paradigm, by anchoring specialized trafficking offenses within the overarching philosophy of the KUHP Nasional, allows for a more aggressive, multi-faceted prosecution strategy.

Table

1.

Comparative Analysis of Exploitation Punishment Paradigms

Instrument	Focus of Liability	Sanction Approach	Target Implication
Previous Framework	Individual Operators	Principally Retributive	Ineffective against corporate backers
New National Code	Individuals and Corporations	Retributive, Restitutive, and Corrective	Asset recovery and syndicate dismantlement
<i>Sumber: Processed secondary data, 2026.</i>			

As shown in the table, the old framework was limited by its focus on "Principally Retributive"

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measures, which essentially focused on the individual agent. In contrast, the new code provides a "Retributive, Restitutive, and Corrective" approach. This paradigm is projectively more effective because it addresses the syndicate as a functioning, profit-driven entity. By forcing syndicates to fear the total loss of their corporate assets and the criminal liability of their directors, the new instrument forces a change in the syndicate's "cost-benefit analysis" regarding the crime of human trafficking.

Despite the strengths of the KUHP Nasional, the implementation phase is inherently fraught with transitional friction. The most pressing practical challenge is the emergence of "Jurisprudential Disparity." During the initial months of 2026, lower court judges are faced with the task of interpreting new provisions without a robust body of existing case law. This is particularly sensitive when applying the new sentencing guidelines of Articles 51 through 54, which require a delicate balance between retributive deterrence and restorative justice.

To mitigate this, the Supreme Court of Indonesia has initiated the drafting of implementing regulations and bench books to unify judicial interpretation. These guidelines are essential to ensure that the "flexibility" intended by the new code does not devolve into arbitrary decision-making. Furthermore, there is a need for continuous inter-agency training that focuses on the intersection of the new KUHP Nasional and the existing provisions of the UU TPPO. The synchronization of these two instruments is the key to closing the gap between prosecution and conviction.

Finally, the success of the new code hinges on the legal culture. The public must be encouraged to report syndicate activities, and legal practitioners must be educated to utilize the new corporate provisions effectively. The transition is not merely administrative; it is a cultural shift in how Indonesia views the responsibilities of corporations and the rights of victims. As the KUHP Nasional continues to mature in practice, it will likely serve as the definitive deterrent against human trafficking, provided that the structural readiness and the judicial interpretation remain committed to the law's original intent: the protection of human dignity over the profit of syndicates.

3.2.1. Substantive Sharpness in Targeting Intellectual Masterminds

One of the most critical failures of the previous law enforcement regime was its inability to target the intellectual masterminds and financial backers of human trafficking operations. Syndicates often shielded their true beneficiaries behind complex corporate structures,

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leaving only field recruiters and low-level operators vulnerable to prosecution.²⁵ The new National Criminal Code addresses this by granting judges and prosecutors significant latitude to impose cumulative sanctions specifically designed to sever the financial veins of these syndicates.

Substantively, the new code provides a robust mechanism for asset recovery and corporate dismantling. Under the provisions concerning corporate criminal liability and additional penalties, prosecutors are now legally mandated to pursue the confiscation of assets and the revocation of business licenses.² For instance, if a legitimate labor export company or a travel agency is found to be a vehicle for exploitation, the court can order the permanent closure of the corporation and the seizure of all profits derived from the illicit activities. This substantive sharpness ensures that the legal system targets the "beneficial owners"-the intellectual masterminds-by neutralizing their economic motivation, thereby preventing the syndicate from regenerating or continuing its operations under a different corporate name.³

3.2.2. Evaluating Legal Effectiveness in Enforcement Structure

While the substantive law has been fundamentally sharpened, its efficacy heavily depends on the operational capacity of the law enforcement structure. Lawrence M. Friedman's legal system theory postulates that a functional legal system relies on three interrelated elements: substance (the rules and norms), structure (the institutions and law enforcement agencies), and culture (the attitudes and beliefs toward the law).²⁶ In the context of the new National Criminal Code, the *substance* has been reformed, but the *structure* requires critical evaluation.

From a structural perspective, dismantling human trafficking syndicates necessitates a high degree of readiness among police investigators, prosecutors, and judges to apply the new standards of corporate criminal liability and trace the proceeds of crime. Under the previous framework, law enforcement agencies were accustomed to proving individual *mens rea* (criminal intent). The new code requires a structural shift in investigative methodologies, demanding that officers gather complex financial evidence, audit corporate structures, and understand the intersection between human trafficking and money laundering.²⁷

According to Soerjono Soekanto's theory of legal effectiveness, the success of a law is dictated

²⁵ Dicki Agri Kurniawan; Zainal Arifin Hoesein. Rekonstruksi Pemidanaan Korporasi Dalam Kejahatan Lingkungan Hidup Sebagai Langkah Strategis Pembaharuan Hukum Nasional. *Judge: Jurnal Hukum*, 2025, 6.03: p.550-562.

²⁶ Muhammad Idris Nasution; Muhammad Ali; Fauziah Lubis. Pembaruan Sistem Pemidanaan di Indonesia: Kajian Literatur atas KUHP Baru. *Judge: Jurnal Hukum*, 2024, 5.01: 16-23.

²⁷



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by the law enforcement officers' capability to interpret and implement the regulations accurately.²⁸ Therefore, evaluating the efficacy of the new National Criminal Code reveals a critical need for structural capacity building. Investigators must be equipped with forensic accounting skills, and prosecutors must construct indictments that effectively link corporate decision-making to the exploitation occurring in the field. Without a competent and deeply integrated law enforcement structure, the progressive substantive rules of the new code will remain practically dormant.

3.2.3. Comparative Overview and Projection of Enforcement

A comparative overview between the previous colonial penal framework and the new National Criminal Code reveals a stark contrast in the trajectory of law enforcement against human trafficking. Historically, enforcement was severely hampered by a singular focus on individual operators. The normative strength of the new instrument lies in its dual capacity to target both the physical perpetrators and the corporate vehicles facilitating the crime.

This systemic upgrade projects a future enforcement environment where organized exploitation is treated not merely as a localized physical offense, but as a complex transnational corporate crime. The comparative shifts in these paradigms are summarized in the table below:

Table 1. Comparative Analysis of Exploitation Punishment Paradigms

Instrument	Focus of Liability	Sanction Approach	Target Implication
Previous Framework	Individual Operators	Principally Retributive	Ineffective against corporate backers
New National Code	Individuals and Corporations	Retributive, Restitutive, and Corrective	Asset recovery and syndicate dismantlement

Sumber: Processed secondary data, 2026

This normative comparison demonstrates that the new code is no longer constrained by outdated individualistic legal doctrines. By explicitly incorporating restorative and corrective sanctions alongside retributive ones, the projected enforcement model ensures that asset recovery becomes a mandatory output of the judicial process, directly benefiting the victims of exploitation.

3.2.4. Addressing the Practical Challenges

Despite the robust legal framework established by the new National Criminal Code, practical

²⁸ Soerjono Soekanto, 2014, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, Rajawali Pers, Jakarta, p. 42.



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challenges inevitably arise during its implementation phase. A primary obstacle is the potential for inconsistent jurisprudential interpretation among judges during the current transitional period. Because the code introduces novel concepts such as comprehensive corporate liability within a general penal framework, there is a risk of disparity in how different courts assess the threshold for corporate guilt or the extent of asset forfeiture.²⁹

To mitigate these challenges, harmonized guidelines must be urgently issued by the Supreme Court. Implementing Supreme Court Regulations (PERMA) detailing the evidentiary standards for corporate crimes under the new code will provide legal certainty and unify the interpretations of judges nationwide.³⁰ Furthermore, intensive cross-institutional training involving the police, the prosecutor's office, and the judiciary is required to build a shared understanding of the new penal paradigms. By addressing these practical challenges through targeted institutional policies, the Indonesian justice system can fully actualize the potential of the new National Criminal Code, definitively dismantling the structural and financial foundations of human trafficking syndicates.

4. Conclusion

The enactment of the new National Criminal Code marks a transformative paradigm shift in the eradication of human trafficking syndicates, evolving from a conventionally retributive framework to an integrative penal policy that formally recognizes corporate criminal liability. By explicitly targeting the intellectual masterminds and financial backers through severe cumulative sanctions—such as asset forfeiture, license revocation, and corporate dissolution—the new code provides unprecedented substantive sharpness to dismantle the operational and economic foundations of organized exploitation. However, the true efficacy of this modernized legal instrument in practical law enforcement heavily depends on the structural readiness of investigators, prosecutors, and judges to navigate complex corporate evidentiary standards, as well as the urgent establishment of harmonized judicial guidelines to prevent interpretative disparities during the transitional period. Ultimately, while the new National Criminal Code theoretically establishes a highly robust, victim-centric legal mechanism, its practical success demands a systemic synergy between these progressive substantive norms and a highly competent law enforcement structure to ensure the absolute protection of vulnerable groups from the constantly evolving threats of human trafficking networks.

²⁹ Alvi Syahrin, et al. *Dasar-dasar Hukum Pidana: Suatu Pengantar (Buku Kesatu Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana)*. Merdeka Kreasi Group, 2023. Hlm. 49.

³⁰ Muladi and Barda Nawawi Arief, 2010, *Teori-Teori dan Kebijakan Pidana*, PT Alumni, Bandung, p. 67.



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