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

Legal Analysis of the Crime of Human Trafficking in Indonesia

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Abstract. *This study aims to determine the extent to which Indonesian legal policies regulate the crime of human trafficking as a form of resistance to this crime against humanity. This includes efforts to provide protection for women and children, who are suspected to be the biggest victims in this crime. The research approach used is a normative juridical approach using legislation, a case approach through secondary data by analyzing cases spread on the internet, and a conceptual approach. This study is expected to provide information regarding the legislation that regulates the crime of human trafficking and provide analysis and solutions for combating it and constructive efforts to improve protection for women and children as alleged victims in cases of human trafficking in Indonesia.*

Keywords: *Crime of Human Trafficking; Indonesia; Legal Analysis.*

1. Introduction

This research was motivated by profound global and domestic concerns regarding severe crimes against humanity, specifically human trafficking, organ sales, sexual harassment, and child sexual abuse. A primary catalyst for this inquiry is the global shock surrounding the revelation of the "Epstein Files," where millions of documents linked to international networks of human trafficking—particularly targeting women and children—have surfaced. The United States Department of Justice has been mandated to handle and release millions of pages, videos, and images under the Epstein Files Transparency Act, while enforcing strict privacy redactions and age-verification protocols to protect sensitive victim identities and suppress material depicting child sexual abuse, physical violence, and death.



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This international crisis is mirrored by equally distressing events within the domestic sphere, highlighting the pervasive nature of extreme violence and human rights violations. Recently, the nation was shaken by a brutal hostage-taking and torture case perpetrated by Taufik Hidayat against his female friend YTR (29 years old), leaving the victim with blindness and permanent physical disabilities. Such brutal acts demonstrate that severe violations of human dignity are not distant phenomena, but urgent local realities that tear at the moral fabric of society and demand rigorous academic and legal scrutiny.

Driven by these alarming developments, this study critically examines how the Unitary State of the Republic of Indonesia (NKRI) anticipates and resists these crimes against humanity. Specifically, it investigates how national legislation regulates the crime of human trafficking, evaluates existing legal protections for vulnerable populations such as women and children, and explores the systemic and philosophical roots that allow such atrocities to persist.

2. Research Methods

This research employs a normative juridical approach with descriptive and analytical specifications, utilizing secondary data consisting of primary legal materials derived from relevant laws and regulations, secondary legal materials sourced from books, journals, and media reviews, and tertiary legal materials obtained from legal and standard dictionaries, all collected through comprehensive document and library research.

3. Results and Discussion

3.1. Normative Framework and Legal Parameters of Human Trafficking (TPPO)

The prevention, eradication, and legal enforcement of human trafficking widely recognized as *Tindak Pidana Perdagangan Orang* (TPPO) are formally anchored within both national legislation and international legal instruments. Domestically, the primary legal foundation is established through Law No. 21 of 2007 Concerning the Eradication of the Crime of Human Trafficking, which serves as the core *lex specialis* governing these offenses in the Indonesian legal jurisdiction. This specific statute operates alongside foundational constitutional mandates embedded within the 1945 Constitution of the Republic of Indonesia (UUD 1945), specifically Articles 20, 21, and 28B Paragraph (2). These constitutional provisions guarantee fundamental human rights, ensuring that every citizen is protected from degrading treatment, arbitrary exploitation, and severe violations of human dignity.



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The underlying philosophy of these national regulations is deeply rooted in the moral and state principles of Pancasila, which mandates the protection of human life and social justice for all Indonesians. Within this framework, the state holds an affirmative obligation to shield vulnerable populations particularly women and children—from systemic abuses that commodify human beings. Human trafficking is legally categorized not merely as an ordinary criminal offense, but as an extraordinary crime that fundamentally subverts constitutional rights and societal order. Consequently, domestic penal policies are designed to impose stringent sanctions on perpetrators while prioritizing the structural safeguarding of victims' basic freedoms.

Furthermore, Indonesia's legislative architecture is significantly reinforced by international conventions that have been formally ratified into national law. A prominent example is Law No. 7 of 1984, which enacted the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) into the domestic legal system. This international linkage ensures that gender-based vulnerabilities which frequently intersect with human trafficking recruitment patterns are addressed through standardized global human rights criteria. By aligning domestic statutes with international human rights treaties, the state attempts to bridge local enforcement gaps with global protective standards.

Child protection regulations further fortify this normative web, operating through a sequential series of legislative updates and statutory amendments. These protections are primarily derived from Law No. 23 of 2002 concerning Child Protection, which has been progressively updated through Law No. 35 of 2014 and subsequently amended by Law No. 17 of 2016. These legislative amendments introduce heavier penalties for offenses involving the exploitation, trafficking, and sale of minors. They emphasize the paramount interest of the child, establishing strict legal consequences for individuals or syndicates that profit from the vulnerability of underage victims.

On the international front, the normative benchmark is heavily influenced by the Palermo Protocol formally known as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Adopted under the auspices of the United Nations, the Palermo Protocol establishes a universally recognized tripartite global standard centered on the 3 Ps: Prevention, Protection, and Prosecution. Indonesia integrated these international commitments into its national framework through supportive ratifications, committing state apparatuses to curb transnational syndicates, secure victim rehabilitation, and prosecute offenders across borders.



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According to these harmonized legal standards, both under international guidelines and Law No. 21 of 2007, an illicit act qualifies legally as human trafficking only when it satisfies three cumulative elements. The first element is the process, which encompasses the initial act of recruiting, transporting, harboring, sending, transferring, or receiving a person. This phase captures the dynamic logistics of moving victims away from their protective environments, whether across international borders or entirely within domestic jurisdictions. Without establishing this physical or organizational process, the formal criteria for a trafficking charge remain incomplete under statutory interpretation.

The second element involves the method or means utilized by the perpetrator to exert control over the victim. Under the law, this is executed through coercive tactics such as threats of violence, kidnapping, confinement, document falsification, fraud, abuse of power, or taking advantage of a position of vulnerability, including debt bondage. Finally, the third element centers on the purpose, which explicitly mandates that the entire operation must be directed toward exploitation for the financial, material, or sexual gain of the perpetrator. Such exploitation manifests through diverse, destructive forms including commercial prostitution, forced labor, domestic servitude, slavery-like practices, and illicit human organ trafficking.

3.2. Criminological Dynamics and the Transnational Threat Landscape

Human trafficking operates as an insidious, highly organized enterprise that systematically undermines societal norms, weakens legal order, and preys predominantly upon vulnerable demographics, particularly women and children (Siregar et al., 2021). Within the framework of modern criminological study, transnational organized crime has evolved beyond traditional illicit trades—such as narcotics and contraband smuggling—to encompass the commodification of human life itself. Whether operating as localized domestic networks or sprawling cross-border syndicates, the spatial expansion of *Tindak Pidana Perdagangan Orang* (TPPO) transforms individual human beings into disposable commercial objects. By stripping victims of their autonomy, psychological agency, and inherent worth, these criminal entities treat people as mere units of labor or sexual utility to maximize profit margins in the global underground economy.

The proliferation of these criminal networks is heavily facilitated by structural vulnerabilities, socioeconomic disparities, and administrative shortcomings within source and transit regions. Trafficking syndicates strategically exploit legal loopholes, weak institutional oversight, and regional economic imbalances, capitalizing on populations suffering from chronic poverty, unemployment, and a lack of access to formal education (Haryanto, 2023). Because these illicit



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operations easily transcend physical borders and exploit administrative fractures between nations, isolated domestic efforts remain fundamentally insufficient for total eradication. The transnational nature of the crime means that perpetrators can shift operations, laundering channels, and transit routes across jurisdictions to evade local law enforcement agencies.

Combating this multifaceted transnational threat necessitates a synchronized dual approach that harmonizes rigorous domestic enforcement with robust, proactive international cooperation. The structural evolution of trafficking networks highlights the imperative for early-stage intervention, coordinated transnational intelligence sharing, and rigorous oversight at international borders and vulnerable regional ports (United Nations Office on Drugs and Crime [UNODC], 2024). Law enforcement institutions must move beyond reactive measures to dismantle the financial infrastructures and corruption networks that sustain these syndicates. Furthermore, because human trafficking thrives in environments marked by severe economic marginalization, punitive legal frameworks must be seamlessly paired with targeted socioeconomic policies designed to elevate vulnerable communities and build long-term economic resilience.

Without cohesive multilateral cooperation and a dynamic, forward-thinking enforcement apparatus, criminal syndicates will continuously adapt their recruitment tactics, communication methods, and exploitation models to evade legal jurisdiction. Modern traffickers increasingly leverage digital platforms, social media, and fraudulent online employment agencies to deceive job seekers, complicating traditional methods of investigation (Kusumawati, 2025). Consequently, an effective criminological response requires continuous academic inquiry and policy updates that anticipate technological shifts. Strengthening global partnerships, standardizing extradition treaties, and fostering cross-border institutional trust remain vital prerequisites to dismantling the complex machinery of human trafficking and protecting the global community from its destructive reach.

3.3. Philosophical Perspectives on Perpetrator Behavior and the Banality of Evil

Beyond formal legal analysis and systemic policy considerations, the perpetration of human trafficking can be examined through a criminological and philosophical lens, particularly utilizing Hannah Arendt's concept of the banality of evil (Arendt, 1963). Arendt's framework posits that devastating crimes are not exclusively the product of pathological, monstrous inner darkness or psychological aberration, but frequently emerge from superficiality, routine, and bureaucratic detachment. When cruelty becomes normalized within an environment devoid of moral

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reflection, perpetrators often ordinary individuals seamlessly integrated into everyday social structures execute severe violence without experiencing internal conflict or remorse. They perceive themselves merely as functionaries fulfilling operational duties within a larger, unquestioned framework.

This disturbing phenomenon is driven primarily by *thoughtlessness*, a paralysis of individual and public critical thinking where heinous criminal acts are rationalized away as standard occupational tasks, administrative duties, or routine business behaviors. In the context of modern criminal cases, such as those highlighted by legal experts like Roberto Reno Sitepu concerning Taufik Hidayat's case, the surrounding sociocultural and institutional environment functions directly as either a protective barrier or an active enabler of abuse. Passive communities, widespread apathy, and sluggish social or legal interventions create a permissive space where systemic violence can persist, multiply, and escalate unchecked over extended periods.

Furthermore, this diffusion of responsibility allows actors at every level of the trafficking chain—from local recruiters and document falsifiers to transport coordinators and administrative enablers to detach themselves from the human consequences of their actions. Because the modern economy of exploitation often relies on bureaucratized procedures, the physical suffering of victims is masked behind paperwork, digital communications, and corporate facades. This psychological distance shields the perpetrator from immediate emotional confrontation with the victim's agony, reinforcing the dangerous cycle of the banality of evil.

Consequently, addressing human trafficking requires transcending a strictly punitive legal approach by actively fostering collective moral reflection, eliminating institutional indifference, and dismantling the normalization of exploitation within everyday social structures. Combating thoughtlessness demands the cultivation of active civic engagement, ethical education, and transparency across all levels of society. By breaking the routines that legitimize human degradation and holding communities accountable for passive complicity, society can begin to confront the root philosophical drivers that allow ordinary individuals to commit extraordinary harm.

4. Conclusion

The legal analysis of human trafficking (Tindak Pidana Perdagangan Orang - TPPO) in Indonesia reveals a comprehensive framework anchored by Law No. 21 of 2007, constitutional protections under the 1945 Constitution, and international standards like the Palermo Protocol, which collectively define trafficking through the cumulative elements of process, means, and purpose.

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However, because TPPO operates as a sophisticated transnational enterprise that preys on systemic socioeconomic vulnerabilities, isolated domestic enforcement remains insufficient without proactive global cooperation and strategic policy adjustments. Furthermore, examining perpetrator behavior through Hannah Arendt's concept of the "banality of evil" demonstrates that such atrocities are frequently driven by bureaucratic detachment and thoughtlessness within ordinary social structures, emphasizing that combating human trafficking requires not only stringent penal laws but also the cultivation of collective moral reflection and active civic responsibility.

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