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

Comparative Study of Mutual Legal Assistance (MLA) in Combating Human Trafficking: A Legal Analysis of Indonesia, Malaysia, and The Netherlands

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Abstract. *Trafficking in Persons (TIP) is widely recognized as a transnational criminal offense that operates across multiple jurisdictions, thereby necessitating effective international cooperation mechanisms. One of the most significant legal instruments in this regard is Mutual Legal Assistance (MLA), which facilitates formal state-to-state cooperation in criminal matters. This article comparatively examines the implementation of MLA in combating human trafficking in Indonesia, Malaysia, and the Netherlands. This study employs a normative legal research method supported by a comparative legal approach. The analysis focuses on statutory frameworks, institutional arrangements, and procedural effectiveness in the implementation of MLA mechanisms in the three jurisdictions. The findings indicate that Indonesia possesses a relatively comprehensive MLA legal framework; however, its implementation is constrained by lengthy administrative and diplomatic procedures that reduce operational efficiency. Malaysia demonstrates a moderately more coordinated system, particularly through the role of the Attorney General's Chambers and its regional cooperation within the ASEAN framework, although procedural delays remain a significant challenge. In contrast, the Netherlands exhibits a more advanced model of MLA implementation, characterized by strong integration within the European Union judicial cooperation system, including direct collaboration between judicial and law enforcement authorities across borders with reduced diplomatic formalities. The study concludes that Indonesia requires procedural reform toward a more streamlined and agency-to-agency based MLA mechanism. Such reform is essential to enhance the timeliness of cross-border investigations, improve asset recovery processes, and strengthen victim-oriented outcomes in human trafficking cases.*



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1. Introduction

Trafficking in Persons (TIP) has evolved into one of the most complex forms of transnational organized crime in the contemporary era. It is widely characterized as a modern form of slavery, involving the recruitment, transportation, transfer, harboring, or receipt of persons through coercive, deceptive, or abusive means for the purpose of exploitation. Victims are often drawn from vulnerable populations, particularly women and children from economically disadvantaged backgrounds, and are subjected to various forms of exploitation, including forced labor, sexual exploitation, and other severe human rights violations.

From a criminological and economic perspective, TIP is driven primarily by profit-oriented motives. It operates as a structured illicit industry with significant financial returns, comparable to other major transnational crimes such as drug trafficking and illegal arms trade. Criminal networks involved in TIP typically operate in a highly organized manner, involving recruitment agents, transportation facilitators, document forgery networks, and financial laundering mechanisms. This complexity allows perpetrators to sustain and expand their operations while minimizing the risk of detection and prosecution.

A defining feature of TIP in the era of globalization is its transnational nature. Criminal activities frequently span multiple jurisdictions, involving recruitment in source countries, exploitation in destination countries, and financial transactions routed through third countries or offshore financial centers. This fragmentation of criminal conduct across borders creates significant challenges for domestic law enforcement agencies, as no single jurisdiction possesses complete authority over all elements of the crime.

In addressing transnational crime, the principle of state sovereignty remains a fundamental constraint in international law. Law enforcement authorities are prohibited from exercising coercive powers within the territory of another state without formal consent. This legal limitation necessitates structured international cooperation mechanisms to ensure effective cross-border criminal justice responses.

Mutual Legal Assistance (MLA) has emerged as a key legal instrument designed to bridge this jurisdictional gap. MLA provides a formal framework through which states may request and provide assistance in the collection of evidence,



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execution of search and seizure operations, identification of financial assets, and other procedural acts necessary for criminal investigations and prosecutions. Unlike informal police-to-police cooperation, MLA produces legally admissible evidence that may be used in judicial proceedings, thereby strengthening the evidentiary basis of transnational criminal cases.

In the context of TIP, MLA plays a critical role in enabling financial investigations, particularly in tracing, freezing, and confiscating proceeds of crime across borders. Asset recovery mechanisms are essential not only for disrupting criminal networks but also for facilitating victim restitution and broader justice outcomes. However, the effectiveness of MLA is highly dependent on domestic legal frameworks, administrative efficiency, and inter-agency coordination.

Despite the existence of MLA legislation in Indonesia, its practical implementation is often constrained by complex bureaucratic procedures involving multiple institutional layers, including ministerial and diplomatic channels. These procedural requirements may result in significant delays, which are particularly detrimental in TIP cases where financial assets can be rapidly transferred across jurisdictions.

Against this background, comparative legal analysis becomes essential to identify best practices and structural weaknesses in MLA implementation. Malaysia, as a neighboring state with strong historical ties to the Commonwealth legal tradition, provides a relevant comparative perspective in ASEAN regional cooperation. Meanwhile, the Netherlands represents a highly developed European model of judicial cooperation, particularly through mechanisms established under the European Union framework, which facilitate more direct and efficient cross-border collaboration among judicial authorities.

Accordingly, this study aims to conduct a comparative analysis of MLA implementation in Indonesia, Malaysia, and the Netherlands. The objective is to evaluate differences in institutional design, procedural efficiency, and operational effectiveness, and to formulate normative recommendations for improving Indonesia's MLA framework in combating human trafficking more effectively and efficiently.

2. Research Methods

This study adopts a normative legal research design (doctrinal research), focusing on the analysis of legal norms, statutory instruments, and comparative legal frameworks. The research employs both a statutory approach to examine relevant domestic and international legal instruments governing Mutual Legal



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Assistance, and a comparative legal approach to analyze differences in MLA implementation across Indonesia, Malaysia, and the Netherlands.

The data used in this study consist of secondary legal materials obtained through library research. Primary legal sources include national legislation on Mutual Legal Assistance and human trafficking in the respective jurisdictions, as well as relevant international treaties and cooperation agreements. Secondary sources comprise academic books, peer-reviewed journal articles, and scholarly commentaries in the fields of criminal law and comparative legal studies.

The data were analyzed using a qualitative descriptive method. The analysis focuses on identifying patterns, institutional differences, and procedural characteristics of MLA implementation in each jurisdiction. The findings are then synthesized to develop normative conclusions and policy-oriented recommendations aimed at improving the effectiveness of MLA mechanisms in addressing transnational human trafficking cases.

3. Results and Discussion

3.1. Mutual Legal Assistance Framework in Indonesia and Bureaucratic Challenges

The Mutual Legal Assistance (MLA) framework in Indonesia is primarily governed by Law No. 1 of 2006 concerning Mutual Assistance in Criminal Matters. This legal framework establishes a highly centralized institutional structure, designating the Ministry of Law and Human Rights (Kemenkumham) as the Central Authority responsible for receiving, reviewing, and transmitting MLA requests. This centralized model was designed to ensure state sovereignty, legal control, and administrative verification in cross-border criminal cooperation.

However, in practice, this centralized structure generates a multi-layered bureaucratic process that significantly affects the efficiency of MLA implementation. Requests originating from law enforcement agencies such as the Indonesian National Police or the Prosecutor's Office must undergo sequential administrative approval at multiple levels, including internal institutional verification, ministerial review, and diplomatic transmission through the Ministry of Foreign Affairs before reaching the requested foreign authority. This procedural chain creates substantial delays in the execution of cross-border investigative measures.

In the context of Trafficking in Persons (TIP), such delays create a significant asymmetry between the speed of criminal operations and law enforcement response. Transnational criminal networks typically operate with high



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technological adaptability, enabling rapid cross-border financial transactions and real-time movement of victims. In contrast, MLA procedures often require months or even years for completion, resulting in diminished evidentiary value due to data deletion, asset dispersal, or relocation of suspects.

This temporal gap has direct implications for evidentiary effectiveness in criminal proceedings. By the time MLA requests are executed, electronic evidence may have been permanently deleted, and financial assets may have been transferred through layered transactions across multiple jurisdictions. Consequently, prosecutions in Indonesia often focus on lower-level perpetrators, while key organizers and financial beneficiaries of trafficking networks remain beyond judicial reach.

Another significant issue concerns the functional orientation of MLA usage. In practice, MLA requests in Indonesia are predominantly limited to evidentiary support functions, such as witness examination or procedural clarification. The use of MLA for strategic financial investigation and asset recovery remains limited. This reflects a doctrinal gap in the operationalization of MLA as a tool for dismantling criminal enterprises through financial disruption.

From a victim-centered justice perspective, the underutilization of MLA for asset recovery undermines the enforcement of restitution mechanisms. Without effective cross-border asset tracing and confiscation, court-ordered restitution becomes largely unenforceable. This indicates a structural weakness in aligning MLA mechanisms with restorative justice objectives.

Accordingly, reform is required to streamline the MLA chain of command by reducing unnecessary diplomatic layers, strengthening the technical authority of investigative agencies, and shifting the operational focus toward asset recovery and financial disruption of trafficking networks.

3.2. Malaysia's MLA Approach and ASEAN Regional Cooperation Dynamics

Malaysia regulates Mutual Legal Assistance through the Mutual Assistance in Criminal Matters Act 2002 (MACMA). A key institutional distinction lies in the designation of the Attorney General's Chambers (AGC) as the Central Authority. Unlike Indonesia's ministry-based model, Malaysia assigns MLA coordination to the prosecutorial authority, which directly oversees criminal proceedings.

This institutional design enhances procedural efficiency, as prosecutors possess direct involvement in evidentiary requirements and prosecutorial strategy. As a result, MLA requests can be assessed more rapidly and with greater substantive



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accuracy, particularly in determining relevance, admissibility, and urgency of evidence required for prosecution.

In addressing trafficking in persons, Malaysia applies the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM). Due to its geographical position as both a destination and transit country for migrant-related exploitation in Southeast Asia, Malaysia has developed an active approach to cross-border cooperation, particularly with Indonesia and neighboring ASEAN states.

At the regional level, Malaysia participates in the ASEAN Mutual Legal Assistance Treaty (ASEAN MLAT), which aims to facilitate legal cooperation among member states. This regional framework seeks to reduce procedural delays by promoting standardized communication channels between Central Authorities in ASEAN countries.

However, despite institutional improvements, MLA implementation in Malaysia still faces structural limitations. One of the most persistent challenges is the principle of dual criminality, which requires that the alleged conduct constitute an offense in both the requesting and requested states. Variations in legal definitions of exploitation, forced labor, and trafficking across ASEAN jurisdictions often complicate and delay MLA execution.

Operational challenges also persist in the execution phase, particularly where judicial authorization is required in the requested state for coercive measures such as asset freezing or search and seizure. These procedural requirements introduce additional delays that reduce the responsiveness of law enforcement cooperation.

Therefore, while Malaysia demonstrates a more efficient institutional model compared to ministry-based systems, the effectiveness of MLA in ASEAN remains constrained by legal heterogeneity and procedural formalism among member states.

3.3. Advanced MLA Integration in the Netherlands and the European Model

The Netherlands operates within a highly integrated legal framework under the European Union judicial cooperation system. One of the most significant instruments in this system is the European Investigation Order (EIO), which replaces traditional MLA procedures with a principle of mutual recognition of judicial decisions.

The EIO enables judicial authorities in one EU member state to directly request investigative measures from another member state without diplomatic



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intermediaries. This includes measures such as search and seizure, interception of communications, and evidence collection. The removal of ministerial and diplomatic layers significantly enhances procedural efficiency.

A defining feature of the EIO system is its legally binding nature. Requests issued by judicial authorities are generally mandatory for execution by the requested state, subject only to limited grounds for refusal such as fundamental rights violations or national security concerns. Additionally, strict statutory timelines govern the execution of requests, ensuring expedited cross-border cooperation.

Institutional integration is further reinforced through Eurojust and Europol, which serve as permanent coordination bodies for judicial and law enforcement cooperation in the EU. Eurojust facilitates direct interaction between prosecutors from different member states, enabling real-time coordination in complex transnational criminal investigations.

In practice, this system allows simultaneous and coordinated enforcement actions across multiple jurisdictions through Joint Investigation Teams (JITs). JITs enable law enforcement agencies from different countries to operate under a unified investigative strategy, share intelligence in real time, and execute coordinated enforcement actions such as arrests, asset freezes, and evidence collection.

This integrated operational model significantly reduces the time gap between investigation and enforcement, thereby minimizing opportunities for criminal networks to conceal assets or destroy evidence. The system is particularly effective in addressing financial dimensions of transnational crimes, including trafficking in persons and money laundering.

Although the EU model cannot be directly replicated in Indonesia due to sovereignty constraints, its underlying principles direct agency-to-agency cooperation, mutual recognition of judicial decisions, and real-time financial intelligence sharing offer valuable policy lessons. In particular, strengthening the role of financial intelligence units such as PPATK in cross-border cooperation could enhance the effectiveness of asset recovery mechanisms in Indonesia.

4. Conclusion

Trafficking in Persons is a highly dynamic transnational crime that outpaces conventional legal and bureaucratic responses. This comparative study demonstrates that Indonesia's MLA framework, while legally established under Law No. 1 of 2006, is constrained by a multi-layered bureaucratic structure that reduces procedural efficiency and delays cross-border cooperation. Malaysia



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presents a moderately more efficient model by assigning the Attorney General's Chambers as the Central Authority, thereby improving technical coordination in prosecutorial processes. However, its effectiveness remains limited by regional legal divergences and the principle of dual criminality within ASEAN cooperation frameworks. The Netherlands represents the most advanced model, characterized by the European Investigation Order (EIO), institutionalized judicial networks, and real-time cross-border operational mechanisms through Eurojust and Joint Investigation Teams. This system significantly reduces procedural delays and enhances enforcement effectiveness in transnational criminal cases. This study concludes that Indonesia requires structural reform of its MLA system toward a more streamlined, agency-based coordination model. Such reform should reduce diplomatic procedural layers, enhance direct cooperation among law enforcement agencies, and prioritize financial investigation and asset recovery as core components of MLA practice. Strengthening these aspects is essential to improve the effectiveness of transnational crime control and ensure meaningful restitution and justice for victims of human trafficking.

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