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Liability of Labor Supply Companies in Human Trafficking Cases from A Civil Law Perspective

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Abstract. *The Crime of Human Trafficking (TPPO) disguised as labor placement is one form of modern slavery that is highly detrimental to vulnerable groups. So far, law enforcement has tended to be dominated by criminal and administrative approaches that are oriented toward punishing offenders (offender-oriented). This approach often fails to execute restitution and neglects the full economic and psychological recovery of victims. This article aims to examine the effectiveness of civil law instruments in Indonesia as a last resort for demanding corporate liability from labor placement companies. Through a normative legal research method with statutory and conceptual approaches, this study shows that labor placement corporations can be charged using the construction of Unlawful Acts (Article 1365 of the Indonesian Civil Code) based on fatal negligence in protecting workers. Furthermore, corporations cannot escape responsibility for crimes committed by brokers or field agents due to the application of the doctrine of Vicarious Liability (Article 1367 of the Civil Code). The advantage of civil litigation lies in its ability to accommodate claims for immaterial damages for victims' trauma, the execution of which can be secured from the outset through the instrument of conservatory attachment (Conservatoir Beslag) against company assets. In conclusion, the optimization of civil lawsuits is a revolutionary solution to impoverish rogue corporations, transform victims into active claimants, and realize dignified justice that genuinely restores victims' rights.*

Keywords: *Human Trafficking; Labor Placement Companies; Unlawful Acts; Vicarious Liability; Victim Recovery.*

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1. Introduction

The most noble and fundamental mandate behind the establishment of the Unitary State of the Republic of Indonesia is eternally embedded in the Fourth Paragraph of the Preamble to the 1945 Constitution. In this constitutional text, it is emphasized that the main objectives of establishing the Government of Indonesia are to “protect the entire Indonesian nation and all of Indonesia’s territory, promote public welfare, educate the nation’s life, and participate in implementing world order based on independence, lasting peace, and social justice.” This quotation is not merely a series of words filling a constitutional document, but a social contract and an absolute obligation binding the state. Through this mandate, Indonesia positions itself as the primary protector of every citizen. This means the state is obliged to be actively present to ensure that every Indonesian people, wherever they are, are free from all forms of oppression, slavery, and exploitation that degrade human dignity.

However, when this ideal constitutional text is confronted with sociological reality on the ground, a very concerning gap emerges. The promise of welfare and protection has not fully reached the most vulnerable layers of society. High levels of poverty, limited decent employment opportunities, and low educational attainment in various remote areas create massive desperation. Under such economic pressure merely to survive or improve family conditions, society becomes highly vulnerable. This vulnerability is then exploited by irresponsible parties offering the illusion of prosperity. Rural communities are easily tempted by promises of high wages, attractive facilities, and easy recruitment processes without having to deal with complicated bureaucracy.

Taking advantage of this structural desperation, the Crime of Human Trafficking (TPPO) has now evolved into one of the most organized transnational and domestic crimes. The modus operandi of human trafficking syndicates is no longer always identical to kidnapping or physical violence on the streets as in the past. This crime has adapted to modern developments and hides behind a veil of legality. One of the most common and effective disguises used by these criminal syndicates is through labor recruitment channels, both for domestic placement and for Indonesian migrant workers abroad. This recruitment process is designed in such a way that it appears to be a normal, lawful, and beneficial employment placement process for prospective workers.

In practice, this deceptive recruitment process is often facilitated by entities in the form of official labor placement companies as well as unofficial agents (brokers) acting as intermediaries in the field. At this point, the greatest irony occurs. Job seekers who register with sincere hopes of improving their family's fate are instead trapped in suffering they could never have imagined. Instead of obtaining decent work as promised on paper, they are forced into labor exploitation with inhumane working hours, debt bondage where their wages are withheld to repay inflated and fictitious recruitment costs, and even become victims of sexual exploitation and physical abuse. All these forms of suffering are clear characteristics and real manifestations of modern slavery in the 21st century.

The existence of labor placement companies—such as Indonesian Migrant Worker Placement Companies (P3MI) or domestic worker placement agencies—is actually strictly regulated by the state. Licensing regulations, operational standards, and training obligations are established with the noble aim of protecting workers from departure until they return home. However, not a few corporations deliberately, in order to gain excessive profits or due to fatal negligence in supervision procedures, instead become the main gateway for human trafficking. Corporations that should act as protectors of workers instead transform into predators that trade humans as commodities.

Violations and corporate malpractice in the placement process are carried out in highly systematic ways. Some placement companies forge victims' identity documents to deceive immigration officers, manipulate the age of minors to make them appear old enough to work, and send workers using tourist or pilgrimage visas instead of official work visas. Even more disturbing, some of these placement corporations are proven to actively cooperate with illegal agent syndicates abroad without regard for employers' backgrounds or worker safety. When workers suffer abuse, placement companies often disown responsibility, cut off communication channels, and blame workers for alleged contract violations.

When these cases of exploitation and abuse are exposed to the public, law enforcement officials generally respond quickly using public law instruments. Criminal and administrative law perspectives are immediately used as the main tools. Police and prosecutors pursue and imprison perpetrators in the field, while the government through relevant ministries imposes administrative sanctions in the form of revoking company operating licenses. This public law approach is indeed very important and absolutely necessary to provide a deterrent effect and uphold state authority against perpetrators.

However, behind the turmoil of arrests and license revocations, this criminal approach often leaves a major gap by neglecting one of the most important parties: the victims of exploitation themselves. The greatest weakness of a justice system that relies solely on criminal instruments is its inability to fully restore the victims' economic, physical, and psychological conditions. When the owners of placement companies are sentenced to prison, the victims' fate is often neglected. They return to their hometowns physically disabled, suffering severe mental trauma, having lost their future, and still burdened with tens of millions in debt to moneylenders due to recruitment costs. The criminal justice system is too focused on punishing offenders (offender-oriented) and often neglects victim recovery.

It is true that Indonesia's criminal justice system recognizes restitution mechanisms, namely material compensation paid by the offender to the victim, which is included in the criminal judgment. However, in practice, its execution is very difficult and often ends in disappointment. Sophisticated TPPO perpetrators often hide, launder, or transfer their assets long before the verdict is issued. In addition, regulatory loopholes allow perpetrators to choose additional substitute imprisonment (subsidiary sentence), which is relatively short, rather than paying billions in restitution. As a result, restitution rulings in court become "hollow victories" for victims who receive no compensation at all.

In this procedural deadlock of criminal law, the civil law perspective emerges as a highly rational, strong, and promising alternative path to substantive justice. Civil law provides space for victims to directly sue the assets of labor placement companies through the instrument of corporate liability. Through the civil approach, victims do not need to wait for lengthy criminal proceedings to finish in order to claim their rights. Civil lawsuits allow victims to directly target the "deep pockets" of placement corporations based on Unlawful Acts (PMH) or breach of contract. Therefore, this article aims to deeply examine how civil law constructions in Indonesia especially the Civil Code (KUHPerdata) can be used as a last-resort weapon to hold labor placement companies accountable, ensuring that victims of human trafficking truly receive fair, real, and adequate material and immaterial compensation.

2. Research Methods

The research method used in this article is normative or doctrinal legal research. This method focuses on the study of legal principles, rules, and written norms within Indonesia's positive legal system. The approaches used include a statutory approach to analyze the Civil Code (KUHPerdata) and relevant laws on labor and the eradication of TPPO. In addition, a conceptual approach is also used to examine civil law doctrines such as Unlawful Acts and corporate liability.

The data sources in this research are purely secondary legal materials obtained through library research. Primary legal materials include the Civil Code, the Law on the Eradication of TPPO, and labor regulations. Secondary legal materials consist of civil law textbooks, academic journals, and other scholarly literature. All legal materials are inventoried, classified, and then analyzed qualitatively-deductively to produce a logical and structured argument regarding the application of civil lawsuits against labor placement corporations.

3. Results and Discussion

3.1. Construction of the Unlawful Act (PMH) by Labor Placement Companies

In the architecture of Indonesian civil law, the most powerful instrument for claiming compensation outside contractual breach disputes is through the concept of Unlawful Act (Perbuatan Melawan Hukum/PMH). This fundamental concept is expressly and comprehensively regulated in Article 1365 of the Indonesian Civil Code (KUHPerdata). This article states a legal principle that reads: “Every unlawful act that causes harm to another person obliges the person who caused the loss due to his fault to compensate for the loss.” This principle is the foundation of civil justice, ensuring that any person or legal entity that harms another party cannot escape financial responsibility.

If we examine and connect the formulation of Article 1365 of the Civil Code with cases of human trafficking crimes, the position of labor placement companies can very easily be constructed as having committed an unlawful act (PMH). This construction can be built if the company is proven to have violated legal obligations or betrayed the principles of propriety, prudence, and carefulness that exist in society. PMH does not always mean that a company must have torn up a written contract; more broadly, PMH occurs when a company acts recklessly and ignores human protection norms that it should uphold when recruiting workers.

It should be emphasized that legal violations in the context of PMH do not always have to involve active “intentionality.” The general public often assumes that a labor placement company can only be sued if its directors are proven to have deliberately intended to sell victims abroad. However, civil law has a much broader reach. Fatal negligence (negligence or culpa) committed by corporate management is more than sufficient to fulfill the element of “fault” as mandated in Article 1365 of the Civil Code. Such negligence is just as dangerous as intent, because the end result of such negligence is unbearable suffering that must be borne by victims in destination countries.

The forms of fatal negligence by labor placement companies vary widely in practice. For example, administrative staff who are negligent or deliberately turn a blind eye by failing to verify the authenticity of documents and the age of prospective workers, thereby allowing minors to pass through. Another form of negligence occurs when the company fails to conduct due diligence or ensure the safety, background, and track record of employers and workplaces in destination countries before sending workers. Worse still, a passive attitude by the company in ignoring emergency calls or complaints from workers who are being abused by employers constitutes a clear form of procedural negligence that violates societal standards of propriety.

As a business entity licensed by the state to manage human livelihoods, a labor placement company inherently bears a duty of care. This obligation emphasizes that the company is not merely a travel ticket agent or ordinary job broker, but acts as a “temporary guardian” who must ensure worker safety from the registration process until they safely arrive at their workplace. When a company ignores standard operating procedures (SOP) for worker protection in order to speed up deployment and reduce costs, at that very moment the company has knowingly violated the duty of care mandated by law.

Furthermore, to win a PMH lawsuit, civil law requires a clear causal relationship (causaliteit) between the company’s negligence and the victim’s losses. In cases of human trafficking disguised as employment placement, this causal link is very evident. Had the placement company properly verified documents and strictly selected foreign agents, the victim would not have ended up in a detention place or brothel. In other words, the suffering and exploitation experienced by the victim is a direct consequence of a series of fatal negligence committed by the labor placement company’s management system.

Through proof of this chain of fault and causality, the civil court panel has a strong legal basis to impose a binding verdict on the corporation. In civil law terms, the placement company is obliged to bear the full financial burden of its negligence by compensating the victim for losses suffered. This compensation should not be limited to reimbursing registration fees, but must include all losses arising from the exploitation process that resulted from the company’s operational negligence.

Ultimately, this construction of Unlawful Act (PMH) provides a refreshing oasis of justice for seekers of justice. Article 1365 of the Civil Code restores the dignity of

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victims as sovereign legal subjects who are entitled to demand a mathematical calculation of the suffering they have endured. Through a solid PMH construction, victims of human trafficking have a powerful weapon to drag negligent labor placement corporations from their comfortable seats in boardrooms, force them to kneel in accountability, and ensure that the company pays in full for every tear shed by victims in foreign lands.

3.2. Application of the Doctrine of Vicarious Liability (Substitute Liability)

One of the greatest challenges and a classic maneuver often faced when suing labor placement companies in court is the corporation's attempt to "wash their hands" of legal responsibility. When cases of worker abuse or exploitation are uncovered, company executives quickly construct a defense argument claiming that the recruitment of victims was entirely carried out by independent field brokers (sponsors) acting outside company orders or without official knowledge. They hide behind the claim that these brokers are external parties ("oknum") and that the company never officially instructed them to commit fraud, age falsification, or debt entrapment against prospective workers.

To break this corporate argument that often hides behind the status of "field agents," the civil law system provides a sharp legal weapon in the form of the doctrine of Vicarious Liability or substitute liability. This progressive legal doctrine is explicitly accommodated and regulated in Article 1367 of the Indonesian Civil Code. The existence of this article reflects the state's legal protection so that weaker parties are not manipulated by those with far greater structural or economic power, such as corporations.

Article 1367 of the Civil Code clearly establishes the philosophy that a person or legal entity is not only responsible for losses caused by their own actions. More than that, they are also legally obliged to fully take responsibility for losses caused by the actions of persons under their supervision or employees assigned to perform certain tasks. This principle imposes employer liability for the actions of subordinates, as long as the harmful act was committed while the subordinate was carrying out duties assigned by the employer.

In the context of labor placement and human trafficking crimes, the relationship between companies and recruitment agents in the field must be carefully examined. Labor placement companies legally act as "employers" or "principals," while field agents, sponsors, brokers, or recruitment staff act as "subordinates" or "task executors." Although there may not always be a written employment contract between the company and these brokers, in practice (de facto) the

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company gives verbal instructions, sets recruitment targets, provides registration forms, and funds broker operations to find workers in villages.

Based on the expanded meaning of Article 1367 of the Civil Code, the chain of legal responsibility becomes unbroken. If a field agent or broker commits fraudulent acts such as deception regarding job opportunities, debt bondage with oppressive interest, manipulation of family consent, or falsification of identity documents of prospective workers that ultimately lead to exploitation of victims in destination countries, then such fraudulent acts are no longer the sole responsibility of the broker. The labor placement company as a corporate entity that instructed and employed the broker must also bear full joint liability to compensate all damages suffered by the victim.

The application of the doctrine of vicarious liability strongly satisfies the sense of economic justice in society. The legal logic is based on the doctrine of cuius commodum, eius periculum, meaning that whoever enjoys the benefits of a job must also bear all risks of loss arising from that job. So far, it is the labor placement corporations that have enjoyed the greatest financial benefits (salary deductions, commissions from foreign employers) generated by the work of field brokers. It would be unjust and morally flawed if corporations take profits but refuse to bear liability when their agents act unlawfully and destroy people’s lives.

By aggressively applying vicarious liability in court, the bargaining position of victims changes drastically. Victims or their legal representatives no longer need to waste energy, time, and money pursuing brokers or sponsors who often disappear, have no fixed address, or are economically unable to pay compensation. This approach allows victims to “skip” these low-level perpetrators and directly target the top of the criminal pyramid.

Through lawsuits aimed directly at the labor placement corporation, victims pursue the party with the “deep pocket.” The company has a clear legal domicile, structured capital, bank deposits, and valuable assets such as office buildings. This asset certainty ensures that court judgments are not meaningless or difficult to execute. The doctrine of substitute liability thus becomes a golden bridge for victims of human trafficking to break corporate arrogance, proving that civil law has sharp teeth to tear through the deception shield of major trafficking syndicates.

3.3. Mechanisms for Restoring Victims’ Rights Through Civil Lawsuits

The restoration of victims' rights through civil legal channels has a strength, dimension, and philosophical advantage that is far broader and deeper than what criminal law can offer. In the criminal justice system, the state focuses on punishing perpetrators for public order, so restitution often feels like a mere "add-on" instrument with rigid calculations and procedurally limited requirements. In contrast, civil law places victims not as passive objects of suffering but as active legal subjects (plaintiffs) with full freedom to formulate their own list of losses. The most fundamental advantage of civil litigation is its legally recognized ability to claim what is known as immaterial damages.

In the vortex of Human Trafficking (TPPO) cases, the losses suffered by victims are highly complex and cannot be reduced merely to numbers on financial receipts. Material losses that are easily calculated such as manipulated passport fees, wasted flight tickets, medical expenses, or wages unlawfully withheld by companies are only the tip of the iceberg of victim suffering. If the law only focuses on reimbursing these material losses, then the essence of justice has not truly been reached, because the state ignores the destruction of the victim's psychological dimension.

The true suffering experienced by trafficking victims is one that crushes the mind and mental well-being. They suffer severe and prolonged psychological trauma, lose their future prospects, experience acute fear due to confinement, and bear unbearable shame in society due to forced sexual exploitation. Some even return with physical loss of organs due to brutal abuse, or loss of reproductive capability. These visible and invisible forms of suffering are systematically recognized in civil law as immaterial damages, which—although not precisely quantifiable must be valued in monetary compensation as a form of legal solace.

Procedurally, filing a civil lawsuit against a labor placement company is highly flexible and offers many strategic options for victims. Such PMH lawsuits can be filed in parallel with ongoing criminal proceedings. However, to simplify evidentiary strategy, legal experts often recommend filing the civil suit after the criminal verdict has obtained permanent legal force (inkracht van gewijsde). Once the criminal judgment establishes that the company or its directors are guilty of committing or enabling human trafficking, that ruling becomes strong primary evidence in civil court, eliminating the need to re-prove fault.

Furthermore, Indonesian civil procedural law (HIR/RBg) provides a highly powerful preventive protection instrument for plaintiffs, namely the mechanism of Conservatory Seizure (Conservatoir Beslag). This instrument is vital to be submitted from the very beginning of the lawsuit. Its main function is to lock, freeze, and hold valuable assets of the labor placement company such as land, office buildings, vehicles, and bank accounts under state supervision during the lengthy civil trial process.

The use of conservatory seizure aims to prevent bad faith actions by rogue companies. Often, upon learning they are being sued for billions in compensation, company directors will panic and attempt to transfer, sell cheaply, hide, or fictitiously move corporate assets to third parties so they appear "bankrupt" and unable to pay damages. With the imposition of seizure by the court clerk from the beginning of the trial, such asset laundering efforts are completely paralyzed. These assets remain intact as guarantees for fulfilling compensation payments to victims at the end of the proceedings.

Through firm civil compensation mechanisms supported by aggressive execution of conservatory seizure, the legal message sent to labor placement industry actors becomes highly intimidating and effective. Companies will think many times before colluding, manipulating, or pretending negligence in dealing with trafficking syndicates. They now realize that the threat is no longer limited to administrative sanctions, license revocation, or directors being imprisoned for a few years. The real threat is total corporate bankruptcy due to the seizure and auction of all company assets to pay for victims' suffering.

In conclusion, this civil legal recovery mechanism transforms victims from mere "evidence objects" in criminal court into "war commanders" in civil court who demand comprehensive justice. The combination of maximum immaterial damages claims, the doctrine of vicarious liability, and the execution of conservatory seizure constitutes a lethal legal formula against criminal syndicates. By optimizing all these civil law instruments, the state not only upholds the dignity of law but also concretely wipes away the tears of migrant workers, restores their dignity, and ensures that justice in Indonesia is not blind to the cries of exploited victims.

4. Conclusion

Human Trafficking (TPPO) disguised as labor placement is the most heinous betrayal of human values and constitutional protection mandates. So far, law enforcement relying solely on criminal instruments and administrative sanctions has proven to have very fatal weaknesses. This public law approach is too offender-oriented and merely ends in corporate license revocation, yet often fails to provide real economic and psychological recovery for victims. Criminal restitution, which is complicated and difficult to execute, leaves victims returning with physical disabilities, mental trauma, and debt bondage, forcing them to bear the collapse of their future alone. At this impasse, civil law must take over its crucial role as an instrument of true justice restoration. The civil legal construction in Indonesia, particularly through the Civil Code (KUHPerdata), actually provides a powerful ultimate weapon for holding labor placement corporations accountable. Through the instrument of Unlawful Act (Article 1365 KUHPerdata), labor placement companies can no longer evade responsibility for operational and procedural negligence (negligence) that endangers worker safety. Furthermore, civil law closes the space for corporations to "wash their hands" through the application of the Doctrine of Vicarious Liability (Article 1367 KUHPerdata). This doctrine ensures that companies, as entities benefiting financially at the top of the pyramid, must bear full responsibility for damages caused by fraud and manipulative crimes committed by their brokers or field agents. In addition to providing an unavoidable basis of liability, civil law offers a far more comprehensive and humanizing mechanism for restoring rights. Unlike criminal proceedings, civil courts recognize and convert emotional suffering, shame from exploitation, and prolonged psychological trauma into claims for immaterial damages. If this approach is combined with Conservatory Seizure from the outset of proceedings, victims can immediately lock and freeze all valuable corporate assets such as office buildings, land, and bank deposits. The threat of asset seizure and auction creates the most powerful deterrent effect for rogue corporations, as the law directly threatens their survival and total corporate bankruptcy. Ultimately, the optimization of civil lawsuits against labor placement companies is a revolutionary step toward realizing Dignified Justice for victims of human trafficking. Civil litigation transforms victims from passive "evidence objects" in criminal courts into sovereign and empowered commanders capable of reclaiming their economic rights. By targeting and dismantling corporate shields through civil legal instruments, the state not only enforces its authority in combating modern slavery but also truly eliminates the tears of vulnerable workers, restores their human dignity, and ensures that victims' suffering is fully compensated with proper financial justice.

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