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## **Critical Evaluation of State Negligence in Preventing Human Trafficking Syndicates**

**Fitri Sumarni D<sup>1)</sup> & Yasmirah Mandasari Saragih<sup>2)</sup>**

<sup>1)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,

E-mail: [fitrisumarni217@gmail.com](mailto:fitrisumarni217@gmail.com)

<sup>2)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,

E-mail: [yasmirahmandasari@gmail.com](mailto:yasmirahmandasari@gmail.com)

**Abstract.** *The Crime of Human Trafficking (TPPO) is an organized, transnational crime against humanity that fundamentally destroys human dignity through the practice of modern slavery. In Indonesia, although an anti-human trafficking legislative framework has been adopted, the escalation of cases and exploitation affecting vulnerable groups continues to show an alarming trend. The failure to suppress this crime is not merely caused by the sophistication of syndicates' modus operandi but is rooted in the state's systemic negligence in carrying out preventive measures. This abstract highlights legal discourse concerning the institutional failures of state apparatuses, ranging from weak border supervision and chaotic labor governance to the neglect of poverty as the primary catalyst for victim recruitment. This study employs a normative legal research method using a statutory approach and a conceptual approach. Through the examination of primary legal materials in the form of the 1945 Constitution of the Republic of Indonesia, Law No. 21 of 2007 concerning the Eradication of Human Trafficking, and international legal instruments such as the Palermo Protocol, this research analyzes the constitutional and international obligations of the state to protect its citizens. Secondary legal materials were collected through library research and analyzed using a qualitative-deductive method to construct arguments regarding state responsibility for allowing crimes facilitated by structural negligence. The findings conclude that the state has failed to meet the due diligence standard in preventing human trafficking, resulting in massive human rights violations. This negligence is manifested in dysfunctional immigration oversight, weak enforcement against illegal recruiting corporations, and indications of collusion between certain state officials and trafficking networks. As a solution, this study recommends a holistic policy reconstruction, including accountability-based border governance reform, restructuring the migrant worker recruitment system,*



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*strengthening cyber patrols, and promoting economic empowerment in poverty-stricken regions. State responsibility must not stop at downstream law enforcement but must proactively close every avenue of exploitation upstream in order to realize dignified justice for all Indonesian citizens.*

**Keywords:** *Critical Evaluation; Preventing Human; Syndicates; Trafficking.*

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### **1. Introduction**

The Unitary State of the Republic of Indonesia was founded upon a noble and fundamental objective permanently enshrined in the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely to protect all the people of Indonesia and the entire homeland of Indonesia. This highly significant constitutional mandate places the protection of human rights at the heart of the state's existence. A logical consequence of this mandate is that the state is not permitted to merely become a passive spectator when its citizens face criminal threats. The state is required to manifest its authority through proactive policies, layered security systems, and authoritative law enforcement to ensure that no individual within its sovereign territory has their right to life and liberty taken away by more powerful forces.

However, this noble constitutional ideal is currently facing one of its greatest challenges due to the widespread occurrence of the Crime of Human Trafficking (TPPO). Human trafficking has transformed into a transnational threat operating like a highly systematic and structured global industrial machine, supported by massive funding. This crime does not view its victims as human beings possessing autonomy and dignity but instead reduces them to mere commodities that can be exploited for their labor, bodies, and even organs to generate unlimited financial profits for traffickers and organized criminal syndicates.

Within the sociological anatomy of this crime, the groups that consistently become the primary targets and suffer the most are those at the bottom of the social pyramid, particularly women, children, and impoverished rural communities. Structural economic inequality, limited employment opportunities, and low levels of literacy and formal education make these vulnerable groups highly susceptible to false promises of a better life. This condition of economic desperation is maximally exploited by grassroots recruiters (brokers) who visit villages offering illusions of prosperity, ultimately trapping victims in deadly forms of modern slavery.

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The modus operandi employed by human trafficking syndicates continues to evolve rapidly and dangerously. Whereas recruitment in the past was conducted conventionally through promises of domestic employment, syndicates now employ far more complex strategies such as debt bondage, fraudulent job placements (scam jobs), and psychological manipulation through cyberspace (online grooming). Victims are lured with promises of work as computer operators abroad, but upon arrival, their passports are confiscated and they are forced to become online scam laborers under threats of brutal physical abuse, confinement, and even murder if they fail to meet the financial targets imposed by the syndicate.

The destructive impact of this exploitation cannot be measured solely in material losses but instead permanently damages the victims' humanity. Physically, victims suffer from extreme exhaustion, abuse, malnutrition, and chronic diseases that threaten their lives. Psychologically, they carry profound emotional wounds, post-traumatic stress disorder (PTSD), severe depression, and a loss of confidence to reintegrate into society. This physical and mental destruction makes human trafficking one of the most barbaric crimes in modern civilization, with consequences that victims may endure for the rest of their lives.

In response to this humanitarian tragedy, Indonesia's positive legal system has sought to establish a defensive framework through the enactment of Law No. 21 of 2007 concerning the Eradication of Human Trafficking. On paper, this regulation appears highly comprehensive, encompassing prevention efforts, witness and victim protection, and prosecution through severe criminal sanctions against corporations and individuals involved. Furthermore, Indonesia has ratified various international legal instruments, including the Palermo Protocol, demonstrating the state's commitment within the global community to combat modern slavery in the twenty-first century.

However, the empirical reality on the ground clearly reveals a vast, steep, and dangerous gap between the ideal text of legislation and its implementation by state authorities. The continuously increasing No. of victims each year proves that the state has experienced systemic failure, particularly in carrying out early detection and prevention functions. The state appears to act merely as a "firefighter," responding reactively only after victims have been smuggled, abused, and their stories have gone viral on social media. Prevention, which should serve as the first line of defense for protecting citizens, has proven to be fragile, easily breached, and managed with a very low level of accountability.

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This failure and negligence in prevention are further aggravated by facts indicating the presence of bureaucratic pathology, in which certain state officials are strongly suspected of being involved in, colluding with, or at least tolerating the operations of these syndicates. The passage of thousands of Indonesian citizens through official immigration channels at airports and international seaports, despite using tourist visas for suspicious employment purposes, could not occur without willful blindness from authorized officers. Corruption and bribery practices at border checkpoints represent the highest form of betrayal of official oaths and constitutional mandates, directly sacrificing citizens' lives for the personal financial gain of state officials.

Philosophically and doctrinally, this series of structural failures indicates that the state has neglected the obligation to protect and the doctrine of due diligence under international human rights law. When the state possesses extensive resources, a monopoly on legitimate force, and intelligence instruments capable of preventing crime, yet allows its citizens to be kidnapped and sold by syndicates before the eyes of the law, it can no longer hide behind claims of procedural limitations. This systemic negligence must be evaluated not as an ordinary administrative weakness but as a form of human rights violation by omission.

Based on these academic concerns and humanitarian urgencies, this scholarly article is prepared to conduct a critical and in-depth evaluation of state negligence in preventing human trafficking syndicates. The research aims not only to examine weaknesses within bureaucratic structures and law enforcement but also to formulate the state's constitutional responsibility for such negligence. Through a comprehensive analysis, it is hoped that ideas for reconstructing a holistic, progressive, and justice-oriented human trafficking prevention policy can be developed, ensuring that the state truly acts as an impenetrable shield protecting every Indonesian citizen from the threat of modern slavery.

## **2. Research Methods**

This study is classified as normative legal research or doctrinal legal research, focusing on the examination of legal principles, normative synchronization, and the evaluation of theories of justice operating within the positive legal system. To answer the research questions comprehensively, critically, and systematically, this study applies two primary approaches, namely:

- a) **Statutory Approach:** This approach is used to examine, analyze, and critique Indonesia's anti-human trafficking regulatory framework. The primary legal materials evaluated include the 1945 Constitution of the Republic of

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Indonesia, Law No. 21 of 2007 concerning the Eradication of Human Trafficking, Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers, and Law No. 6 of 2011 concerning Immigration.

- b) **Conceptual Approach:** This approach is intended to synthesize doctrines of international law and legal philosophy, particularly the concepts of State Responsibility, due diligence obligations, and human rights in relation to institutional negligence (omission).

All legal materials in this study were collected through intensive library research. Secondary data originating from reference books, academic literature, reputable journal articles, and international treaty documents (the Palermo Protocol) were systematically inventoried. The analysis process employed a qualitative-deductive method, drawing general premises from legal theory and constitutional principles and using them as analytical tools to evaluate specific facts related to state negligence. The results of this analysis are directed toward producing prescriptive arguments and recommendations for legal reconstruction that offer practical solutions for human trafficking prevention policies in Indonesia.

### **3. Results and Discussion**

#### **3.1. Dimensions of the State's Systemic Negligence in Preventing Human Trafficking (TPPO)**

State negligence in the context of public law and human rights cannot be reduced merely to administrative carelessness by a civil servant who commits an error. Systemic negligence refers to a structural, widespread, and chronic institutional failure in which state apparatuses that have been granted authority, budgets, and facilities by law fail to continuously perform their functions of detection, supervision, and protection. In the case of the Crime of Human Trafficking (TPPO), this negligence becomes particularly evident when we dissect, layer by layer, the state's defense mechanisms that should function as filters to prevent its citizens from falling into the abyss of slavery. It is this upstream failure that directly produces thousands of victims downstream.

The first dimension of this negligence occurs within the most visible sphere of sovereignty, namely border control and immigration systems. Border checkpoints, international airports, and seaports constitute the last line of defense before a citizen is smuggled beyond the jurisdiction of Indonesia's legal protection. Ironically, thousands of prospective TPPO victims each year pass freely through immigration checkpoints using official passports while employing tourist visas,

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pilgrimage visas, or cultural visit visas that are entirely inconsistent with their profiles and actual purposes. The inability or unwillingness of immigration officers to conduct strict profiling, in-depth interviews, and verification of travel documents constitutes a fatal negligence that knowingly allows victims to proceed toward places of confinement.

The second dimension lies in weak governance and supervision of Indonesian Migrant Worker Placement Companies (P3MI) and the widespread practice of illegal (unprocedural) recruitment. The Ministry of Manpower and related regional agencies often fail to conduct rigorous audits of labor placement companies. Many legally registered companies secretly implement debt bondage schemes, falsify the ages of underage workers, or employ unlicensed field brokers to recruit villagers. The state's failure to regulate this labor ecosystem creates a dark space in which criminal syndicates can use the façade of "official companies" as storefronts for human trafficking operations without legal consequences.

The third dimension concerns a far more fundamental issue: tolerance of economic and structural roots in poverty-stricken regions. Human trafficking does not emerge in a vacuum; it is a parasite that thrives on extreme poverty, developmental inequality, and the absence of decent employment opportunities in rural areas. When the government fails to achieve equitable economic development, provide access to capital for small businesses, and invest in human resource development in remote regions, the state indirectly creates conditions of collective desperation. People driven by economic necessity often have no alternative but to trust the false promises of recruiters. Neglecting economic development in areas vulnerable to exploitation is a form of negligence that lies at the root of all exploitation.

The fourth dimension, now an increasingly dangerous battleground, is the state's negligence in securing cyberspace. Human trafficking syndicates have evolved to conduct recruitment, psychological manipulation (grooming), and mass employment scams through social media platforms and instant messaging applications. Advertisements offering overseas jobs with extraordinary salaries and no educational requirements are freely disseminated online without automatic blocking by the Ministry of Communication and Digital Affairs or cyber patrols by law enforcement. The state's absence in implementing early warning systems against these digital threats demonstrates that the national security architecture is lagging behind and struggling to respond to the evolving modus operandi of modern slavery.

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The fifth dimension concerns the absence of systematic and structured public education and legal literacy programs reaching grassroots communities. Government prevention efforts are often elitist, ceremonial, and limited to hotel seminars or banners displayed at district government offices. Information about the dangers of human trafficking, indicators of employment fraud, and safe migration pathways rarely reaches rural communities, vulnerable women, or school dropouts. The state has failed to empower grassroots governance structures village heads, community leaders, and neighborhood associations to serve as strong social barriers capable of detecting and expelling human trafficking brokers from their communities.

The sixth dimension, representing perhaps the most damaging form of negligence to state integrity, involves tolerance rooted in collusion, corruption, and nepotism involving rogue law enforcement officials themselves. Human trafficking syndicates could never operate smoothly across provinces and countries without protection from officials abusing their authority. Cases in which officers accept bribes to falsify identity cards, facilitate immigration clearance, or leak information about law enforcement raids demonstrate that the state has been infiltrated by traitors. The failure of superiors to supervise subordinates and the lack of severe disciplinary sanctions against implicated officials foster a sense of impunity among criminal syndicates.

As a conclusion to these dimensions, it is evident that current efforts to prevent human trafficking in Indonesia are merely a fragile façade riddled with institutional cracks. Systemic negligence occurring at borders, labor institutions, digital spaces, and within structural economic conditions demonstrates that the state's commitment remains far from adequate. Allowing these vulnerabilities to persist without comprehensive evaluation and strict accountability amounts to civilizational self-destruction. The state can no longer absolve itself by relying solely on downstream law enforcement after thousands of victims have fallen prey; rather, it must recognize and correct its upstream structural negligence before more citizens are consumed by slavery.

### **3.2. Constitutional and International Legal Responsibility for Tolerating Human Trafficking**

When systemic negligence has been factually shown to cause suffering among citizens, academic discourse must move toward identifying legal frameworks for state accountability. Constitutionally, the Republic of Indonesia is bound by the sacred mandate enshrined in the 1945 Constitution. Article 28D(1) guarantees recognition, protection, and legal certainty before the law. Meanwhile, Article

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28G(1) obligates the state to ensure every person's right to personal protection, dignity, honor, and freedom from torture and degrading treatment. These provisions are not merely constitutional ornaments but constitute a social contract positioning the state as the primary duty bearer responsible for ensuring security.

At the international level, state responsibility is reinforced through the ratification of legal instruments such as the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC). Through ratification, these international obligations become integrated into national law. Under these instruments, states are not only required to enact criminal legislation but are also obligated to adopt practical, comprehensive, and effective measures to prevent trafficking, educate the public, and strengthen border controls.

In international law doctrine, accountability for such failures is assessed through the due diligence standard. This principle asserts that a state may violate human rights not only when its officials directly perpetrate abuse but also when it fails to take reasonable and adequate measures to prevent, investigate, punish, and redress violations committed by non-state actors, including criminal syndicates. If a state knows or should have known about trafficking threats within its territory yet fails to exert maximum efforts to prevent them, it has failed to meet the due diligence standard.

This failure is tragically reflected in the phenomenon of impunity frequently enjoyed by major traffickers and financiers of human trafficking networks in Indonesia. The law enforcement system often targets low-level recruiters or drivers transporting victims while failing to prosecute large illegal labor corporations or powerful criminal actors. The inability of police and prosecutors to pursue intellectual perpetrators and confiscate criminal assets through anti-money laundering mechanisms demonstrates that the state's commitment to punishment remains partial and discriminatory, directly violating international human rights obligations.

Beyond impunity, one of the most painful manifestations of state failure is secondary victimization facilitated by the justice system itself. Victims who have already suffered severe physical and psychological harm are often subjected to trauma-insensitive interrogations, inadequate shelter facilities, and court procedures that force them to confront intimidating perpetrators. Worse still, when courts fail to enforce restitution because offenders claim insolvency, the

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state often provides no compensation mechanism. Such treatment exacerbates victims' suffering and demonstrates a failure to fulfill the obligation of redress.

If such negligence continues without consequences, theoretical and doctrinal discussions inevitably turn toward state liability for omission. This concept argues that citizens who become victims due to demonstrable negligence by state officials for example, immigration officers deliberately facilitating trafficking have a constitutional right to seek compensation through lawsuits based on unlawful governmental acts (*Onrechtmatige Overheidsdaad*). Although overcoming state immunity in practice remains difficult, recognition of this concept serves as a powerful deterrent against governmental indifference toward citizens' lives.

Furthermore, the moral and political responsibility for failing to prevent trafficking must be borne by high-level policymakers. Relevant ministers, security officials, and regional leaders cannot measure success solely through economic achievements while thousands of citizens suffer abroad as victims of online scam syndicates and forced prostitution. Failure to prevent human trafficking stains Indonesia's diplomatic reputation and international standing. Every citizen trafficked and abused in another jurisdiction represents evidence that the state has failed to protect its people beyond territorial boundaries.

In conclusion, from constitutional, international legal, and ethical perspectives, the state may be regarded as culpable for its omissions. The state can no longer invoke budgetary constraints or geographical challenges as excuses for prevention failures. The mandates of the 1945 Constitution and the Palermo Protocol do not accept administrative justifications for the loss of human freedom. Therefore, honest acknowledgment of institutional failure is the essential first step before meaningful reforms can be undertaken to reconstruct anti-trafficking policies that genuinely uphold human dignity.

### **3.3. Reconstruction of Holistic Human Trafficking Prevention and Eradication Policies**

Based on the diagnosis of systemic negligence and legal accountability outlined above, the state has no alternative but to undertake radical, holistic, and comprehensive policy reconstruction. The required remedy is not merely minor legislative amendments or additional anti-trafficking slogans. Reconstruction must begin with a paradigm shift throughout the bureaucracy—from a reactive approach focused on downstream law enforcement to a preventive, proactive model centered on protecting vulnerable groups upstream. Prevention should no longer be viewed as a secondary public relations function but must be integrated



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into national development policies, security intelligence strategies, and welfare governance.

The most urgent structural reform concerns border and immigration security governance through the adoption of strict accountability principles. Inspection systems at border crossings, seaports, and airports should be transformed through the integration of artificial intelligence capable of analyzing anomalies in cross-border movement data in real time. Furthermore, any immigration officer, police officer, or airport authority found responsible for facilitating trafficking victims through negligence or especially through bribery must face dismissal and criminal prosecution without exception. Cleaning up institutions that guard the nation's gateways is essential to disrupting human smuggling networks.

The government must also undertake revolutionary reforms of migrant worker recruitment and placement systems. Regulations should tighten the requirements for establishing Indonesian Migrant Worker Placement Companies (P3MI) and mandate periodic investigative audits of their financial and operational records. Recruitment costs that trap workers in debt bondage must be completely eliminated through the implementation of a Zero Cost Migration policy. The state should assume the role of primary facilitator or require employers in destination countries to bear migration costs so that impoverished citizens are not forced to mortgage land or assets merely to obtain low-paying jobs vulnerable to exploitation.

To overcome inter-agency fragmentation, institutional reconstruction requires strengthening the Task Force for the Prevention and Handling of Human Trafficking into a ministry-level institution or independent agency with executive authority rather than a mere coordination forum. This integrated body should combine the intelligence capabilities of the police, the Financial Transaction Reports and Analysis Center (PPATK), the Ministry of Foreign Affairs, immigration authorities, and the Ministry of Manpower under a unified command structure. Such integration would enable rapid, large-scale operations targeting syndicate assets, cross-border financial flows, and shell corporations protecting trafficking networks.

However, strong law enforcement alone is insufficient if the root causes of trafficking remain unaddressed. Policy reconstruction requires direct state intervention against structural poverty. The government must allocate affirmative budgets for economic empowerment programs, free vocational education, and unsecured microcredit access in regions identified as major sources of trafficking victims, such as border areas, impoverished rural communities, and coastal

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regions. By creating decent jobs and ensuring food security at the village level, the state builds the most effective anti-trafficking defense: eliminating the economic desperation that drives citizens into the hands of traffickers.

In response to the digital evolution of trafficking crimes, the state must expand its reach through stronger cyber patrol and forensic capabilities. The Ministry of Communication and Digital Affairs, together with cybercrime units within the police, should establish an early warning system capable of detecting, blocking, and tracing fraudulent job advertisements, online scams, and grooming practices across social media and messaging platforms. The state should require global technology companies to cooperate in removing trafficking-related content or face substantial penalties for knowingly or negligently allowing their platforms to function as marketplaces for digital slavery.

Finally, and most crucially from a humanitarian perspective, the criminal justice system must guarantee restorative justice through certainty in fulfilling victims' restitution rights. The state should no longer tolerate legal procedures that permit offenders to substitute restitution payments with subsidiary imprisonment. Where perpetrators' assets are insufficient, the state should adopt a subrogation doctrine by establishing a Victim Trust Fund. This fund, financed through confiscated assets from criminal organizations, would provide immediate assistance for medical treatment, psychological recovery, and victim repatriation. Victims who have already suffered immense harm should not be forced to beg for justice; the state must finance their full recovery as a form of atonement for past failures in protection.

Ultimately, this comprehensive reconstruction agenda from cleansing immigration institutions and reforming labor systems to empowering grassroots economies and establishing a Victim Trust Fund is not merely an academic utopia. It represents an essential blueprint for restoring the integrity of the Republic of Indonesia in the eyes of both the international community and its own citizens. Evaluating negligence, acknowledging systemic failures, and radically reforming policies are the only paths toward ensuring that human dignity and justice are not merely ideals written into constitutional texts but become an impenetrable shield protecting every woman, child, and impoverished citizen of Indonesia.

#### **4. Conclusion**

Human Trafficking (TPPO) represents a form of modern slavery that destroys human dignity, honor, and fundamental rights. This study has clearly demonstrated that the escalation of exploitative crimes depriving citizens—

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especially women, children, and economically vulnerable communities—of their futures is not merely a reflection of the sophistication of transnational criminal syndicates but also concrete evidence of the state's systemic negligence in fulfilling its preventive functions. Weak border supervision, chaotic governance of migrant labor recruitment, dysfunctional cyber security monitoring, tolerance of structural poverty, and indications of collusion within state institutions have undermined the nation's defenses at their source. Grounded in the mandates of the 1945 Constitution of the Republic of Indonesia and international human rights instruments, this failure to meet the due diligence standard places the state in a position of significant legal and moral responsibility due to omission. To restore the authority and dignity of constitutional protection, the state is required to undertake radical and holistic policy reconstruction. A paradigm shift from reactive downstream enforcement to proactive upstream protection is imperative, encompassing immigration accountability reforms, the eradication of debt bondage practices, the integration of a powerful anti-trafficking task force, rural economic empowerment, and the establishment of a Victim Trust Fund as a guarantee of recovery. Only by repairing every crack of institutional negligence can the state once again become a true protector that guarantees security and Dignified Justice for all Indonesian people.

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