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

Contemporary Criminal Law Analysis of Human Trafficking as a Crime Against Human Dignity

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Abstract. Human trafficking is a complex transnational crime and constitutes a serious violation of human rights as it deprives individuals of their freedom, integrity, and human dignity. The increasingly sophisticated and organized nature of human trafficking requires the development of criminal law capable of adapting to contemporary forms of crime. Within the framework of a state governed by the rule of law, the protection of human dignity serves as a fundamental principle in the formulation and enforcement of criminal law. Therefore, examining contemporary criminal law in addressing human trafficking is essential to ensure effective legal protection for victims and the imposition of proportionate sanctions on perpetrators. This study aims to analyze the concept of contemporary criminal law in combating human trafficking as a crime against human dignity, evaluate the effectiveness of existing criminal law regulations, and formulate a criminal law policy model oriented toward human rights protection. The research employs a normative juridical method using statutory, conceptual, and comparative law approaches. Data were collected through library research involving legislation, international legal instruments, court decisions, and relevant academic literature. The data were analyzed qualitatively using descriptive-analytical and prescriptive methods. The findings indicate that Indonesian criminal law has regulated human trafficking through various legal instruments; However, significant challenges remain regarding implementation, law enforcement, victim protection, and harmonization with the development of modern criminal law. A contemporary criminal law approach requires the integration of punishment, victim protection, restorative justice, and respect for human dignity. This study concludes that the reconstruction of human rights-based criminal law policies is necessary to strengthen efforts to combat human trafficking and to ensure more effective protection for victims as legal subjects whose dignity and rights must be respected.



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1. Introduction

In law enforcement theory, according to Soerjono Soekanto, the effectiveness of law enforcement is influenced by legal factors themselves, law enforcement officers, means or facilities, society, and legal culture.¹In this context, law enforcement officers, particularly police investigators, play a central role. Police doctrine emphasizes the importance of professionalism, integrity, and speed and accuracy in handling specific criminal cases such as human trafficking.

Jeremy Bentham's utilitarian theory emphasized that law must provide significant benefits to society, including reducing crime rates through effective and efficient law enforcement mechanisms. Consistent with this view, Roscoe Pound, in his sociological legal theory, emphasized the importance of law in action over law on the books.²Thus, the effectiveness of law enforcement is not only measured by the clarity of the rules but also their implementation in daily practice.

The Indonesian National Police (Polri) has a central role and authority in enforcing the law regarding human trafficking crimes, as explicitly stipulated in Law Number 2 of 2002 concerning the Indonesian National Police and Law Number 21 of 2007 concerning the Eradication of Human Trafficking Crimes. In this context, the police, through authorized investigators, such as the Directorate of Special Criminal Investigation (Ditreskrim), are responsible for carrying out a series of investigative and investigative tasks, which include gathering evidence, arresting suspects, and coordinating across institutions to ensure the legal process runs effectively and according to procedure. This task is increasingly complex because human trafficking crimes often involve cross-regional and even cross-national networks, thus requiring special police authority to coordinate nationally and internationally, and implement integrated investigative strategies to uncover increasingly sophisticated modus operandi. Therefore, the strategic role of the police in eradicating the crime of human trafficking lies not only in the repressive function of law enforcement alone, but also in the preventive function through intelligence activities, outreach, and public education to reduce the number of these crimes, especially against vulnerable groups such as women and children who are often the main targets of the perpetrators.

Significant internal constraints include the limited number and capacity of specialized investigators trained to handle human trafficking cases. The lack of regular training in modern investigative techniques and the handling of human trafficking victims is also a crucial issue requiring further attention.

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Externally, low public awareness and participation, as well as minimal coordination between agencies, contribute to slowing police response. Furthermore, victims of human trafficking tend to be reluctant to report cases due to social pressure or threats from perpetrators, further complicating investigators' task of gathering sufficient and compelling evidence to bring these cases to court.

2. Research Methods

1. Types of research

This research is a normative legal research (doctrinal research), which examines law as norms, principles, principles, and doctrines that regulate the crime of human trafficking from the perspective of contemporary criminal law and the protection of human dignity.

2. Research Approach

This research uses a normative juridical approach by combining several approaches to obtain a comprehensive analysis of the development of contemporary criminal law, protection of human rights, and the concept of human dignity in overcoming the crime of human trafficking.

3. Data source

a. Primary Legal Materials

1) The 1945 Constitution of the Republic of Indonesia, in particular:

- a) Article 28A on the right to life;
- b) Article 28D concerning guarantees of legal protection;
- c) Article 28G on self-protection and freedom;
- d) Article 28I concerning the protection of human rights.

¹Ariyanti, V. (2019). Law Enforcement Policy in the Indonesian Criminal Justice System. *Juridical Journal*, 6(2), 33-54.

²Yeni Triana et al., "The Role of Roscoe Pound's Social Engineering Theory in Realizing Social Justice Through Legal Discovery in Indonesia," *Journal of Social Science and Education Research* 1, no. 2 (June 7, 2024): 58–71, <https://doi.org/10.59613/rape7i02>.

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- 2) The Criminal Code (KUHP) and national criminal law provisions relating to the protection of humans from exploitation and crimes against freedom.
- 3) Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking.
- 4) Law Number 39 of 1999 concerning Human Rights.
- 5) Law Number 31 of 2014 concerning Protection of Witnesses and Victims.
- 6) Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code).

b. Secondary Legal Materials

- 1) Scientific books
- 2) Reputable National and International Journal Articles relevant to the protection of human rights and vulnerable groups.

4. Analysis Method

The qualitative analysis was conducted using a normative legal approach systematically across various primary, secondary, and tertiary legal materials. The analysis aimed to examine the construction of contemporary criminal law in viewing human trafficking as a crime against human dignity, evaluate the effectiveness of existing legal regulations, and formulate a criminal law policy model that is more responsive to human rights protection.

3. Results and Discussion

Law enforcement against the crime of human trafficking in Indonesia is an integral part of the implementation of the principle of a state based on law as mandated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. A state based on law, in the modern sense, does not merely position the law as a regulator of community life, but also as the main protector of human rights from various forms of crime, exploitation and injustice, particularly those related to the crime of human trafficking.

This principle is reinforced in various national regulations, particularly Law No. 39 of 1999 concerning Human Rights and Law No. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking. These two regulations serve not

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only as normative instruments but also as a practical framework underlying state policies and actions to ensure protection for victims and impose strict sanctions on perpetrators.

The crime of human trafficking itself has long been recognized as one of the most serious crimes against humanity in contemporary civilization. The term "human trafficking" in the Indonesian legal context refers not only to the practice of buying and selling human beings for sexual exploitation but also encompasses labor exploitation, modern slavery, and the sale of human organs. This phenomenon is a multidimensional threat that not only attacks the human rights and dignity of victims but also threatens the social, economic, and moral stability of the nation. This crime is transnational, organized, and highly dynamic in its modus operandi, thus demanding an adaptive, collaborative, and holistic legal response.

"This crime pattern has evolved from mere sexual exploitation to various other forms of exploitation, such as forced labor, illegal labor trafficking, and the systematic and clandestine practice of selling organs. In practice, handling cases requires cross-institutional coordination and a deep understanding of the socio-economic dynamics underlying human trafficking. He further emphasized that police responses can no longer be conventional, but must adapt to evolving crime modes, utilize technology, and build synergies with relevant institutions and the community to ensure the effectiveness of comprehensive prevention and enforcement of these crimes against humanity."³

The complexity of the forms and modus operandi of this crime poses a serious challenge to national and international legal systems and demands cross-border cooperation between countries. In response to these dynamics, the UN, through the Office of the High Commissioner for Human Rights, published Fact Sheet No. 14 in 2006, entitled Contemporary Forms of Slavery.⁴

As a commitment to combating the transnational and multidimensional nature of human trafficking, the Government relies not only on national legal instruments but also actively adopts various relevant international legal instruments. International conventions and protocols have been ratified as a legal and moral foundation that strengthens Indonesia's legal system in addressing the challenges of human trafficking, particularly those involving vulnerable groups such as

³Interview with Mr. Ramdan Kusuma, Head of Unit 4, Directorate of General Crimes, South Sulawesi Regional Police, July 23, 2025.

⁴Kusumawardhani, Prevention and Overcoming of Women's Trafficking Oriented towards Victim Protection, Journal of Society and Culture, Vol.12, No.2 (2010), p.334.

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women and children.⁵One of the conventions that serves as an important foundation is CEDAW, a global instrument for eliminating all forms of discrimination against women. Through Law 7/1984, Indonesia ratified this convention and legally committed itself to guaranteeing the protection of women from discriminatory acts, including in the context of sexual exploitation and human trafficking. Article 6 of CEDAW explicitly obliges state parties to take appropriate measures, including through legislation, to eradicate all forms of trafficking in women and exploitation of prostitution.

In the context of human trafficking (TPPO), although this practice has existed in various forms for a long time, awareness and attention to this crime within the national legal system have only gained serious attention in the last two decades, in line with developments in international law and increasing global pressure on modern slavery practices. The enactment of the PTPPO Law is an important milestone that demonstrates a shift in the national legal paradigm from being sectoral to being more comprehensive and oriented towards victim protection.⁶

Furthermore, the UNODC plays a crucial role as the primary implementing agency in the global campaign against human trafficking. Through coordinated programs such as capacity building for law enforcement officials, the development of international standards, and advocacy for victims' rights, efforts to combat human trafficking are carried out in an integrated and sustainable manner. With broad support from UN member states, the Palermo Protocol not only regulates repressive measures but also emphasizes the importance of a preventive approach oriented towards human rights protection and victim empowerment, as an integral part of equitable international legal governance.⁷

This definition clearly positions human trafficking as a serious violation of human rights because, in practice, it often ensnares vulnerable individuals. This law not only regulates the criminal aspects of the act but also provides a legal framework

⁵Nur Rahmawati and Ardli Johan Kusuma, The Role of the Indonesian Government and IOM in Addressing the Problem of Trafficking of Indonesian Women to the Middle East in the 2016-2019 Period, *Global Insight Journal*, Vol.07, No.1 (March 2022).

⁶Muhammad Adystia Sunggara, Yang Meliana and Ade Ayu Saputri, Law Enforcement Against the Crime of Human Trafficking in the Criminal Justice System in Indonesia, *Jurnal Solusi*, Faculty of Law, University of Palembang, Vol.20, No.2 (2022), p.207-210.

⁷Jessica Novia Hermanto T., *Mutual Legal Assistance (MLA) Mechanism for the Settlement of Crimes Regulated in the United Nations Convention Against Transnational Organized Crime (UNTOC) and its Implementation in Indonesia*, University of Lampung, Bandar Lampung, 2016.

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for prevention, victim protection, and prosecution of perpetrators directly or indirectly involved in this criminal network.⁸

One of the main causes of this problem is the lack of a unified perception among law enforcement officials regarding the legal elements that constitute the crime of human trafficking, particularly when the act intersects with issues of employment and labor migration. Furthermore, overlapping regulations between several laws and regulations related to this issue also complicate the law enforcement process. There is an overlap between the PTPPO Law and provisions in the Manpower Law and the PPMI Law. These three laws, although interrelated, have not been fully integrated systematically, thus opening up room for differing interpretations, both at the investigation, prosecution, and judicial levels.⁹

4. Conclusion

Human trafficking demonstrates a systematic and repeated pattern of individual exploitation, whether through sexual activity, illegal labor, slavery, or organ trafficking. This consistent pattern demonstrates that human trafficking is an organized crime with a complex and hidden *modus operandi*, not simply an individual crime. As this *modus operandi* evolves, criminal law must reaffirm criminal responsibility not only for the primary perpetrators but also for those who participate, order, persuade, or assist. Enforcement should not be limited to the direct perpetrators but must also target the entire supporting network. The effectiveness of eradicating human trafficking depends on a uniform understanding of the law by law enforcement. However, the reality on the ground shows disparities, with law enforcement still referring to the Criminal Code or the PPMI Law, rather than the more relevant and comprehensive PTPPO Law in addressing human trafficking. The modern concept of human trafficking has been globally recognized since 2000 through the Palermo Protocol part of the UN Convention on Transnational Organized Crime which defines human trafficking as a transnational, organized crime with global impact. As a form of global commitment, Indonesia ratified various international conventions, such as CEDAW through Law No. 7 of 1984, which protects women from exploitation and human trafficking. Indonesia also ratified the UN Convention on Transnational Organized Crime through Law 5/2009, as well as the Migrant Smuggling Protocol through Law 15/2009 to crack down on human smuggling as part of human trafficking networks. At the regional level, Indonesia signed the ASEAN Convention Against

⁸Indonesia, Law on the Eradication of Criminal Acts of Human Trafficking, Law No. 21 of 2007, LN 2007 No. 58, TLN No. 4720, Article 1 paragraph (1).

⁹Faradila, Ainuddin, & Abdul Gani Makhrup, Criminal Responsibility for Perpetrators of Human Trafficking, *Unizar Recht Journal*, Vol.2, No.1 (2023), p.35.

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Trafficking in Persons on November 21, 2015, signaling the importance of cooperation between countries of origin, transit, and destination. Ultimately, the Anti-Trafficking Law was passed as a national legal basis that not only punishes perpetrators but also provides protection and rehabilitation for victims. All of these instruments serve as a crucial foundation for strengthening preventative, repressive, and collaborative cross-border efforts to combat human trafficking.

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Interview:

Interview with Mr. Ramdan Kusuma, Head of Unit 4, Directorate of General Crimes, South Sulawesi Regional Police, July 23, 2025.