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

Analysis of the Effectiveness of Indonesian Civil Procedure Law on Access for Victims of Human Trafficking in Civil Suits

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Abstract. Human trafficking is a form of transnational crime that causes physical, psychological, social, and economic harm to its victims. Within the Indonesian legal system, efforts to restore victims' rights may be pursued not only through criminal proceedings but also through civil litigation as a means of obtaining compensation for the damages suffered. However, victims of human trafficking continue to face significant barriers in accessing civil remedies. Normative, procedural, and institutional obstacles, including the complexity of civil procedural law, high litigation costs, limited legal aid, and evidentiary difficulties, often hinder victims from obtaining justice and effective restitution. This study aims to analyze the effectiveness of Indonesian civil procedural law in providing access to justice for victims of human trafficking through civil lawsuits, identify the challenges faced by victims in civil litigation processes, and formulate a model for reforming civil procedural law that is more responsive to the protection of victims' rights. The research employs a normative juridical method using statutory, conceptual, case, and comparative approaches. Data were collected through library research involving legislation, court decisions, international legal instruments, and relevant academic literature. The data were analyzed qualitatively using descriptive-analytical and prescriptive methods. The findings indicate that Indonesian civil procedural law normatively provides opportunities for victims of human trafficking to seek compensation through civil lawsuits. Nevertheless, its effectiveness remains limited due to procedural barriers, inadequate access to legal aid, evidentiary challenges, and the absence of specific procedural mechanisms designed to facilitate claims by victims of human trafficking. Therefore, a reformulation of civil procedural law is necessary, emphasizing victim protection through procedural simplification, strengthened legal assistance, expanded evidentiary mechanisms, and the integration of human rights-based access to justice principles.

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1. Introduction

Human trafficking remains a crucial issue that draws widespread attention from various stakeholders, including government, civil society, non-governmental organizations, religious leaders, and local communities. This phenomenon not only reflects a failure to protect human rights but also serves as an indicator of systemic vulnerability across social, economic, and cultural dimensions. Children, in particular, are often the most vulnerable group to this crime, particularly in the context of sexual exploitation. In many cases, traffickers exploit unstable circumstances in children's lives, such as limited family finances, lack of parental supervision, and even marital discord, as a means to recruit and exploit them. Furthermore, social factors such as promiscuity, premarital sex, and substance abuse increase the risk of children falling into human trafficking networks.

The modus operandi used by perpetrators is increasingly complex, exploiting social media and information technology to lure victims. Therefore, protecting children from human trafficking must be a shared priority through a firm legal approach, prevention-oriented policies, and sustainable social empowerment.¹

This lack of or weakness in regulations ultimately creates favorable conditions for human trafficking networks to continue to develop, even making these countries transit areas and destinations for exploitation.²

Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (UU PTPPO) provides a comprehensive legal definition regarding the crime of human trafficking. In Article 1 paragraph (1), human trafficking is explained as any form of action aimed at exploiting individuals through a series of

¹Ayu Efridadewi, Mhd Saiful Anwar and Sinja Ardiandy, The Role of Society in Combating the Crime of Human Trafficking, *Aufklarung: Journal of Education, Social and Humanities*, Vol.3, No.2 (June 2023), p.2

²Mahrus Ali and Bayu Aji Pranomo, *Human Trafficking: Dimensions, International Instruments and Regulations in Indonesia*, Citra Aditya Bakti, Bandung, 2011, p.3.

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processes, starting from the recruitment process, then transportation, then shelter, then sending, then moving, until finally accepting someone.³

The phenomenon of human trafficking in Indonesia remains a complex legal and humanitarian issue, particularly when linked to the practice of sending migrant workers abroad. Victims are often unaware that they are being trapped in an illegal recruitment mechanism that offers no guarantees of legal protection, employment rights, or personal safety. They are then subjected to various forms of inhumane treatment, such as forced labor, unpaid wages, physical or sexual violence, and even prolonged imprisonment.⁴

In practice, the structure of perpetrators in this crime resembles a hierarchical chain, each link of which contributes to the continuation of the crime. The presence of parties who persuade, deceive, or trap victims through various methods, including exploiting the victim's social and economic vulnerabilities, further emphasizes that this crime occurs in a non-linear space, but is systemically interconnected. Therefore, from a criminal law perspective, it is important to detail and examine the forms of criminal responsibility that can be imposed on each party involved. This approach aligns with the principle of accountability in modern criminal law, which emphasizes that criminal responsibility attaches not only to the direct perpetrator, but also to anyone who consciously and actively contributes to the commission of the crime, whether physically or psychologically.⁵

This disharmony has the potential to reduce the effectiveness of legal protection for victims and weaken the state's efforts to address crimes that violate human dignity.⁶ Based on the complexity of the problems described previously, the author believes that a more in-depth study is needed on two main issues that are crucial in efforts to eradicate TPPO.

³Indonesia, Law on the Eradication of the Crime of Human Trafficking, Law No. 21 of 2007, LN of 2007 No. 58, TLN No. 4720, Article 1 number 1

⁴Adityo Putro Prakoso, Human Trafficking Problems Frequently Encountered in Indonesia, *Qistie Scientific Journal of Legal Studies*, Vol.11, No.1(2018), p.28-37.

⁵ Helesven Simamora, et al., Analysis of Law Enforcement against Persons Who Assist or Attempt to Commit the Crime of Human Trafficking (Case Study of Decision No: 668/Pid.Sus/2018/PN Medan), *PATIK: Jurnal Hukum*, Vol.8, No.3(August 2019), p.1-9.

⁶Penny Naluria Utami, Handling of Human Trafficking Crime Cases by the East Nusa Tenggara Provincial Government, *Jurnal HAM*, Vol.10, No.2 (2019), p.195.

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This research adopts a normative juridical method, namely a scientific approach that focuses on a systematic study of legal norms contained in various written legal instruments, both at the national and international levels.⁷

2. Research Methods

1. Types of research

This research is a normative legal research (doctrinal research), focusing on the study of legal norms, legal principles, doctrines, and legal principles governing access for victims of human trafficking in filing civil lawsuits. This research aims to analyze the effectiveness of Indonesian civil procedural law in providing protection and access to justice for victims of human trafficking and to formulate a model for legal reform that is more responsive to victims' interests.

2. Research Approach

This research uses the Statute Approach which is used to examine various regulations related to civil procedural law and the protection of victims of human trafficking.

3. Data source

a. Primary Legal Materials

- 1) The 1945 Constitution of the Republic of Indonesia;
- 2) HIR and RBg;
- 3) Civil Code;
- 4) Law Number 21 of 2007 concerning TPPO;
- 5) Law Number 31 of 2014 concerning Protection of Witnesses and Victims;
- 6) Supreme Court Regulations;

⁷Gracia Gracia, et al., Implementation of the Euthanasia Concept: Supremacy of Human Rights and Legal Progressivity in Indonesia, Indonesian Law Student Writers Association Law Journal, Vol.2, No.1 (2022), p.1-24.



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7) International instruments related to human trafficking and victims' rights.

b. Secondary Legal Materials

- 1) Civil procedure law books;
- 2) Book on victim protection and human rights;
- 3) National and international scientific journals;
- 4) Dissertations, theses, and previous research results;
- 5) Doctrines and opinions of legal experts.

4. Analysis Method

Qualitative analysis was conducted using a normative juridical approach that was descriptive-analytical and prescriptive (reconstructive) at the doctoral program level.

3. Results and Discussion

The concept of human trafficking, or better known as human trafficking, officially began to receive serious international attention in 2000. In that year, the UN General Assembly ratified an important international legal instrument known as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as part of the UNTOC. This protocol, better known as the Palermo Protocol, marked an initial milestone in global efforts to provide a clear legal definition of the crime of human trafficking, as well as to regulate comprehensive prevention and enforcement mechanisms.

The perpetrators are generally part of a transnational criminal network with a well-structured and strategic approach, exploiting advances in information technology and global mobility to expand their reach and disguise their illegal activities. This makes human trafficking an extraordinary crime that requires extraordinary handling, both in terms of policy, regulation, and solid and sustainable international cooperation.

The complexity of the forms and modus operandi of this crime makes it a serious challenge for national and international legal systems, and demands cross-border cooperation between countries. In response to these dynamics, the UN, through

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the Office of the High Commissioner for Human Rights, published Fact Sheet No. 14 in 2006 entitled Contemporary Forms of Slavery.⁸

This confirms that human trafficking is not only a violation of criminal law, but also a serious violation of the most fundamental human rights and dignity.

As part of a more comprehensive communications strategy, the IOM has also produced a documentary titled "Never Again." This film not only tells the true story and profound impact experienced by victims of human trafficking, but also serves as an educational tool, written in an informative and accessible manner for the general public. With a strong narrative and empathetic visual approach, this documentary serves as an important medium for voicing the urgency of protecting victims' rights and combating human trafficking comprehensively.⁹

In the context of human trafficking (TPPO), although this practice has been going on in various forms for a long time, awareness and attention to this crime in the national legal system has only received serious attention in the last two decades, along with the development of international law and increasing global pressure on modern slavery practices. The birth of the PTPPO Law is an important milestone that shows a shift in the national legal paradigm from being sectoral to being more comprehensive and oriented towards victim protection.¹⁰

Member states are encouraged to align their national legal systems with international standards, enhance institutional capacity, and develop policies oriented toward victims' rights. Furthermore, the UN has launched various global initiatives, one of which is GLO.ACT, a collaborative project involving various stakeholders, including governments, civil society organizations, and international institutions. This initiative emphasizes a holistic approach that focuses not only on prosecution but also on prevention and victim recovery.¹¹

⁸Kusumawardhani, Prevention and Overcoming of Women's Trafficking Oriented towards Victim Protection, *Journal of Society and Culture*, Vol.12, No.2(2010), p.334

⁹Adam Najib Yunardi, The Role of the International Organization for Migration (IOM) in Handling Human Trafficking of Indonesian Citizens in the United Arab Emirates (Singaperbangsa University, Karawang), *Jurnal Politikom Indonesiana*, Vol.6, No.2(2021), p.1-13.

¹⁰Muhammad Adystia Sunggara, Yang Meliana and Ade Ayu Saputri, Law Enforcement Against Human Trafficking Crimes in the Criminal Justice System in Indonesia, *Jurnal Solusi*, Faculty of Law, University of Palembang, Vol.20, No.2(2022), p.207-210

¹¹Ni Luh Putu Lusi Ayupratiwi, The role of international law in efforts to prevent and eradicate human trafficking in Indonesia, *Undiksha Citizenship Education Journal* Vol. 10, No. 3 (2022), p. 235-252.



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4. Conclusion

Human trafficking demonstrates a systematic and repeated pattern of exploiting individuals, 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 merely an individual crime. With the development of this modus operandi, criminal law must reaffirm criminal responsibility not only for the main perpetrators, but also for those who participate, order, persuade, or assist. Enforcement should not only be limited to the direct perpetrators but also must target the entire supporting network. The effectiveness of combating human trafficking depends on a uniform understanding of the law among law enforcement officials. 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 for 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 crime that is organized and has a 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 a human trafficking network. At the regional level, Indonesia signed the ASEAN Convention Against Trafficking in Persons on November 21, 2015, signifying the importance of cooperation between countries of origin, transit, and destination. Ultimately, the PTPPO 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 are an important foundation in strengthening efforts to combat human trafficking in a preventive, repressive, and collaborative manner across countries.

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