

Legal Protection for Victims of Human Trafficking Crimes

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Abstract. *Facts of Human Trafficking Cases increase and cause widespread suffering to many victims They will learn that all suffering requires legal protection The losses suffered as victims of human trafficking. are studying the goal is to describe and discuss the placement and forms of legal protection for victims of human trafficking. This study is expected to provide input and generate ideas for all stakeholders involved in the legal protection of victims of human trafficking. The study was conducted by studying legal materials in the form of legislation and legal concepts related to legal protection for victims of human trafficking. The results of this study indicate that with the enactment of Law No. 21 of 2007 concerning the Eradication of Human Trafficking, it provides more guarantees and legal certainty regarding legal protection for victims of human trafficking. The conclusion of this study is that the existence of regulations and forms of legal protection for victims of human trafficking is regulated in Articles 43 to 55 of Law No. 21 of 2007 which generally contain or regulate, regarding witness protection (referring to Law No. 13 of 2006). The suggestion in this study is that there needs to be increased knowledge and socialization regarding Law No. 21 of 2007 by related agencies so that the public knows and does not become a victim of human trafficking crimes and those who have become victims can obtain legal protection as regulated in Law No. 21 of 2007.*

Keywords: *Legal; Protection; Victims.*

1. Introduction

Trading human has been practiced throughout Indonesian history through slavery or servitude. During the era of the Javanese Kingdom, human trafficking, in other words, women at that time played a role in completing the government system. Feudal. At that time, the concept of royal power was described as sovereignty. great and noble. The king's power was unlimited, as reflected in the many things his concubines. Some concubines were noble daughters Presented

to the King as a sign of loyalty. Another part of the offerings were concubines from the lower class. If there are family members who sell or transfer with the following intentions: entering into a royal bond to raise one's status.

Feudalism cannot fully prove the existence of human trafficking as it is known to modern society today, but what was done during this period became the basis for the development of existing human trafficking. Today. This form of human trafficking is more organized and growing rapidly.

In the current era of globalization, slavery is rampant again in the forms of illegal and covert trade through persuasion, threats of fraud and seduction to be recruited and taken to other regions and beyond. traded against their will, employed as sex workers, forced labor and/or other forms of exploitation. Currently, human trafficking is a problem of widespread concern in Asia and even the whole world. Human trafficking occurs not only in Indonesia, namely human trafficking to other countries. The rise in the issue of human trafficking began with the increasing number of male and female job seekers and even children migrating outside the region to abroad in order to find work. Lack of education and limited information makes them very vulnerable to being trapped in human trafficking.

There are various causes that encourage human trafficking, the dominant ones being poverty, unavailability of jobs, changes in development orientation from agriculture to industry, and the never-ending economic crisis.¹

The Indonesian government is one of the countries that pays close attention to the crime of human trafficking, by ratifying Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, with the aim of being able to prosecute perpetrators and provide legal protection for victims with the right legal instruments, because the rules in the Criminal Code are felt to be unable to ensnare perpetrators and provide legal protection for victims.

Before the enactment of Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking in April 2007, the existing and applicable regulations were not yet adequate to address the problem of human trafficking and fulfill the sense of justice for victims because the applicable laws and regulations, namely Article 297 of the Criminal Code and Law Number 39 of 1999 concerning Human Rights relating to human trafficking and the legal sanctions in Article 297 of the Criminal Code, the punishment was still light, namely the threat of 0-6 years in prison, while in Law Number 39 of 1999 concerning Human Rights there were no sanctions.

Basically, forms or models of protection for victims of crime can be given to victims of human trafficking crimes, in order to be able to explore the forms or models of legal protection that can be given to victims, namely as follows:

¹Farhana, *Legal Aspects of Human Trafficking in Indonesia*, Sinar Grafika, Jakarta, 2010, pp. 4 and 5

1. Granting of Restitution and Compensation
2. Counseling Services and Medical Services/Assistance
3. Legal Aid
4. Provision of Information²

Based on the description above, the existence of this phenomenon has become a special attraction for the author to study this in more depth by conducting research, for writing a journal entitled "LEGAL PROTECTION FOR VICTIMS OF HUMAN TRAFFICKING CRIMINAL ACTS".

2. Research Methods

The approach method used in this study is the normative legal approach. The normative legal approach is a legal research conducted by examining library materials or secondary data as basic materials for research by conducting a search for regulations and literature related to the problems being studied. Data collection is carried out through library studies by reviewing literature related to research problems. The data analysis technique is qualitative analysis in the form of exposure, description, and description of the research results.

3. Results And Discussion

3.1. Regulations on Legal Protection for Victims of Human Trafficking Crimes

In Law No. 13 of 2006 concerning Protection of Witnesses and Victims, it is stated that victims of crime in general are not specifically victims of human trafficking, meaning that legal protection in this Law is intended for all types of crimes, not only for victims of human trafficking in particular. Therefore, with the enactment of Law No. 21 of 2007, it is felt to be very appropriate to handle cases of human trafficking.

The provisions contained in Chapter V concerning Protection of Witnesses and Victims are quite good and in accordance with the provisions of Article 43 of Law No. 21 of 2007 that in principle "Protection of victims of human trafficking crimes refers to Law No. 13 of 2006 as long as it is not stipulated otherwise in Law No. 21 of 2007. Furthermore, Law No. 21 of 2007 concerning the Eradication of Human Trafficking Crimes regulates the protection of witnesses and victims as an important aspect in law enforcement, which is intended to provide basic protection to victims and witnesses.

In addition, this law also pays great attention to the suffering of victims as a result of human trafficking in various forms of legal protection, including: the right to restitution, rehabilitation and others as regulated in several articles in this law, which must be carried out by the State, especially for those who experience physical, psychological and social suffering due to human trafficking. Legal protection for victims who are victims of human trafficking is very

²Dikdik M. Arief Mansur and Elisatris Gultom, *The Urgency of Protection of Crime Victims Between Norms and Reality*, ed.1, Raja Grafindo Persada, Jakarta, 2007, pp. 166- 167.

important, so various efforts are made so that they get the right to become useful human beings before returning to the midst of society. As well as efforts to empower economically and educationally so that victims are not trapped again in human trafficking.

Protection of victims is basically an inseparable part of human rights issues, and the rights of victims themselves are an inseparable part of the concept of human rights. Therefore, if these human rights are threatened or disturbed, there needs to be a guarantee of legal protection for victims.

As explained above, in accordance with the provisions of Article 43 of Law No. 21 of 2007 which refers to Law No. 13 of 2006, it is basically an effort to greet one law with another (horizontal harmonization of laws). Because in Law No. 13 of 2006, it has been regulated regarding the protection of witnesses and victims in one law, which so far specifically the regulation of victims' rights is still sectoral in nature in several laws, and if it is traced further that what is a right is not something that is easy to obtain, so that what happens from imperative to facultative. Furthermore, attention or concern for victims of crime should not be limited to victims of conventional crimes (robbery, rape, theft and the like), but must also include victims of non-conventional crimes, including victims of Human Trafficking.³

Attention to victims of crime is basically an effort to balance the fundamental rights of the suspect or perpetrator and the rights and interests of the victim. Therefore, the concept of protection for victims must be clear. In the sense that the direction or scope of the protection in question must be determined first.

Articles 43 to 55 of Law No. 21 of 2007 generally contain or regulate the following matters:

- a. Referring to Law No. 13 of 2006 concerning Protection of Witnesses and Victims;
- b. Witnesses, victims and families have the right to confidentiality of their identities;
- c. Victims have the right to receive restitution in the form of compensation;
- d. Victims have the right to receive health rehabilitation, social rehabilitation and repatriation;
- e. To protect victims in each province, district/city, special services and integrated services must be established;
- f. For foreign nationals who are victims of the crime of human trafficking (TPPO) in Indonesia, the government will return the person concerned through state representatives.⁴

³Ibid, p. 21

⁴Muhadar, et al., Protection of Witnesses and Victims in the Criminal Justice System, PMN, Surabaya, 2010, p.165

3.2. Forms of Legal Protection for Victims of Human Trafficking Crimes

Adequate legal protection for victims of crime is not only a national issue, but also an international one, because this needs serious attention, including victims of human trafficking. Victims of crime, who are basically the ones who suffer the most in a crime, do not receive as much protection as the law provides to perpetrators of the crime. As a result, after the perpetrator of the crime has been sentenced to criminal sanctions by the court, the condition of the victim is ignored. In fact, justice and respect for human rights do not only apply to perpetrators of crimes, but also victims of crimes whose consequences can be felt for life.

In resolving criminal cases, the law often places too much emphasis on the rights of the suspect or accused, while the rights of the victim are ignored, as stated by Andi Hamzah that, "In discussing criminal procedural law, especially those related to human rights, there is a tendency to examine matters related to the rights of the suspect without also paying attention to the rights of the victims."⁵

In relation to legal protection efforts for victims of human trafficking, legal protection efforts for the community become important. This is because the community, both groups and individuals, can at any time become victims of human trafficking. Legal protection for victims of human trafficking as part of protection for the community can be realized in various forms or models.

Basically, the forms or models of protection for victims of crime in general can also be given to victims of human trafficking crimes, which consist of several forms or models of protection, namely as follows:

- a. Granting of Restitution and Compensation
- b. Counseling Services and Medical Services/Assistance
- c. Legal Aid
- d. Provision of Information.⁶

In addition to the forms of legal protection as described above, specifically for victims of human trafficking crimes, it has been regulated separately in Law No. 21 of 2007 concerning the eradication of human trafficking crimes. Provisions regarding the protection of victims of human trafficking crimes are implemented based on Law No. 13 of 2006 concerning the protection of witnesses and victims as explained above, unless otherwise specified in Law No. 21 of 2007 concerning the eradication of human trafficking crimes in accordance with Article 43.

Law No. 21 of 2007 regulates victim protection as an important aspect in law enforcement, which is intended to provide basic protection to victims, in

⁵Andi Hamzah, Protection of Human Rights in the Criminal Procedure Code, Bandung, Binacipta, 1986, p.33

⁶Op. Cit. p. 121

addition this law also pays attention to the suffering of victims as a result of the crime of human trafficking as compensation for victims and also regulates medical and social rehabilitation, repatriation and reintegration that must be carried out by the State, especially for victims who experience physical, psychological and social suffering due to the crime of human trafficking.

In Law No. 21 of 2007 concerning the eradication of the crime of human trafficking, protection for victims as regulated in Articles 43 to 55 as described above, in addition to being realized in the form of criminalizing the perpetrator, is also realized in the form of fulfilling the rights of victims of the crime of human trafficking or described in more detail, namely in the following forms:

- a. The right to confidentiality of the identity of victims of human trafficking and their families to the second degree (Article 44).
- b. The right to receive protection from threats that endanger oneself and/or one's property (Article 47)
- c. The right to receive restitution (Article 48).
- d. The right to receive health rehabilitation, social rehabilitation, repatriation and social reintegration from the government (Article 51).
- e. Victims who are abroad have the right to be protected and returned to Indonesia at state expense (Article 54)

As previously explained, victims of human trafficking experience material, physical, psychological and social suffering. As a result of the suffering that occurs, psychological suffering is the most severe, although victims of human trafficking also experience material suffering or loss. To provide legal protection for the suffering experienced by victims of human trafficking, Law No. 21 of 2007 has regulated legal protection that can be given to victims, namely in the form of restitution, compensation, rehabilitation, counseling services, and legal assistance. In addition, protection for victims is also to protect victims, so that they can carry out their rights and obligations as humans and return to being balanced as before becoming victims of human trafficking.

4. Conclusion

Regarding the regulation of legal protection for victims of human trafficking crimes, it is regulated in Article 43 to Article 55 of Law No. 21 of 2007 which generally contains or regulates the following matters: Referring to Law No. 13 of 2006 concerning Protection of Witnesses and Victims. Witnesses, victims and families have the right to obtain confidentiality of identity. Victims have the right to obtain restitution in the form of compensation. Victims have the right to obtain health rehabilitation, social rehabilitation, and repatriation. To protect victims in each province, district/city, special services and integrated services must be formed. For foreign nationals who are victims of the Crime of Human Trafficking (TPPO) who are in Indonesia, the government will return the person concerned through a State representative.

5. References

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