



# Law Enforcement Against Perpetrators of Human Trafficking Crimes

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**Abstract.** Any act that involves transferring, smuggling, coercion, threats, kidnapping, deception, or tricking someone into forced work—such as forced prostitution, labor slavery, debt entanglement, or other slavery practices—is classified as human trafficking. Any act that involves transferring, smuggling, coercion, threats, kidnapping, deception, or tricking someone into forced work—such as forced prostitution, labor slavery, debt entanglement, or other slavery practices—is classified as human trafficking. Primary legal materials, such as laws and regulations, as well as secondary legal materials, such as books, journals, and study findings, served as the research's sources of legal information. The study's conclusions indicated that Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons, which protects victims of human trafficking crimes, makes provisions for the provision of protection for trafficking victims through restitution in the form of compensation for suffering, loss of wealth or income, medical treatment costs, psychological, and/or other losses to victims of human trafficking. Law Number 21 of 2007 regulates the prosecution of human trafficking criminals from Article 2 to Article 9. Enforcing the law in a stringent manner is imperative as it goes against human dignity and human rights. Not only are penal sanctions applied, but non-penalty sanctions are as well.

**Keywords:** Law Enforcement, Perpetrator, Crime, *Human Trafficking*

## 1 Introduction

### 1.1 Background of the problem

Actually, the global community—and Indonesia in particular—is not new to the problem of human trafficking. This phenomenon has existed since the days of imperialism and colonialism. This trafficking has been known since the 4th century and continued until the 18th century when the development of trafficking in persons shifted to vulnerable conditions. In actuality, the issue of human trafficking is not new to the international community, and Indonesia in particular. Trafficking crimes have increased recently, but the handling of these cases has not been resolved properly.

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Trafficking in persons can be classified as one of the worst forms of violence experienced by people, especially against women and children. Because victims of human trafficking are deprived of fundamental rights, it is a true violation of human rights. such as the freedom of movement, the right to a living standard that includes enough food and clothing, the right to a quality of living that promotes one's health and well-being, and so on (Sweda Made, 2013: 1)

According to Pancasila and the 1945 Republic of Indonesia Constitution (henceforth referred to as the 1945 NRI Constitution), each and every person has the right to human rights in line with the glory, dignity, and dignity that are guaranteed by the law. Articles 28A through 28J of the 1945 Constitution of the Republic of Indonesia dictate how these human rights are handled as well.

Law Number 39 of 1999 concerning Human Rights (henceforth referred to as the Human Rights Law) regulates human rights in addition to the Republic of Indonesia's 1945 Constitution. Human rights are described in Article 1 Paragraph 1 as gifts from God Almighty that must be recognized, preserved, and safeguarded by the state, the government, and everyone else in order to preserve and honor human dignity.

Trafficking in persons for labor is a very big problem. Trafficking in persons in Indonesia from 1993-2003 shows that trafficking in persons with promising modes of employment is prevalent and this is experienced by women and children. The impact of trafficking victims varies, generally falling into the abyss of prostitution (PSK), labor exploitation, and so on. Meanwhile, from the perpetrator side, it is generally carried out by labor placement agencies with the promise mode of giving work and is carried out both passively (with job advertisements) and actively (directly to people's homes) by recruiting those who really expect work.

In the growth and development of crime can not be separated from the victim. The victim is not only understood as the object of a crime but is understood as a subject who needs protection both socially and legally. In the growth and development of crime can not be separated from the victim. The victim is not only understood as the object of a crime but is understood as a subject who needs protection both socially and legally. (Farhana, 2010: 18)

In Bali there is one of the leading Community Sawdaya Institutions (NGOs) that provides assistance and support to victims of human trafficking named Gerasa Bali. They provide shelter for women and children and a means to restart their lives (<http://www.gerasa.bali.com/cpntact>, accessed April 13, 2023, 8:00 p.m.).

Dark Bali aims to stop sex trafficking and restore lives destroyed by it by raising awareness and advocacy. They are partnering to prevent, rescue, and recover (<https://www.darkbali.org/contact>, accessed April 13, 2023, 9:00 p.m.) It is clear from the above summary that human trafficking violates human rights because it involves coercion, threats, kidnapping, fraud, lies, and abuse of authority and targets prostitution, pornography, violence, exploitation, forced labor, slavery, and other similar activities. As a result, a research titled "Law Enforcement Against Perpetrators of Human Trafficking Crimes" was created.

## **1.2 Problem Statement**

1. What legal safeguards are in place for victims of crimes involving human trafficking?
2. How does law enforcement apprehend those who commit crimes related to human trafficking?

## **2 Research Methods**

### **2.1 Types of research and problem approaches**

The normative legal research type was employed in this study. It is a procedure for identifying legal doctrines, norms, and principles to address the legal problems encountered. It is based on legal resources from literature. The Statutory Approach is the problem approach that is employed.

### **2.2 Sources of Legal Materials.**

The following legal resources were found through literature research: 1. Primary Legal documents: The Republic of Indonesia's 1945 Constitution, Law Number 39 of 1999 respecting Human Rights, the Criminal Code, the Code of Criminal Procedure, and other laws and regulations are examples of primary legal documents, 2. Secondary Legal Materials: These include legal materials gleaned from library research, such as books, research findings from legal experts, legal journals, and encyclopedias related to the legal protection of victims of trafficking crimes, as well as works from legal circles related to the issues discussed. Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons, Law Number 35 of 2014 concerning the Protection of Ana, and Law Number 11 of 2012 concerning the Juvenile Justice System.

### **2.3 Legal Material Collection Techniques.**

To obtain primary and secondary legal materials is carried out by recording and documenting the problems studied, associated with the type of normative legal research, reviewing laws and rules pertaining to the protection of trafficking victims and offenders is the first step in the process of gathering legal materials.

### **2.4 Legal Material Analysis.**

This essay uses a descriptive approach to analyze legal documents by providing an explanation in the format of journal research.

### 3 Results and Discussion

#### 3.1 Legal Protection of Human *Trafficking Victims*

Unless otherwise specified in Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons pursuant to Article 43, provisions pertaining to the protection of victims of trafficking in persons are implemented in accordance with Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims. As a crucial component of law enforcement, victim protection is governed by Law No. 21 of 2007 and is meant to address victim suffering both directly and indirectly—that is, as recompense for victims—as a result of human trafficking.

In addition to taking the form of criminal prosecution, victim protection also takes the form of upholding the following rights granted to victims of human trafficking under Law Number 21 of 2007 addressing trafficking in persons: a. The second-degree right to identity confidentiality for victims of trafficking offenses and their families (Article 44) The primary defense of victims' personal security against external psychological and physical dangers is identity confidentiality. In order to protect the victim's identity and prevent the criminals from dropping the victim's charges or choosing not to prosecute them, confidentiality measures regarding the victim's identification, including personal history and employment history, must be taken. b. The right to be shielded from dangers that jeopardize their lives, property, or themselves (Article 47) Victims need security protection against threats to their lives, property, and/or self because their testimony is necessary due to their fragility. Victims may also be bullied or terrified into not reporting crucial facts they are aware of. If required, the victim is kept in a secret location or referred to as a safe house. Protection for victims is provided before, during, or after the case hearing, and c. Article 48's right to reparations Every victim and her heirs is entitled to reparations in the form of money, loss of assets or income, pain, expenses for counseling and/or media coverage, and/or other damages sustained by victims of human trafficking. d. The government's entitlement to social rehabilitation, health rehabilitation, repatriation, and social reintegration (Article 51).

Victim protection is provided by Law Number 14 of 2009, which supplements the United Nations Convention against Transnational Organized Crime by ratifying a protocol to prevent, combat, and punish human trafficking, particularly involving women and children.

Being the most populous country in the world and the largest archipelagic nation, Indonesia is especially susceptible to several types of human trafficking. One of the biggest violations of human dignity is human trafficking, which is a contemporary version of human slavery. The majority of victims of human trafficking were females. As a result, in order to complement the United Nations Convention against Transnational Organized Crime, Indonesia drafted Law Number 14 of 2009 concerning the ratification of protocols to prevent, crack down on, and punish trafficking in persons, especially women and children. This law is an expression of Indonesia's commitment

to putting these protocols into practice. The United Nations opposes transnational organized crime.

The law also regulates efforts to provide legal protection to victims of trafficking in persons in Law No. 14 of 2009 as seen in Article 6.

The provisions of Article 6 of Law Number 14 of 2009 determine as follows:

1. Each State Party shall, in appropriate circumstances and to the degree feasible under its domestic law, protect the identity and confidentiality of victims of human trafficking, including, among other things, by maintaining the privacy of any proceedings pertaining to the trafficking.
2. Each State Party shall guarantee that its national legal or administrative system includes provisions that, in appropriate cases, give victims of human trafficking information about pertinent judicial and administrative procedures as well as support to enable them to voice their concerns and opinions and have them taken into consideration at the appropriate stages of criminal proceedings against offenders without impairing their right to a fair trial.
3. Every State Party is required to contemplate putting into action measures aimed at providing physical, psychological, and social healing to victims of human trafficking. These measures may involve collaboration with nongovernmental organizations, other pertinent organizations, and other segments of the civil society. Specifically, provisions must be made for adequate housing, guidance and information in a language that is understandable to victims of trafficking, material, psychological, and health support, as well as opportunities for employment, education, and training.
4. When implementing the provisions of this article, each State Party shall consider the age, sex, and unique needs of victims of human trafficking, with a focus on the needs of children, which include providing appropriate housing, education, and care.
5. Every State Party is required to try to give trafficking victims physical security while they are on its soil.
6. Every State Party shall guarantee that provisions are included in its national legal framework that provide victims of human trafficking with the opportunity to receive compensation for their losses.

Therefore, it is necessary to affirm victim protection plans, particularly for acts related to human trafficking, as this transgresses human rights and is incompatible with human dignity. The imposition of sanctions in laws and regulations is so complete and certain, and the sanctions applied are not penal sanctions, but also the application of non-penalty sanctions. The application of this sanction is intended so that public reaction to actions that are considered disturbing and disturbing can be resolved, cause a deterrent effect for perpetrators, and be feared and followed and repeated by other community members. So that law enforcement of trafficking in persons can run effectively. In actuality, networks of organized and unorganized crime, both domestic and interstate, have grown to facilitate people trafficking, endangering standards of living predicated on the respect for human rights.

The majority of the time, human rights are violated in the process of trafficking in persons; specifically, human dignity is violated by severe treatment, even abuse akin to slavery. The victim is believed to be helpless and imprisoned in an elusive network, making it challenging to identify the perpetrator and provide a remedy.

Factors that contribute to trafficking include:

a. Internal Factors

1. Individual Factors

Every individual has basically been a victim of one or more forms of violence or exploitation because humans are basically social creatures, beings who are always in various interactions and relationships with other individuals and are raised in a certain group or social group and with certain cultural patterns as well.

b. Economic Factors

- Economic factors are the driver of crime as well as can make someone a victim of crime itself, because of economic pressure, some children are made prostitutes.
- Family Factors

The family has a considerable role in determining the pattern of behavior of children as well as for the development of children, because even people born directly have evil qualities but it is the family that has the first source that influences the development of children.

2. Education Factor

One of the causes of child trafficking for the purpose of prostitution or prostitution is the educational factor of the victim or the perpetrator himself (Andi Hamzah, 1999: 59).

b. External factors

1. Environmental Factors

Human evil in his life will always coexist with the surrounding community. No human being lives does not depend on or need others.

2. Weak Law Enforcement Factors

Cases of child trafficking for prostitution or prostitution are now at an alarming level. However, the government and society in general still consider the issue of child trafficking for prostitution or prostitution to be a common problem, not a form of crime against humans (Satjipto Rahardjo, 1998: 54).

From the description of the factors mentioned above, it can be seen that to determine the causes of trafficking crimes, factors that support or are relevant to trafficking crimes must be seen, in this case in the form of trafficking children and women for the purpose of prostitution or prostitution. The factors mentioned above are very influential for society, there are still many who do not understand the problem of trafficking in persons and its consequences.

Legal protection is required for victims of trafficking offenses, as per the preceding list of trafficking factors. The victims of human trafficking are legally protected by Law No. 21/2007 on the Eradication of Trafficking in Persons.

Satjipto Raharjo defines legal protection as the process of attempting to enforce or carry out the law's requirements in the real world. The concepts of the rule of law based on Pancasila and the acknowledgment and preservation of human dignity are what constitute legal protection for the community. As the conceptual underpinning and the cornerstone of state philosophy, Pancasila serves as the framework for the formulation of the legal protection for the people (in Indonesia).

Human rights (HAM) that are violated by others are protected by the law, and society is granted this protection so that it can exercise its legal rights. When considered from the perspective of the subject, the idea of legal protection can be applied by a broader subject and can also be seen as law enforcement actions that involve all legal subjects in all legal relationships. Legal protection is only understood, in a limited sense, as an endeavor on the part of certain law enforcement personnel to guarantee and ensure legal protection, in the event that law enforcement is permitted to use force. (Apeldoorn.L.J.Van, 1997: 6).

There are a number of legal precepts that must be considered while considering the idea of legal protection for crime victims. Here are the principles in their expressed form: a. The benefit principle states that victim protection should aim to benefit the community as a whole as well as the victims of violence, both materially and spiritually. This is especially true when attempting to lower the rate of criminal activity and establish public order. b. In accordance with the justice concept, victim protection works to benefit society as a whole as well as the victims' evil, particularly by lowering the rate of criminal activity and fostering public order. c. The idea of balance plays a significant role in attempts to restore the rights of victims, in addition to providing clarity and protecting human interests. The objective of law is also to restore the balance of the disturbed community order to its original state. d. The legal certainty principle, In the course of performing their obligations to offer victims of crime legal protection, law enforcement personnel can find great support from this principle.

The laws and regulations (the Law on the Protection of Witnesses and Victims, the Law on the Eradication of Trafficking in Persons, and Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims in Articles 5, 6, and 7A and Law Number 21 of FY2007 concerning the Eradication of Acts Trafficking in Persons under Articles 44, 47, 48, and 51) that the government enacts constitute the scope of legal protection. The process begins with the identification of an individual as a victim of human trafficking. From there, it moves through investigation, legal proceedings, the victim's entitlement to restitution or compensation, and court rulings.

Legal protection for trafficking victims can take many forms:

1. Restitution and Compensation

Restitution is the payment made to victims of human trafficking to make up for their lost income or riches, their suffering, their medical and/or psychological expenses, and any other losses. For victims of criminal acts, compensation offered by the state might serve as an additional line of defense in addition to reparation. Since the state is obligated by law to protect its citizens, indemnity is the state's way of paying for social services.

## 2. Counseling Services and Medical Services/Assistance

As a result of trafficking offenses, victims may receive both physical and psychological protection. Victims require support or counseling in order to help them regain their previous psychological state. Victims who have suffered because of a criminal conduct may be eligible for medical care. The medical services in consideration may include diagnosis, treatment, and written or graphic reports.

## 3. Legal Aid

The state must assist the victim in resolving her case if she chooses to take legal action. In this instance, the state is acting on behalf of the victim to bring the criminal act's perpetrator to justice. Non-governmental groups have a part in providing victims with legal aid.

## 4. Provision of Information

The community's expectation that information will enable community control over police performance means that the dissemination of this information contributes to efforts to engage the community as a partner with the police. (Didik M.Arief Mansur and Elisatri Gultom, 2002: 172)

According to the foregoing explanation of legal protection for victims, victims have special rights since they are not just witnesses to the crime but also subjects of the law with equal standing. As such, it is important to give careful consideration to their interests. Compassion and respect for the dignity of victims of human trafficking should be the foundation for providing victim attention in criminal proceedings.

### 3.2 Law Enforcement Victims of *Human Trafficking Crimes*

Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons requires law enforcement to regulate law enforcement against trafficking offenders, in accordance with the definition of trafficking protection stated above.

According to Muladi, law enforcement is an effort to enforce legal norms and at the same time the norms behind these norms (Muladi, 2002: 70). Thus, law enforcers must fully understand the legal spirit underlying the legal regulations that must be enforced, in this case it will be related to the various dynamics that occur in the process of making laws. Another aspect related to the process of making laws is the balance, harmony, and harmony between legal consciousness instilled from above by the ruler with spontaneous legal feelings from the people.

In the concept of law enforcement, Muladi developed agreements and affirmations of the following ideas: the understanding that law enforcement is basically an integral part of social policy which includes social welfare policy and social security policy. Criminal politics itself is a sub-system of law enforcement politics, and discretion in law enforcement is inevitable considering the limitations both in the quality of legislation, facilities and infrastructure, the quality of law enforcement and community participation. This discretion is a reflection of the recognition that the concepts of total law enforcement and full enforcement are impossible to implement, so actual law enforcement occurs. The wisdom that occurs is that this discretion becomes a source



of legal reform if recorded and monitored properly and systematically (Muladi, 2002: 46)

Law enforcement in Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons is summarized in Article 2 – Article 9. The provisions of Article 2 paragraphs (1) and (2) of Law Number 21 of 2007 determine as follows. (1). Anyone who, for the purpose of exploiting another person within the borders of the state of the Republic of Indonesia, recruits, transports, shelters, sends, transfers, or receives a person by threat, use of force, kidnapping, captivity, forgery, fraud, abuse of power or vulnerable position, debt bondage, or by giving payment or benefit despite obtaining the consent of the person in control of another person, shall be punished with a maximum imprisonment of 3 (three) years and a maximum of 15 (fifteen) years, as well as a fine of at least Rp. 120,000,000.00 (one hundred twenty million rupiah) and up to Rp. 600,000,000.00 (six hundred million rupiah) and (2) Should the action mentioned in paragraph (1) lead to an individual being exploited, the offender will be held accountable for the same offense mentioned in paragraph (1).

The provisions of Article 3 of Law Number 21 of 2007 determine as follows." Any person who enters a person into the territory of the Republic of Indonesia with the intention to be exploited in the territory of the Republic of Indonesia or exploited in the territory of another country shall be punished with a prison sentence of not less than 3 (three) and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah)".

The following is determined under Law Number 21 of 2007's Article 4 requirements."Any person who brings an Indonesian citizen outside the territory of the Republic of Indonesia with the intention to be exploited outside the territory of the Republic of Indonesia shall be punished with a prison sentence of not less than 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 120,000,000.00 (one hundred twenty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah)."

The following is determined under Law Number 21 of 2007's Article 5 requirements. "Any person who adopts a child by promising something or giving something with the intention to be exploited shall be punished with a prison sentence of not less than 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah)" .

The following is determined under Law Number 21 of 2007's Article 6 requirements."Any person who sends a child into or out of the country in any way that results in the child being exploited shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah)" .

The provisions of Article 7 paragraphs (1) and (2) of Law Number 21 of 2007 determine as follows.

- In case the victim of the criminal act mentioned in Article 2 paragraph (2), Article 3, Article 4, Article 5, and Article 6 experiences a severe mental illness, other infectious diseases that pose a threat to her life, pregnancy, or impaired or loss of reproductive function, the criminal threat in Article 2 paragraph (2), Article 3, Article 4, Article 5 and Article 6 will be increased by 1/3 (one-third).
- The maximum sentence for a crime covered by Article 2 paragraph (2), Article 3, Article 4, Article 5, and Article 6 is five years in prison, with a maximum penalty of life in prison, as well as a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and up to IDR 5,000,000,000.00 (five billion rupiah)."

The provisions of Article 8 paragraphs (1), (2), and (3) of Law Number 21 of 2007 determine as follows.

- The penalty plus 1/3 (one-third) of the criminal threats in Article 2, Article 3, Article 4, Article 5, and Article 6 shall be imposed upon any state administrator who misuses their authority in order to commit the human trafficking as mentioned in those articles.
- In addition to the criminal penalties mentioned in paragraph (1), offenders may also face additional punishments in the form of dishonorable dismissal from their positions.
- The court ruling must immediately incorporate any additional penalties mentioned in paragraph (2).

The provisions of Article 9 of Law Number 21 of 2007 determine as follows.

"Any person who attempts to mobilize others to commit a trafficking offense, and the crime does not occur, shall be punished with a short imprisonment of 1 (one) year and a maximum of 6 (six) years and a fine of at least IDR 40,000,000.00 (forty million rupiah) and a maximum of IDR 240,000,000.00 (two hundred forty million rupiah)".

In imposing criminal sanctions on trafficking offenses, it is necessary to consider the cause or background of the crime. Crime does not stand alone all at once but is related to other factors (Romli Atmasasmita, 1983: 30). Factors related to crime can be caused by emotional impulses from society, so society will give spontaneous and emotional reactions. The reaction of the community occurred because the occurrence of criminal acts has shaken the security, peace, and order of the community, victims of criminal crimes are members of the community, who should get protection, the amount of losses suffered by the community is not only material losses, but can be in the form of moral losses, namely reduced or lost public trust in the law and the authority of law enforcement officials.

These three things can be used as a basis for drafting laws and regulations, especially in determining the type and duration of criminal sanctions in the application of sanctions for criminal offenders. The application of criminal sanctions should reflect the feelings of the community in general, in accordance with the ability of funds and

resources owned by the community. Therefore, the application of criminal sanctions that are part of criminal law politics should pay attention to the balance that exists in society, namely:

The severity of the crime committed by the perpetrator of the crime, and the severity of the punishment sanction is adjusted to the crime committed.

Thus, law enforcement, especially trafficking in persons, must be carried out strictly because it is an act that is contrary to human dignity and violates human rights. The imposition of sanctions in laws and regulations is so complete and certain, and the sanctions applied are not penal sanctions, but also the application of non-penalty sanctions. The application of this sanction is intended so that public reaction to actions that are considered disturbing and disturbing can be resolved, cause a deterrent effect for perpetrators, and be feared and followed and repeated by other community members. So that law enforcement of trafficking in persons can run effectively.

## 4 Conclusions and Suggestion

### 4.1 Conclusion

Based on the discussion above, conclusions can be drawn:

- Law No. 21 of 2007 on the Eradication of Trafficking in Persons, which protects victims of human trafficking, establishes regulations for providing protection in the form of restitution for victims of trafficking, covering expenses for medical, psychological, and/or other losses, as well as compensation for suffering and loss of wealth or income. In addition to information sharing, victims can also receive restitution, medical care, legal support, and other sorts of protection. Law No. 21/2007 on the eradication of trafficking governs the legal protections for victims of trafficking, including the confidentiality of their identities.
- Enforcing the law to protect victims of human trafficking offenses is a crime against human dignity and a breach of their rights; sanctions may be both criminal and non-penalty.

### 4.2 Suggestion

- To the government, in this case, the court in enforcing the law against the Trafficking in Persons Act must give a fair verdict in order to provide a deterrent effect punishment against the perpetrators of the Trafficking in Persons Act.
- The public should be careful of the promises of persons in providing employment and increase vigilance to unknown and known persons so as not to cause trafficking crimes.

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