

# The Development of Trafficking as a Form of Human Rights Violations

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**Abstract**—Human Trafficking is a form of exploitation of human dignity. Therefore, the trafficking can be categorized as a serious crime, a human rights disorder that develops in the world. Indonesia is a country that is vulnerable to Human Trafficking, because besides being a country of origin it is also a transit country and destination country. The research objective is to find out and examine the development of the practice of criminal acts of human trafficking, as one of the forms of crimes against human. With the normative juridical approach, the analytical descriptive nature based on secondary data is carried out in a qualitative analysis from the general to the special. Modus operandi Human Trafficking is carried out starting from the conventional recruitment victims of sending domestic and foreign workers, illegal adoption, infant abduction, non-commercial sexual exploitation of children, and sexual violence. Efforts must be made by the government, in addition to facilitate cooperation with various countries, law enforcement is firm and just by paying attention to the root causes, both legal, social aspects and culture.

**Keywords**—people trading; human rights violations

## I. INTRODUCTION

Crime of trafficking in persons as one form of extraordinary crime that is a threat to humanity, not only a national threat but also a threat globally. Trafficking is a crime that can have very broad consequences, because it not only damages moral values, but also undermines human dignity.

Although efforts have been made by individual countries, including international institutions such as the United Nations (UN), the forms of trafficking show increasingly alarming developments. That is because it can provide enormous benefits. Trafficking is the third largest criminal company in the world that generates around US \$ 9.5 million in annual taxes. In addition, it is one of the crimes that are highly related to money laundering, drug trafficking, document falsification and people smuggling. The ILO assessed that the profits derived from trafficked women, men and children were estimated at US \$ 32 billion annually [1].

Based on data from the United Nations Office on Drugs and Crime (UNODC), trafficking victims were identified from 152 different countries and occurred in 124 countries in the world. In addition to women and children, there was also an increase in casualties against. All victims become objects of

crime with various variations ranging from sexual exploitation, slavery to forced organ harvesting. Specifically for slavery, it is segmented in the fields of manufacturing, construction, textile production, shipping, and in the field of fisheries.

Some of 21 million victims the approximately trapped in the trafficking, 56 percent was found in the Asia Pacific region. Where countries in Southeast Asia and South Asia, supply suppliers who are traded throughout the world. Of that percentage, around 83% of victims were men who later became slaves.

Indonesia is a country that is vulnerable of trafficking, because in addition to being the source or country of origin of trafficking. Indonesia is also a transit and destination country. As a supply country, based on estimates from 3 to 4 million workers scattered in various countries, around 2% are victims of trafficking [2].

The problem is how is the development of the crime technique of trafficking in Indonesia as a form of criminal human rights?

## II. RESEARCH PURPOSE

Trafficking as a form of "modern slavery" is a global problem of violations of human rights. Women and children are vulnerable to becoming victims of trafficking in persons. From 2012 to 2015, there were 861 cases of trafficking in persons; more than 70% of them were women and children. Indonesia is one of the main countries of origin, but also as a destination, as well as a transit for trafficking victims to become forced workers and victims of the sex trade.

## III. METHODS

This research is juridical normative with an analytical descriptive approach. The type of data used is secondary data in the form of literature, journals, research results and other news material. Data collection techniques using library techniques, then carried out qualitative analysis in the form of exposures and views.

#### IV. RESULT AND DISCUSSION

##### A. *Trafficking and Human Right*

In general, human rights are defined as the inherent rights of human nature since human beings were born and without those rights, humans cannot have dignity and can live naturally as human beings. This right is inherent in the individual so that it cannot be revoked or violated and must receive protection and guarantee from the State.

In the historical record, the issue of human rights can be traced from the start of Magna Charta in 1215 through the 16th century Reformation in Europe, to France with the Declaration of the Right of Man and Citizen in 1789, and then to America with the Bill of Right of the year 1791. Therefore, the issue of human rights is seen as a western conception. The issue of human rights actually has a cultural background (intercultural); this fact can be seen in Islamic thinking about the rights of the social, economic and cultural fields that have preceded Western thought.

Weeramantry said it, that: "... Islamic teaching arrived at the core of the doctrines of human rights that are in effect and that hold their power and trust as long as they trust that these. The principle is central to Islamic political theory. Eighty years ago, the Locke gave them their fist from the West" [3].

Formally, the problem of human rights in Indonesia has already been recognized and included in the 1945 Constitution rather than the document of The Universal Declaration of Human Rights that was received by the UN session in 1948. However, it is natural that the state of Indonesia as a member state of the United Nations, sees the Universal Declaration of Human Rights not merely as a "statement of objectivity", but as part of the pledges of member states to realize the goals of the United Nations, as stated in the Charter.

In the concept of human rights, not everyone can be an object that can cause adverse legal consequences. Including being an object of trade as appropriate goods / objects or something that is used as a legal object. Therefore, the act of criminal trafficking in persons is an act that is classified as a serious crime, which can be categorized as an extraordinary crime.

The United Nations International Institute has issued various legal instruments on the prevention of human trafficking; especially trade in women and children.

- Prostitution Convention for the Suppression of Traffic to Person and of the others.
- United Nations Convention on Slavery in 1926.
- The UN Convention on Trade in Slavery in 1956, in addition to the Slavery Convention of 1926.
- UN Convention on Transnational Organized Crime with "Protocol against Smuggling of Migrants by Land, Sea and Air" in 2000.

The Palermo Italian protocol, which is a Supplement to the UN Convention, Article 3 point a states that: Human Trafficking shall mean the recruitment, transportation, transfer,

harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of the abuse of power or of a position of vulnerability or of giving people control over another person for the purpose of exploitation [4].

Forms of exploitation of trafficking in persons:

- Prostitution;
- Narcotics dealers and drugs;
- Work not according to the job promised;
- Work indefinitely;
- Salaries are never paid;
- Baby smuggling;
- Illegal adoption;
- Sale of babies or children;
- Students are used as fishing boat crews;
- Organ transplants

In connection with increasing the qualification of criminal trafficking in persons as extraordinary crimes, the element of human exploitation as an act of exploiting women is an act that damages or violates human rights.

In the view of Islam, the glory of man that God gives is by the specialization of some favors that are not given to other beings. With pleasure, humans get their duty as perfect beings on this earth. This implies that a person must not be demeaned by means of being equated with merchandise, such as animals or others that can be sold. Making human beings as objects of transaction is the same as making a mistake and damage in the rules that have been set.

##### B. *Development of Criminal Trafficking Mode*

The crime of trafficking in persons as a form of "modern century slavery" is a global problem of violations of human rights. The formulation of articles 28 I Indonesia Constitution "the right not to be enslaved". To realize the protection of these rights, the Indonesian government considers it necessary to make separate arrangements regarding the crime of trafficking in persons by issuing Law Number 21 of 2017 concerning the Elimination of Crimes in Trafficking in Persons.

Trafficking is not a new form of crime, because in the history of the Indonesian people trafficking has occurred through slavery or servitude. During the kingdom, trafficking in women was a complementary part of the feudal system of government. Trafficking in people is more organized and developed rapidly during the Dutch colonial period. This can be seen from the existence of traditional slavery and the tradition of having a "concubine" to meet the needs of the European community.

Along with the development of time, with a form that change in line with the economic, social and political development of the concept of trafficking has changed. Then, during the period of independence of trafficking in persons is

declared a crime. The Indonesian government criminalizes trafficking in persons, among others as stipulated in Article 297 of the Criminal Code. In this article, explicitly trafficking in persons is stated as "the act of acting on women and acting out men who are not yet mature, with the threat of imprisonment for a maximum of 6 (six) years".

In the current development, traffickers have involved various parties. Of those who become perpetrators, victims are handed over to certain individuals to be used as objects of further trade. In relation to trafficking in persons across borders, parties who falsify documents or those who help to send abroad using fake documents include traffickers.

Based on data from the Ministry of Women's Empowerment and Child Protection, the criteria for traffickers include:

- Pimps or Pimples;
- The closest person like parents, relatives, friends, acquaintances;
- Employees or company owners;
- Public officials;
- Teacher's personality;
- Trafficking in persons [5].

Women and children are vulnerable to becoming victims of trafficking. Based on the Global Report on Trafficking in Person in the Asia Pacific issued by the United Nations in 2014, it was noted that 36% of victims of trafficking in persons were children, of which the remaining 64 percent were adults. When viewed from the type of trafficking, 26% of victims are sexually exploited, 64% are forcibly employed, and 10% of other elements such as renting babies and children to beg, and so forth [6].

Based on data recorded in the Indonesian police, in the period of 2012 to 2015, there were 861 cases of trafficking, and more than 70% of victims were women and children [7]. As well as on the annual trafficking in persons report for 2016, Indonesia is one of the main countries of origin, at a certain level, and purpose, as well as transit for Indonesian men, women and children to become forced laborers and victims of sex trafficking. Every province in Indonesia is an area of origin and a destination for trafficking. It is estimated that around 1.9 million of the 4.5 million Indonesians who work abroad, most of them are women who do not have documents or have exceeded the residence permit limit.

The number of Indonesian migrant workers trapped in forced labor situations, including debt bondage, both in Asia, the Middle East and on fishing vessels, is quite significant. Indonesian citizens who are victims have also been identified in other countries in Asia and in the Middle East including South Korea, also in the Pacific Islands, Africa, Europe (including the Netherlands and Turkey), and South America [8].

What always happens is the object of trafficking, those who belong to groups that have certain characteristics, such as:

- The poor;
- Because of the consumptive/hedonic lifestyle;
- Lack of employment;
- Low education and dropping out of school so that they do not have the skills;
- People who dream of high salaries by working outside the region / country without being provided with sufficient information;
- Victims of Domestic Violence
- People who lose family members;
- Victims of conflicts;
- Disaster victims;
- Unemployment;
- Street children;
- Divorced widows due to early marriage.

Such conditions provide an opportunity for the perpetrator to obtain substantial benefits with a much smaller risk compared to Narcotics crime. Thus, the crime of trafficking in persons is increasingly developing with a variety of modus operandi.

Potential victims are those who want to go from their place of origin and look for opportunities to work in other regions or countries. With a very lucrative salary offer, although perhaps among them realize that what they do is taken in illegal ways, they also have to be willing to work with intimidation and torture both physical and psychological, sexual assault, including the prohibition to practice worship in accordance with their religion.

The sending of Indonesian Workers to the Middle East and Saudi Arabia, the modus operandi of Trafficking is also carried out by falsifying documents. Document falsification in the form of identity transfer placement to the conflict country in the Middle East, transfer of work type from cleaning service/hospital to household manager, as well as giving permanent residence visa. They are victims of trafficking not only solely for the purpose of exploitation of forced labor, slavery or slavery-like practices, but also for the purpose of exploitation of prostitution [9].

Trafficking is allegedly veiled in sending female workers illegally to the Middle East with the mode of carrying out Umrah worship. Indonesian labor are potential victims, they want to leave their place of origin and look for opportunities to work in other places to improve their economic conditions and living standards [10].

The new mode, which is the international conversation. This mode is based on the Global Supply Chain system, which is often applied by private companies that have many branches in other countries. Trafficking is allegedly veiled in sending female workers illegally to the Middle East with the mode of carrying out Umrah worship. Women labor are potential victims, they want to leave their place of origin and look for

opportunities to work in other places to improve their economic conditions and living standards.

The model of trafficking is allegedly carried out by sending ambassadors of art and culture. There was also the model of sending delivery scholarships or work practices abroad. Upon arrival, many of these women were forced to work in the sex industry or in jobs with slave-like conditions.

Mail bride orders, trading people in a mode as if there were a marriage with a foreign man who was looking for a partner. Intentional marriage between foreign men by buying local women who want to get out of the trap of economic hardship.

There are two methods developed in viewing marriage as a fraud, firstly Women are channeled into the world of the sex industry or prostitution or are also exploited to work for a living, while the ordering or the husband lives spree. Second, if the marriage is commercialized, which is usually done through the matchmaking process.

Preventive efforts are carried out by establishing the Trafficking Prevention and Handling Task Force initiated by the Ministry of Women's Empowerment and Child Protection.

Collaboration with countries in the ASEAN region continues to be carried out, making agreements to reject acts of trafficking and to prevent and jointly deal with the crime of Trafficking.

The government has imposed criminal sanctions on 199 traffickers, and sentenced eight traffickers to cases of forced labor on fishing boats.

#### V. CONCLUSION

Trafficking is a form of exploitation of humans, causing psychological, mental, physical, sexual, economic and social suffering.

In Indonesia, in addition to economic, social and cultural conditions, such as poverty, low education, unemployment, conflict, natural disasters, traditions and the influence of social development because of development, is a conducive factor in the occurrence of trafficking crime.

The mode carried out starts sending illegal labor, kidnapping children, illegal adoption, and document forgery. Mode of order bride, sending ambassadors of art and culture, scholarships abroad, including sending illegal migrants with the international business network, which originates from the global supply chain system.

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