

Criminal Law Policy in Addressing Transnational Crimes Against Cases of Human Trafficking

Jesslyn Elisandra Harefa1*), Suci Ramadani2), Muhammad Arif Sahlepi

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Abstract

Human trafficking is a form of transnational crime that has a broad impact on security, public order, and human rights. This crime involves cross-border networks with increasingly complex modus operandi, necessitating comprehensive and adaptive criminal law policies. This study aims to analyse criminal law policies addressing human trafficking in Indonesia, with an emphasis on prevention, prosecution, and victim protection. The method used is normative legal research with legislative, conceptual, and comparative approaches. The analysis shows that combating human trafficking requires synergy between national regulations, international cooperation, increased capacity of law enforcement officials, and effective victim protection mechanisms. Furthermore, integrating criminal law policies with social, economic, and employment policies is crucial to addressing the root causes of this crime. This study concludes that the success of criminal law policies in addressing human trafficking is largely determined by consistent implementation, official commitment, and public participation.

Keyword: Criminal, Crime, Transnational, Human Trafficking.

Introduction

Human trafficking is a form of organised transnational crime that has become a global concern. This crime involves the systematic exploitation of human beings, ranging from sexual exploitation, forced labour, organ trafficking, to modern slavery, all of which violate human rights principles. As a form of cross-border crime, human trafficking is often carried out through illegal channels and takes advantage of weak border controls and legal loopholes in various countries. Indonesia, as a source, transit and destination country, is a highly vulnerable area in this chain of crime. According to a report by the United Nations Migration Agency (IOM Indonesia, 2022), Indonesia ranks high in terms of human trafficking cases, especially against women and children. This phenomenon cannot be separated from economic inequality, lack of education, and poor legal literacy among the public, which then become the main loopholes exploited by perpetrators of this crime.

Criminal law policy, as part of the state's response to human trafficking, plays a central role in combating this crime. With the enactment of Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons, Indonesia is attempting to establish a legal system that is more accommodating and responsive to this crime. However, in its implementation, criminal law policy in Indonesia has not been able to optimally address the transnational dimension of these crimes. Many cases remain unsolved, perpetrators remain at large, and victims do not receive adequate recovery. Research by

Wicaksono (2023) shows that of the 1,026 cases of human trafficking reported between 2021 and 2023, only 38% made it to trial. This indicates a serious gap between existing legal norms and the reality of implementation in the field.

One of the crucial problems in combating human trafficking in Indonesia is the lack of coordination between agencies, both at the national and international levels. This crime cannot be handled by one institution independently, given its transnational nature and the involvement of many actors. Data from the National Commission on Violence Against Women (Komnas Perempuan, 2022) shows that in 65% of reported cases, law enforcement agencies did not have sufficient data to conduct cross-border tracking of perpetrator networks. This is exacerbated by weak technical international cooperation, such as intelligence data exchange, extradition agreements, mutual legal assistance (MLA), and jurisdictional sharing agreements. According to Sari (2021), the absence of bilateral agreements between Indonesia and several migrant worker destination countries has also contributed to the obstruction of legal proceedings against the main perpetrators of human trafficking, especially those operating in Southeast Asia and the Middle East.

Another aspect that exacerbates the handling of human trafficking is the weak protection of victims, both during and after legal proceedings. Many victims are criminalised, returned without psychosocial rehabilitation, or not even treated as official victims due to difficulties in proving exploitation. A report from the Embun Pelangi Foundation (2024) shows that only 27% of human trafficking victims in Indonesia receive comprehensive protection services, such as counselling, legal assistance, and social reintegration support. This problem becomes even more complicated when the victims are children or women who do not have valid identity documents, making it difficult for them to obtain justice. According to Arifin (2023), this situation reinforces the view that Indonesia's criminal law policies still focus more on punishing perpetrators than on providing comprehensive protection for victims.

Universitas Pembangunan Panca Budi

*) Corresponding author

Jesslyn Elisandra Harefa

Email: jesslynharefa19@gmail.com

Indonesia's geographical conditions, consisting of thousands of islands and a long coastline, contribute to the vulnerability of human trafficking. Remote areas such as East Nusa Tenggara, North Kalimantan, and the Riau Islands are often used as locations for recruiting, sheltering, or transporting victims. A study by Nurjanah (2022) reveals that human trafficking networks in these regions are highly systematic, involving local and international syndicates, with the involvement of officials or authorities. The lack of supervision and weak law enforcement in border areas increase the likelihood of this crime occurring. Therefore, criminal law policies must not only be national in nature, but also consider regional approaches and local wisdom in responding to evolving crime patterns and modes.

Faced with this reality, there needs to be a serious transformation in Indonesia's criminal law policy on human trafficking, particularly in harmonising national law with the dynamics of global crime. Strengthening substantive law must be balanced with institutional reform and inter-country coordination. A study by Lestari (2021) emphasises the importance of establishing an integrated cross-agency monitoring system and optimising the functions of international agencies such as Interpol, ASEANAPOL, and UNODC in dealing with this crime. In addition, fair and victim-sensitive law enforcement needs to be strengthened through continuous training for officials and increased budgets and infrastructure for victim assistance. With a comprehensive approach, it is hoped that Indonesia can become a country that is resilient in facing and eradicating the growing crime of human trafficking in this era of globalisation.

Based on the description of the background of the problem, this study is titled "Criminal Law Policy in Dealing with Transnational Crimes in Cases of Human Trafficking".

Method

The research method is the nature, specific characteristics, or uniqueness of a study that distinguishes it from other studies and describes the focus and approach used in the study. The research method used in writing this paper is the normative juridical method, which is an approach based on applicable legal norms, both national and international law. This study focuses on the study of legal documents, such as legislation, international conventions, and literature reviews relevant to criminal law policy and human trafficking offences. This study aims to understand and analyse the implementation of criminal law policy on transnational crimes, particularly in cases of human trafficking offences in Indonesia.

Results and Discussion

Legal Provisions on Transnational Criminal Offences in Human Trafficking Cases.

Legal regulations concerning transnational crimes in human trafficking cases are part of global and national efforts to protect human dignity from exploitative practices that dehumanise people. Human trafficking is a modern form of slavery, in which individuals are traded for the purposes of sexual exploitation, forced labour, organ trafficking, or other forms of exploitation. This crime is transnational in nature, organised, and often involves international criminal syndicates. In this context, human trafficking is categorised as a transnational crime because its perpetration involves multiple jurisdictions, in terms of the perpetrators, victims, and the location of the crime. Internationally, the regulation of human trafficking crimes is governed by the 2000 *United Nations Convention against Transnational Organised Crime* (UNTOC), known as the Palermo Convention. This convention is supplemented by an Additional Protocol, namely *the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. Indonesia has ratified this convention through Law No. 5 of 2009. In the Palermo Protocol, participating countries are required to criminalise human trafficking in national law,

strengthen international cooperation in law enforcement, and provide protection and recovery to victims.

Indonesia has specific legislation governing the eradication of human trafficking, namely Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons (PTPPO Law). This law defines human trafficking as the recruitment, transportation, harbouring, transfer, or receipt of a person by means of threats, violence, fraud, abuse of power or a position of vulnerability, for the purpose of exploitation. Exploitation includes, among other things, sexual exploitation, forced labour, slavery, and organ removal.

In addition to the PTPPO Law, other provisions closely related to the eradication of human trafficking include the Criminal Code (KUHP), specifically Article 297, which regulates the trafficking of women and boys, and Article 324, which regulates crimes against a person's freedom. In addition, the Child Protection Law (Law No. 35 of 2014 in conjunction with Law No. 23 of 2002) also strengthens the protection of children as a vulnerable group in cases of human trafficking. Protection for migrant workers who are vulnerable to becoming victims of human trafficking is regulated in Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers, while the aspect of money laundering from human trafficking crimes is regulated through Law No. 8 of 2010.

Institutionally, efforts to combat human trafficking are also supported by the establishment of the Task Force for the Prevention and Handling of Human Trafficking Crimes, as regulated in Presidential Regulation No. 69 of 2008. This Task Force serves as a forum for cross-sector coordination in the comprehensive handling of human trafficking cases, involving law enforcement officials, state institutions, and civil society organisations. A multidisciplinary and multisectoral approach is essential in combating this crime, given the complexity of the perpetrators' networks and modus operandi. Although Indonesia has a fairly strong legal foundation, the challenges in enforcing the law against human trafficking are still enormous. Some of the main obstacles include weak cross-sector and cross-border coordination, limited capacity of law enforcement agencies, suboptimal protection and recovery for victims, and obstacles in the process of proving exploitation. Many victims are reluctant to report due to trauma, pressure, or ignorance of their rights, so the success of enforcement is highly dependent on a victim-centred approach.⁽¹⁷⁾ In the context of transnational crime, international cooperation is key. Through *extradition* and *mutual legal assistance* mechanisms, countries can work together to arrest transnational perpetrators, freeze criminal assets, and crack down on syndicates more effectively. Therefore, efforts to combat human trafficking must be carried out in an integrated manner, in terms of substantive and procedural law, institutions, and international cooperation.

Criminal Law Policy in Addressing Transnational Criminal Offences in Human Trafficking Cases.

Criminal law policy in dealing with transnational crimes involving human trafficking is a comprehensive and structured strategy to address this complex and cross-border crime. Human trafficking not only reflects violations of criminal law in general, but also constitutes a serious violation of human rights. Therefore, the criminal law policy approach to this crime is not sufficient in repressive (enforcement) form alone, but must also include preventive (prevention), protective (victim protection), and rehabilitative policies for victims.

Indonesia's national criminal law policy has shown significant progress with the enactment of Law No. 21 of 2007 on the Eradication of Human Trafficking. This law is a concrete manifestation of the national criminal law policy in response to this transnational crime. It provides a clear definition of human trafficking, broadens the scope of criminal offences, and regulates in detail the role of the state in the protection, recovery and social reintegration of victims.⁽¹⁹⁾ In addition, this law places victim protection at the centre of the law enforcement process, as reflected in provisions on restitution,

compensation and legal aid. In criminal law policy theory, the approach used must combine three important aspects, namely criminalisation, law enforcement, and punishment. First, the aspect of criminalisation is demonstrated by the expansion of the scope of acts categorised as criminal acts of human trafficking, including acts carried out in the form of recruitment, transportation, harbouring, transfer, and exploitation. Second, the aspect of law enforcement is evident through the strengthening of the authority of law enforcement institutions, such as the police, the prosecutor's office, and the courts, to prosecute perpetrators of this transnational crime. Third, in terms of punishment, the law provides for severe sanctions, including imprisonment and large fines, as well as harsher penalties for perpetrators who involve children or operate within organised networks.

In addition to national legal instruments, Indonesia's criminal law policy also adopts international legal instruments. The ratification of the *United Nations Convention against Transnational Organised Crime* (UNTOC) and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* through Law No. 5 of 2009 shows that Indonesia's national criminal law policy is in line with the global commitment to eradicating human trafficking. With this ratification, Indonesia is obliged to harmonise its national laws with international standards and to actively engage in international cooperation such as extradition, *mutual legal assistance*, and the exchange of information between countries.

The implementation of criminal law policies against these crimes still faces various obstacles. Some of these include weak coordination between agencies, limited human resources in law enforcement, and a suboptimal victim protection system.⁽²¹⁾ Therefore, criminal law policy must continue to be updated through an integrative approach, which is not only based on positive law, but also considers the social, cultural and economic aspects that underlie human trafficking. This approach is in line with Marc Ancel's thinking in his theory of *social defence*, which states that criminal law policy must create social protection through adaptive and humane laws.⁽²²⁾ Thus, criminal law policy in dealing with the transnational crime of human trafficking is part of a national and global strategy that must be implemented simultaneously. The formulation and implementation of criminal policy must be comprehensive, ranging from preventive measures, eradication of syndicates, strict law enforcement, to comprehensive protection of victims' rights. Only with such an integrated policy can the state effectively combat human trafficking, which continues to evolve in various forms and with increasingly complex *modus operandi*.

The Role of Law Enforcement in Addressing Transnational Criminal Offences in Human Trafficking Cases.

The role of law enforcement in dealing with transnational crimes involving human trafficking is of great significance in ensuring effective law enforcement and protection for victims. Human trafficking as a form of transnational crime often involves organised cross-border networks, using complex *modus operandi*, and making detection and prosecution difficult. In this context, law enforcement agencies, including the police, prosecutors and courts, play a key role not only in repressive aspects, but also in prevention, protection and restoration of victims' rights. The police, as the front line, have a responsibility to identify, investigate and uncover human trafficking networks. In carrying out their duties, law enforcement agencies are required to have the capacity to understand the specific characteristics of this crime, including how syndicates operate across borders and how they exploit legal and social loopholes. Technical capacities such as special training on human trafficking, the ability to coordinate internationally, and sensitivity to the rights of victims are essential to ensure that the investigation and prosecution process does not add to the burden on victims.

Meanwhile, the prosecutor's office plays a role in ensuring that legal proceedings against perpetrators are conducted fairly and proportionally. Prosecutors must be able to prepare indictments appropriately based on evidence and the applicable legal framework, including the provisions of Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons. The prosecutor's duties are not only to prosecute perpetrators, but also to protect the interests of victims, including their rights to restitution and compensation, as well as ensuring the protection of witnesses and victims during the trial process. On the other hand, the role of judges is crucial in delivering verdicts that reflect not only formal justice but also substantive justice. Judges must consider the specific context of human trafficking as a crime against humanity and organised crime, and ensure that the sanctions imposed have a deterrent effect on both individual perpetrators and networks.

broader criminal justice system. In addition, judges must also provide opportunities for victims to recover through sentencing considerations that include elements of restitution and rehabilitation. The role of support institutions such as the Witness and Victim Protection Agency (LPSK), which is responsible for providing security guarantees for victims and witnesses, including in social, legal and physical terms. In many cases, victims of human trafficking experience severe trauma that makes them reluctant to report or testify. Therefore, the role of law enforcement must be supported by a *victim-centred* approach that prioritises the needs and protection of victims.

Law enforcement agencies are also required to actively participate in international cooperation. This includes involvement in *mutual legal assistance* mechanisms, intelligence sharing, cross-border surveillance, and cooperation in the extradition of perpetrators who have fled to other countries. In this context, Interpol and foreign law enforcement agencies are very important strategic partners. Indonesia's participation in the *United Nations Convention against Transnational Organised Crime* and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons* provides a legal basis and international legitimacy for law enforcement agencies to establish global coordination. However, the implementation of the ideal role of law enforcement often still faces challenges in the field, ranging from budget constraints, human resource capacity, to a lack of inter-agency coordination. Therefore, strengthening institutional capacity and developing an integrated law enforcement system are urgent needs in addressing human trafficking as a transnational crime. Law enforcement officials are not only required to be professional and fair, but also responsive to the social, economic, and psychological complexities surrounding this crime.

Conclusion

Criminal law policies in dealing with transnational crimes, particularly human trafficking, are important instruments for protecting human dignity and sovereignty from the threat of cross-border crime. Human trafficking not only has physical and psychological impacts on victims, but also has complex social, economic and legal implications. Therefore, comprehensive and adaptive criminal law policies are needed, which integrate preventive, repressive and rehabilitative aspects for victims.

This policy approach must strengthen national legal instruments through harmonisation with international conventions, such as the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Palermo Protocol), and ensure consistent implementation in the field. Effective law enforcement requires synergy between law enforcement agencies, government institutions and international cooperation, given the transnational nature of this crime.

Criminal law policies must prioritise the protection of victims, including the provision of legal aid, rehabilitation, social reintegration, and restoration of their rights. Without a focus on humanitarian aspects, law enforcement risks becoming a mere formality that does not address the root of the problem. Thus, the success of criminal law policies in tackling human

trafficking is largely determined by regulatory consistency, commitment to law enforcement, and broad public support and awareness.

Recommendations

The government needs to harmonise and update regulations related to human trafficking to keep pace with developments in transnational crime modus operandi, while also aligning with international legal standards, including clarifying law enforcement mechanisms and victim protection in implementing regulations. Intensive and ongoing training is required for police officers, prosecutors and judges on investigation techniques, evidence gathering, *digital forensics* and the handling of victims of human trafficking, particularly those involving transnational networks.

Given the cross-border nature of human trafficking, bilateral, regional and multilateral cooperation must be strengthened, both in terms of intelligence sharing, extradition of perpetrators, joint border patrols, and protection of victims in destination countries. Awareness of the dangers of human trafficking must be raised through public campaigns, education in schools, mass media, social media, and the involvement of community leaders, to prevent potential victims from falling prey to the persuasion or deception of perpetrators.

Criminal law policies must be integrated with social, economic and labour policies so that combating human trafficking does not rely solely on law enforcement, but also targets the root causes such as poverty, unemployment and social inequality. An integrated monitoring system is needed to monitor the implementation of criminal law policies on human trafficking, including evaluation.

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