

# INTERNATIONAL LAW AND HUMAN TRAFFICKING: PREVENTION AND CONTROL IN INDONESIA

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## ABSTRACT

*Human trafficking has now become an organized transnational crime. Human Trafficking is a very heinous form of cruelty, this is because Human Trafficking in its implementation greatly violates human rights (HAM). Human trafficking generally occurs in vulnerable groups and is a form of action that violates the provisions of international law. This research aims to analyze the role of international law in preventing and dealing with criminal acts of human trafficking. This research is normative legal research using a statutory approach and a case approach. Sources of legal materials are primary legal materials, secondary legal materials and tertiary legal materials. The research results show that even though Indonesia has adopted the Palermo Protocol and ratified related conventions, the implementation of laws, such as Law Number 21 of 2007, still faces significant challenges. Weaknesses mainly lie in the lack of coordination between institutions, which hinders effective handling of human traffickers. This phenomenon results in the implementation of laws that are not yet fully effective in fighting these crimes. Therefore, increasing inter-institutional coordination, in-depth evaluation of the implementation of laws, and active involvement of civil society are crucial to strengthening preventive and law enforcement measures, as well as protecting human rights, especially for women and children victims who are vulnerable to becoming victims. target of human trafficking.*

**Keywords:** *International Law, Human Trafficking, Palermo Convention, Organized Crime, Women and Children.*

## A. INTRODUCTION

Human trafficking, or trafficking in persons, is a serious crime that involves various stages such as recruiting, transporting, harboring, sending, transferring or receiving someone (Abdullah, 2017). This action can be carried out by threats of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or a vulnerable position, debt bondage, giving payments, or providing other benefits. This crime can occur within a country or involve crossing national borders. The aim of this activity is to exploit or cause victims to experience exploitation (Toule, 2020).

The process of human trafficking often begins with acts of recruitment or transportation carried out through violence or manipulation of vulnerable victims. Furthermore, the victim can be taken to a shelter or destination location using various methods, including by exploiting the victim's weakness or dependency (Akbar, 2012). Factors such as confinement, forgery, debt bondage, or fraud are often used as a means of control over victims, so that they are forced to submit to traffickers. The ultimate goal of this crime is to result in exploitation of the victim, which can include sexual exploitation, employment exploitation, or other forms of exploitation (Fadilla, 2016).

Human trafficking does not only occur across national borders, but can also take root within the country, involving a network of perpetrators, brokers and dealers who are closely connected to authorities in the victim's village or area of origin (Puanandini, 2020). These perpetrators often have close ties to local environment, using various methods to carry out human trafficking practices, which ultimately harm victims for financial gain or other rewards. In some cases, the perpetrator can play a direct or indirect role with employment agents or Indonesian Employment Service Providers (PJTKI) (Daniah & Apriani, 2018).

The human trafficking process begins with a fake offer to the victim, originating from their place of origin. Brokers or dealers often take advantage of victims' economic limitations and

information to expedite their actions (Sitania & Suponyono, 2020). In this context, PJTKI members who should be responsible for labor recruitment are instead involved in fraudulent practices. They go to the victim's place of origin, promising a good job abroad in exchange for a decent salary. However, in reality, victims become targets of exploitation, trapped in conditions that do not correspond to promises, and often experience extortion and human rights violations in various forms (Mirsael & Manehutu, 2017).

Trafficking in persons, especially which affects the majority of women and children, is a phenomenon of modern slavery that exposes Indonesia to the impact of a multi-dimensional crisis (Sari et al, 2021). This condition is not only an internal problem, but also creates serious global impacts, creating international business patterns that generate large profits for criminals. Recent news confirms that human trafficking is not just a local issue, but has developed into a global problem that requires a serious response from the international community (Sibue, 2018).

The practice of human trafficking is becoming increasingly worrying over time, both in terms of quality and quantity. It is estimated that every year around 2 million people are trafficked, with the majority of victims being women and children (Windari, 2019). They are trapped in a cycle of modern slavery, subjected to sexual exploitation, forced labor or other forms of exploitation. This phenomenon creates serious challenges for the Indonesian government in protecting its citizens, combating human trafficking, and building a more effective system in preventing and dealing with this practice (Fitri et al, 2016).

Human trafficking, as an organized transnational crime by the international community, is considered a serious threat to national and international sovereignty, security and stability (Gagola, 2018). This crime not only damages social structures and humanity, but also creates injustice in society. Facing the complexity and cross-border nature of human trafficking, a legal framework is needed that is able to provide a strong basis for overcoming and punishing perpetrators of this crime. The United Nations (UN) plays an important role in drafting an international legal instrument that covers the transnational aspects of human trafficking (Thontowi, 2019).

In an effort to tackle human trafficking, the UN through the United Nations Convention Against Transnational Organized Crime (UNCATOC) or known as the Palermo Convention of 2000, established a comprehensive legal basis. The Palermo Convention recognizes the urgency of international cooperation in preventing, investigating and eradicating human trafficking (Leonardi, 2014). Through UNCATOC, UN member states are committed to adopting effective legal measures, including law enforcement, extradition and international cooperation, to confront the threat of trafficking in persons. The existence of this legal instrument reflects global efforts to suppress criminal practices that damage human dignity and harm social order and international security (Utami, 2016).

The Palermo Convention of 2000 gave rise to three Protocols which became international legal tools to deal with human trafficking and transnational organized crime. First, the Protocol Against the Smuggling of Persons Moving by land, air and sea, complements the United Nations Convention on Transnational Organized Crime. This protocol addresses the crime of migrant smuggling by focusing on means of transportation, namely land, air and sea (Setiadin et al, 2016). Second, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, complements the Convention by establishing specific protection and law enforcement standards against human trafficking. This protocol underlines the need for prevention, protection of victims, and international cooperation in overcoming human trafficking (Periani, 2021).

Finally, the Protocol against the Illicit Manufacturing and Trafficking in Firearms, and Arms Components and Ammunition, complements the Convention by addressing the trade in firearms and their components. This protocol refers to law enforcement efforts to stop the circulation of illegal weapons which can have a serious impact on international security (Waworuntu, 2022). With the existence of these three Protocols, the Palermo Convention provides a comprehensive legal framework to assist UN member states in efforts to prevent, overcome and punish perpetrators of transnational crimes that harm humanity and international order (Salsa, 2021).

In Indonesia itself, protection against criminal acts of human trafficking has been implemented, as demonstrated by the finalization of Law no. 21 of 2007 concerning Eradication of the Crime of Human Trafficking (Saputra et al, 2022). In this way, the threat of punishment for perpetrators of human trafficking no longer uses the Criminal Code (KUHP), which is considered by some groups to not provide protection because the legal threat is still too light, but can now use Law no. 21 of 2007 which threatens punishment for trafficking perpetrators is very severe. This law is a powerful weapon in efforts to prosecute and punish perpetrators of human trafficking and is expected to lead them to prison sentences and heavy fines (Sahetapy et al, 2022).

Despite these laws and regulations, Indonesia still has problems in eradicating the crime of trafficking in women. Law enforcement efforts which are increasing day by day do not guarantee solving the problem in eradicating human trafficking. It can also be seen that there is still little political will and law enforcement to provide more legal protection to citizens from the dangers of human trafficking. Because of the above, the author raised this as material for legal writing with the title: The Role of International Law in Preventing and Overcoming the Crime of Human Trafficking.

## **B. METHOD**

In this research, researchers apply a type of normative legal research, which involves analysis of library materials or secondary data from various sources such as research, journals, books and mass media news both in print and electronic form. The focus of this research is centered on human trafficking practices and related aspects of international law (Soekanto, 2007). By using normative research methods, the approach taken is to examine legal norms and statutory regulations relating to the crime of human trafficking. This normative research focuses on the analysis of legal documents and literature covering international legal provisions governing human trafficking. The library materials used involve an in-depth understanding of relevant legal aspects and applicable norms (Yulianah, 2022), including the latest developments in the domain of international law related to human trafficking. With this approach, researchers aim to gain a comprehensive understanding of the role of international law in preventing and dealing with criminal acts of human trafficking.


## **C. RESULTS AND DISCUSSION**

### **Regulation of the Crime of Human Trafficking according to International Law**

The Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, Especially Women and Children, better known as the UN TIP Protocol, is an integral part of the United Nations (UN) efforts to tackle transnational organized crime. This Protocol, one of the three Palermo protocols, together with the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol against the Illegal Manufacture and Trade of Firearms, creates a legal framework that leads to tackling various forms of crime across national borders (Ayu & Putri, 2018).

The adoption of the UN Protocol on Human Trafficking by the UN General Assembly in 2000 marked a significant step in global efforts to combat human trafficking, particularly that affecting women and children. This protocol came into force on December 25, 2003, and as of November 2022, had received ratification from 180 parties (Nwala, 2023). The UN human trafficking protocol establishes concrete norms and measures to prevent, suppress and punish human trafficking practices, as well as paying special attention to the protection of women and children who are victims. The existence of this protocol underlines the international commitment to jointly tackle crimes involving human exploitation, and creates a legal basis that strengthens cross-country cooperation in facing the challenge of human trafficking (Islam et al., 2024).

The United Nations Office on Drugs and Crime (UNODC) holds primary responsibility for implementing the UN Protocol on Human Trafficking, acting as an agency providing practical assistance to member states. UNODC's role involves providing support in drafting legislation, assisting in the establishment of a comprehensive national anti-trafficking strategy, and providing resources to implement it (Afrizal & Arif, 2016). Since March 2009, UNODC has also led the Blue Heart Campaign, an initiative to combat human trafficking. Through this campaign, UNODC seeks to increase global



awareness regarding the crime of human trafficking, encourage community involvement, and provide inspiration for concrete action (O'Brien, 2016).

The UN trafficking protocol places obligations on ratifying countries to take steps to prevent and eradicate human trafficking. This includes protecting and providing assistance to victims of human trafficking as well as increasing cooperation between countries to achieve these goals. With the help of UNODC, countries around the world can work together to face the challenge of human trafficking, increase their capacity, and design effective strategies to combat this organized crime (Mokhtar, 2016).

Protocol II, which is related to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, complements the UN Convention on Transnational Organized Crime (Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementing the United Nations Convention against Transnational Organized Crime), is an integral part of global efforts to tackle the problem of human trafficking. This protocol, in addition to the 2000 Palermo Convention, provides a legal framework that is more focused on special protection for women and children who are victims of human trafficking (Hidayati, 2012).

In Protocol II, there is an affirmation that Participating States have the responsibility to take effective action steps, including the establishment of legislation, to eradicate all forms of trafficking in persons. This reflects the serious commitment of the international community to provide further protection to the groups most vulnerable to exploitation. This protocol provides a strong legal basis for eradicating human trafficking, strengthens cooperation between countries, and encourages the establishment of effective legal regulations to comprehensively address the problem of human trafficking. Thus, Protocol II acts as a crucial instrument in global efforts to combat transnational crimes that harm human dignity. (Yusitatrani, 2020)

In Article 3 of Protocol II of 2000, human trafficking is defined as a series of actions, including recruitment, transportation, transfer, harboring or receiving a person, carried out through the threat or use of violence, or other forms of coercion. This coercion may include kidnapping, fraud, use of lies, abuse of power, or exploitation of a vulnerable position. The goal of this series of actions is to obtain the consent of an individual who has control over another person, with the intent of exploitation. The concept of exploitation in this context at a minimum includes exploitation of prostitution or forms of sexual exploitation, forced work or services, slavery, serfdom, or organ harvesting (Khamdilal et al, 2023).

In the definition outlined by Protocol II, acts of trafficking in persons include dimensions of violence, abuse of power and deception aimed at gaining control over another individual to achieve exploitation. At its core, human trafficking involves extensive actions that deprive individuals of their freedom and rights, using a variety of means including violence and psychological manipulation. The definition of exploitation in this legal framework includes various forms of exploitation, making it clear that human trafficking is not only limited to the sexual aspect, but also involves other forms such as forced labor and organ trafficking.

The Palermo Protocol highlights that tackling human trafficking, especially regarding women and children, requires a comprehensive international approach, which includes countries of origin, transit countries and destination countries. This approach must include measures to prevent human trafficking, enforce the law against perpetrators, and protect internationally recognized human rights. Although there are a variety of international legal instruments that provide rules and practical measures to combat human trafficking, there is recognition that there is no universal instrument that covers all aspects of this phenomenon, and without such instruments, protection measures may be insufficient.

Article 6 of the Palermo Protocol emphasizes the importance of assistance and protection for victims of human trafficking. This instrument recognizes the need to provide support and assistance to victims, including through rehabilitation and social reintegration services. Article 7 highlights the special status of victims of human trafficking in recipient countries, with the aim of protecting their rights in accordance with international human rights norms. Article 8 of this Protocol addresses the issue of repatriation of victims of human trafficking, emphasizing the need to ensure a safe and

supportive return for victims, as well as avoiding the risk of repatriation that could threaten their safety and security. Through these three articles, the Palermo Protocol creates a legal basis for the protection and granting of rights to victims of human trafficking in the international scope.

As a follow-up step to the formulation of the Palermo Protocol by the UN and as proof of Indonesia's serious involvement in tackling human trafficking, this country has ratified the Palermo Convention by passing Law Number 21 of 2007 concerning the Crime of Trafficking in Persons and Law Number 5 of 2009 concerning Ratification of the Palermo Convention. This reflects Indonesia's commitment to addressing human trafficking in persons that occurs within the country. However, whether this law is effective in minimizing crimes against humanity in Indonesia is a question that requires further evaluation (Effendi, 2014).

As for the implementation of Law Number 21 of 2007 concerning the eradication of criminal acts of human trafficking, implementing regulations are required in the form of government regulations. Government regulations make it easier to implement laws which regulate the prevention, eradication, punishment and enforcement of criminal acts of human trafficking. In this case, the government regulation concerning Procedures for Service Mechanisms as mentioned in Article 46 of Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking and as mentioned in Article 66 is mandated by this law that the implementing regulations must be issued no later than 6 months after the law. -This law is in effect, but was only issued in 2008, namely Government Regulation Number 9 of 2008 concerning Procedures for Integrated Service Mechanisms for witnesses and/or victims of the Crime of Human Trafficking which regulates the procedures and mechanisms for integrated services, the establishment of an Integrated Service Center (PPT ) for witnesses and/or victims of criminal acts of human trafficking. This Government Regulation (PP) accompanies it as a more implementable regulation and an effort to fulfill the rights of victims of human trafficking.

Looking at the development of human trafficking cases in Indonesia, it appears that the law has not been fully effective in eradicating this crime. One of the contributing factors is the weak function of institutions that have the authority to deal with this crime. The lack of coordination and synergy between related institutions is a serious challenge in providing effective handling of human trafficking. This phenomenon shows that it is necessary to improve and strengthen law enforcement infrastructure as well as coordination between institutions so that existing laws can be implemented more efficiently. Apart from that, the role of civil society, NGOs and non-governmental organizations is also key in supporting the eradication of human trafficking in Indonesia.

### **Prevention and Control of Human Trafficking in Indonesia**

Prevention and control of human trafficking in Indonesia is based on the principles of international law contained in various legal instruments, including the Palermo Convention and its Protocols. The following are several steps that Indonesia can take based on these principles:

#### **1. Legislative Improvements**

The first point in preventing and controlling human trafficking in Indonesia is improving legislation, which involves harmonizing national law with the principles of the Palermo Convention and its Protocols. To achieve this goal, Indonesia has ratified Law Number 21 of 2007 concerning the Crime of Human Trafficking and Law Number 5 of 2009 concerning Ratification of the Palermo Convention. Through this step, Indonesia recognizes the importance of having a strong legal basis for dealing with human trafficking, in accordance with international standards.

Harmonization of national laws with international conventions and protocols is a strategic step to ensure that countries have effective legal tools that comply with global human rights standards in handling human trafficking cases. In addition to creating consistent laws, it is also important to continually update legislation to respond to new developments and emerging challenges related to human trafficking. Thus, efforts to prevent and control human trafficking can be supported by a solid legal basis, providing the basis for effective law enforcement and protection of the human rights of victims.



## 2. Empowerment of Law Enforcement Agencies

The second point in efforts to prevent and control human trafficking in Indonesia involves empowering law enforcement agencies. This includes aspects of training and providing adequate resources to law enforcement agencies to strengthen their understanding and skills in handling human trafficking cases. Inter-agency coordination is also key to increasing the effectiveness of law enforcement and overcoming obstacles in handling complex cases of human trafficking.

Intensive training for law enforcement officials, such as police and prosecutors, will increase their understanding of the dynamics of human trafficking, the methods used by perpetrators, and the need for a sensitive approach to victims. In addition, providing adequate resources, both in the form of technological equipment and financial support, will increase the capacity of law enforcement agencies to carry out investigations, raids and prosecutions of human traffickers.

Inter-agency coordination is crucial because human trafficking involves multidisciplinary aspects. Close cooperation between the police, prosecutor's office and other related institutions is needed to ensure accurate and integrated information, speed up the prosecution process, and provide holistic protection for victims. By empowering law enforcement agencies through training, resources and effective coordination, Indonesia can increase their capacity to tackle human trafficking comprehensively.

## 3. Victim Protection

The third point in preventing and dealing with human trafficking in Indonesia is related to the protection of victims. These efforts include establishing an effective protection system for those who have been victims of human trafficking. The protection system must include concrete steps such as providing shelter, rehabilitation services and social reintegration for victims. The importance of a comprehensive protection system can be interpreted through the implementation of the articles contained in the Palermo Protocol, especially Article 6 which emphasizes the need to provide assistance and protection for victims of human trafficking. A safe haven that meets the needs of victims, including children and women, is key to helping them recover from trauma and avoid the risk of further exploitation.

Witness protection is also an important element in preventing and dealing with human trafficking. Providing security guarantees for those who are willing to provide information regarding human trafficking cases can assist the legal process and support prosecution efforts against the perpetrators of this crime. By creating and strengthening a victim protection system, Indonesia can ensure that efforts to combat human trafficking are not only focused on law enforcement against perpetrators, but also pay serious attention to recovery and social reintegration for victims. This is an important step to create an environment that supports and protects their human rights, in accordance with the principles of international law.

## 4. Increased Public Awareness

The fourth point in efforts to prevent and control human trafficking in Indonesia emphasizes increasing public awareness. To achieve this goal, education and outreach campaigns are needed that focus on increasing public understanding about the dangers of human trafficking, the signs of cases, and how to report these crimes. Educational campaigns can include outreach in schools, seminars, and distribution of educational materials through various media. The aim is to provide better knowledge to the public about how to identify cases of human trafficking, as well as inviting them to participate in prevention efforts through reporting and caring for the surrounding environment.

The importance of active community participation in reporting potential cases of human trafficking cannot be ignored. By increasing awareness, the public becomes more alert to suspicious practices and can act as eyes and ears to assist authorities in tackling human trafficking. Increasing public awareness not only creates an additional layer of protection in prevention, but can also reduce the potential for new victims by reducing demand for human trafficking practices. By actively involving the community, Indonesia can build broad support in efforts to combat human trafficking,

create an environment that does not support this crime, and provide protection for those who are most vulnerable.

#### **5. International Cooperation**

The fifth point in efforts to prevent and control human trafficking in Indonesia involves international cooperation. This cooperation covers two main aspects: regional and international collaboration and cross-border extradition and prosecution. In the context of regional and international collaboration, Indonesia needs to actively participate in forums and initiatives with neighboring countries and international partners to exchange information, experiences and best practices in combating human trafficking. Through this collaboration, countries can strengthen joint efforts in understanding and overcoming the problem of human trafficking involving cross-border areas.

Extradition and cross-border prosecution are important in handling human trafficking cases involving perpetrators operating in more than one country. Indonesia needs to strengthen cooperation with other countries in pursuing and prosecuting perpetrators of these cross-border crimes, so that there is no place of protection or freedom for them in international areas. By prioritizing international cooperation, Indonesia can gain additional support in facing the complex challenges of human trafficking. This coordination can also strengthen national efforts and send a strong signal that the international community is united in opposing this human rights crime.

#### **6. Monitoring and Evaluation**

The sixth point in efforts to prevent and control human trafficking in Indonesia includes monitoring and evaluation, which involves monitoring performance and continuous improvement of policies and programs that have been implemented. This monitoring and evaluation process aims to ensure that efforts to combat human trafficking run according to plan, are effective and responsive to the dynamics of change. Performance monitoring involves collecting and analyzing data regarding the implementation of human trafficking prevention policies and programs. Evaluations are carried out to evaluate the impact of these policies and programs on combating human trafficking, taking into account the effectiveness, efficiency and resulting social impacts.

The results of monitoring and evaluation can provide a clearer picture of the successes and obstacles faced in efforts to combat human trafficking. With this understanding, the government can identify areas that need improvement and make strategic changes to increase program effectiveness. These steps also enable the adaptation of policies and programs according to developments and changes in the dynamics of human trafficking. Continuous improvement is the key to adapting and improving responses to evolving challenges. By implementing regular monitoring and evaluation cycles, Indonesia can ensure that policies and programs to prevent human trafficking remain relevant, effective and in line with international legal principles and community needs.

### **D. CONCLUSION**


The Palermo Protocol and laws implemented by Indonesia, such as Law Number 21 of 2007, create a comprehensive legal framework to tackle human trafficking, especially women and children. Although Indonesia has ratified the convention and adopted measures such as the establishment of implementing laws and regulations, real challenges remain in the effectiveness of implementation. Weak coordination between institutions, lack of effective handling of perpetrators, and the role of civil society which is not yet optimal are obstacles in efforts to eradicate human trafficking. A thorough evaluation of the implementation of the law, increased cooperation between institutions, and the active involvement of civil society can be the key to ensuring more effective measures and protecting human rights, especially for women and children victims who are vulnerable to being targeted by human trafficking. In response to human trafficking, Indonesia has taken steps in accordance with the principles of international law, especially those contained in the Palermo Convention and its Protocols. Efforts began with improving legislation through the ratification of Law Number 21 of 2007 and Law Number 5 of 2009. Empowering law enforcement agencies became the

next focus, through intensive training and coordination between institutions to increase the effectiveness of law enforcement. The third step includes building a protection system for victims, including shelters, rehabilitation services and social reintegration. Increasing public awareness is the fourth step, with education and outreach campaigns to involve the public in preventing and reporting cases of human trafficking. International cooperation is the fifth aspect, involving regional and international collaboration, as well as cross-border extradition and prosecution. The final point is monitoring and evaluation, with performance monitoring and evaluation of policies and programs to ensure effective response and sustainable adaptation to changing dynamics of human trafficking.

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