

The Policy of Combating Trafficking in Persons: Assessing the Global Political and the Current Economic Development

Roycke Harry Langie^{1*}

¹The Indonesian National Police; Doctor of Law, Faculty of Law, Trisakti University, Indonesia

DOI: [10.36348/sijlcj.2024.v07i05.004](https://doi.org/10.36348/sijlcj.2024.v07i05.004)

| Received: 15.04.2024 | Accepted: 22.05.2024 | Published: 24.05.2024

*Corresponding author: Roycke Harry Langie

The Indonesian National Police; Doctor of Law, Faculty of Law, Trisakti University, Indonesia

Abstract

Trafficking in Persons is unarguably one of the largest crime industries in the 21st century that demand a concrete and comprehensive legal policy approach. However, as it turns out into practice, trafficking in persons is a low-risk, high-reward form of crime. This is qualitative research using a statutory approach, case and conceptual approaches. The primary legal materials resulted from relevant laws and legislation. The legal material collected is analysed prescriptively. The results showed that the Indonesian National Police's resource support in eradicating the Crime of Trafficking in Persons is currently still inadequate in terms of human resources, budget support, and facilities and infrastructure support. Anticipating the impact of low economic growth in Indonesia and limited employment opportunities in the country resulting in many Indonesians being forced to work abroad. The ideal model (role model) offered is measured based on the establishment of reciprocal cooperative relations between countries will become easier and smoother to support the success of eradicating the crime of trafficking in persons. Realizing the acceleration of settlement times for cross-border Criminal Trafficking in Persons cases. Realizing increased communication and exchange of information related which is useful in preventing and enforcing the law, as well as resolving problems between countries.

Keywords: Criminal Law, Comparison, Human Trafficking, Police, Trafficking in Persons.

Copyright © 2024 The Author(s): This is an open-access article distributed under the terms of the Creative Commons Attribution 4.0 International License (CC BY-NC 4.0) which permits unrestricted use, distribution, and reproduction in any medium for non-commercial use provided the original author and source are credited.

1. INTRODUCTION

The development and changes to the law relating to social dynamics with all the real interests were behind the law. Laws relating to society, society has changed, the law must also be changed. The role of law is strongly influenced by political forces. Growing political configuration between the democratic and authoritarian character of the product while following the law between responsive and conservative [1]. Often the legal and law enforcement functions do not work in harmony. As the law is often weakens when confronted with politics, even though the law is supreme.

National development will be carried out well if it is supported by security stability both domestically and abroad [2]. The expansion of contemporary global issues

is driven by technological developments, especially information technology in the post-Cold War era of globalization. In addition, Indonesia is currently also facing security threats related to international crimes committed by non-state actors, who have technological capabilities and strong financial support, with neat networks spread throughout the country, one of which is the crime of trafficking in persons.

Trafficking in persons (TIPs) is a low-risk, high-reward form of crime [3]. The systematic nature of the crime and the sophisticated mechanisms used combine with the fact that many countries still do not have laws or regulations as instruments to combat this crime. Even if they do, law enforcement is still weak, resulting in many cases where traffickers are easily released while their victims are treated as criminals.

¹ Farhana. "Responsive legal approach to law of human trafficking in Indonesia." *Journal of social studies education research* 9, no. 1 (2018): 214-227.

² Atmasasmita, Romli. "International cooperation on combating human trafficking especially women and

children: A view from Indonesia." *Indonesian J. Int'l L.* 1 (2003): 673.

³ Ali, Mahrus, and Bayu Aji Pramono. *Perdagangan orang: dimensi, instrumen internasional, dan pengaturannya di Indonesia*. (Bandung: Citra Aditya Bakti, 2011), p. 3.

According to the United Nations (UN), trafficking is the world's third-largest criminal enterprise, generating an estimated USD 9.5 billion in annual taxes. In addition, trafficking is also one of the most profitable criminal enterprises and is strongly linked to money laundering, drug trafficking, document forgery, and human smuggling. According to an International Labour Organization (ILO) study, the profits made from trafficked women, men, and children are estimated at US\$32 billion annually. The profit taken from trafficked forced laborers is approximately US\$ 13 per person. Thus, in one year the profit obtained can reach US\$ 32 billion [4].

The issue of human trafficking has become an international concern. This is because several human rights violations (henceforth abbreviated to human rights) are considered to be both the cause and the effect of trafficking in persons [5]. Human rights violations such as forced labor, sexual and labor exploitation, violence, and abuse of their victims. Traffickers have cunningly exploited poverty and manipulated the hopes and innocence of their victims by using threats, intimidation, and violence to make the victims undergo involuntary servitude, peonage, and forced labor, undergoing debt bondage, forced or sham marriages, engaging in forced prostitution, or working under conditions comparable to slavery for the benefit of the trader. Victims are no longer treated like human beings but like slaves forced to produce cheap goods or provide constant services. They live in fear, and many end up becoming victims of violence.

For more than a decade, Indonesia has been the second-largest labor supply country in the world after the Philippines. About 72% of these migrant workers are women. Of the Indonesian workers, 90% work as domestic servants in Malaysia, Singapore, Hong Kong, Taiwan, South Korea and the Middle East. Thus, labor trafficking of women and children is very likely to be experienced by Indonesian citizens. Women and girls are far more likely to be victims of trafficking than men or boys. This is especially true if we are talking about trafficking for prostitution and other forms of sexual exploitation, as well as domestic labor exploitation that is more akin to modern-day slavery. Trafficking is a serious manifestation of the feminization of poverty and the larger challenges faced by women and girls in a world characterized by gender discrimination, both within and outside the labor market [6].

The problems that then arise are firstly the legal instruments supporting the achievement of tackling trafficking in persons, especially against women and children. Secondly, it relates to countermeasures against the criminal offense of trafficking in persons. These two problems are further compounded by the inadequate legal provisions and policy interventions of most countries. The lack of appropriate and effective specialized legislation on trafficking at the national level has been identified as one of the major obstacles to combating trafficking. Existing legislation and law enforcement in most countries have been inadequate to deter trafficking and bring traffickers to justice.

The Indonesian government has not fully met the minimum standards for combating trafficking, despite significant efforts to do so. The government has not shown an increase in efforts to combat TIPs compared to the previous reporting period, hence, Indonesia remains at Level 2. Therefore, it is expected that the government will show increased efforts to prosecute more traffickers, conduct training for government officials and law enforcement, and organize public awareness campaigns targeting communities at greater risk of becoming trafficking victims. On the one hand, the government has set up new mechanisms to strengthen victim identification procedures in line with the increased socialization of the National Action Plan for Combating Trafficking in Persons (NAPT). Unfamiliarity of officers with human trafficking indicators and anti-trafficking laws has hindered proactive victim identification of vulnerable populations and law enforcement efforts. Inadequate data, information dissemination, and weak coordination among government agencies have hindered the implementation of the national anti-trafficking strategy. Addressing the crime of human trafficking cannot only be done by the government and the police but must also be combined with other related agencies.

2. METHOD

This is qualitative research using a statutory approach, comparative and conceptual approaches. The primary legal materials resulted from relevant laws and legislation [7]. Furthermore, the data were analyzed with content analysis to analyze the formulation of the problem and then made a conclusion and suggestion. Those legal material collected are analysed prescriptively.

⁴ Dirienzo, Cassandra E. "Human trafficking: what the new IOM dataset reveals." *Journal of human trafficking* 8, no. 3 (2022): 294-308.

⁵ Stöckl, Heidi, Camilla Fabbri, Harry Cook, Claire Galez-Davis, Naomi Grant, Yuki Lo, Ligia Kiss, and Cathy Zimmerman. "Human trafficking and violence: Findings from the largest global dataset of trafficking

survivors." *Journal of migration and health* 4 (2021): 100073.

⁶ Sulistyowati Irianto et al, *Perdagangan Perempuan Dalam Jaringan Pengedaran Narkotika*, (Jakarta: Yayasan Obor Indonesia, 2007), p. 1-2

⁷ Irwansyah. *Penelitian Hukum, Pilihan Metode & Praktik Penulisan Artikel*, (Yogyakarta: Mirra Buana Media, 2020), p. 41.

3. Cross-Sectoral Cooperation by the Indonesian National Police in Eradicating Trafficking in Persons

Indonesia is one of the main countries of origin and to some extent a destination and transit country for Indonesian men, women, and children to become forced laborers and victims of sex trafficking. All provinces in Indonesia are areas of origin and destination for human trafficking. The government estimates that around 1.9 million of the 4.5 million Indonesians working abroad do not have documents or have overstayed their residence permits. This situation increases their vulnerability to human trafficking. The actual number is much higher considering that many migrant workers evade fulfilling the government's placement requirements and permits to work abroad, which is often done at the instigation of human traffickers [8].

Many Indonesian citizens are exploited as forced laborers in Asia and the Middle East, especially in the sectors of domestic workers, factory workers, construction workers, manufacturing workers, palm oil plantations in Malaysia, and fishing vessels operating in the Indian and Pacific Oceans. Malaysia remains the main destination for Indonesian migrant workers; the government estimates that more than one million Indonesian workers have informal status out of the 1.9 million workers in Malaysia. Workers who are not equipped with official documents are at greater risk of becoming victims of human trafficking. During the reporting period, Indonesian victims were also found in the Pacific Islands, Africa, Europe, and North America (including the United States). Women and girls from Indonesia are victims of sex trafficking, especially in Malaysia, Taiwan, and the Middle East.

Chart 1: Number of criminal cases of trafficking in persons (TIPs) child [9]



Source: Secondary data, 2024 (processed).

The Ministry of Women's Empowerment and Child Protection revealed that the number of exploitation and human trafficking involving children increased

significantly during the pandemic compared to the previous period. In fact, this figure is also claimed to have increased compared to other cases of violence.

Chart 2” Number of criminal cases of trafficking in persons (TIPs) adult.



Source: Secondary data, 2024 (processed).

Even though it shows changes, Indonesia is considered to have not made progressive changes in both prevention and enforcement. In the US Department of

State's 2020 Trafficking in Persons (TIP) report, Indonesia is still stagnating in Tier-2, which means Indonesia has not yet met the minimum standards for

8 Suhartanto, Sigit. "Strategi Penanganan Kejahatan Transnasional Narkotika di Perbatasan Indonesia." *Jurnal Impresi Indonesia* 2, no. 4 (2023): 393-406.

9 Tirto.id. (2021). "Yang Tak Dibicarakan Saat Pandemi: Kekerasan & Perdagangan Manusia". Available online: <https://tirto.id/yang-tak-dibicarakan-saat-pandemi-kekerasan-perdagangan-manusia-glLv>

eliminating trafficking, but has shown significant efforts [10].

The government continues to maintain protection efforts. In 2017, the Ministry of Women's Empowerment and Child Protection reported a partnership with a communications company to collect open information regarding 943 victims of human trafficking reported in 65 print, online, and broadcast media as an effort to expand victim identification methods. Separately, the Indonesian Child Protection Commission (KPAI) officially identified 307 child trafficking victims. However, it is still unclear whether these two processes will result in investigative efforts or provide protection to victims [11].

The Indonesian Ministry of Foreign Affairs also assisted 478 Indonesian victims of human trafficking abroad through its consulates and embassies. The number increased from 413 victims in the previous reporting period. In 2016, the Ministry of Foreign Affairs repatriated 13,714 Indonesian citizens, and governments of other countries deported 27,855 people, compared to 9,039 people repatriated and 85,490 deported in 2015. From these figures, the Ministry of Foreign Affairs identified 602 victims of human trafficking (compared to 541 victims in 2015) and directly assisted in the process of repatriating 460 victims, compared to 306 victims in 2015. The Ministry of Foreign Affairs spent US\$ 240,398 to compensate the victims' losses and provide them with temporary shelter and other services upon their return to Indonesia. The Indonesian Ministry of Foreign Affairs also handed them over to local government institutions for further handling [12].

4. Assessing the Ideal Model and the Pattern of Cooperation between the National Police and Cross Sectors

Transnational crime today has become a serious threat to global security and prosperity. One of the multilateral mechanisms that is important in tackling transnational crimes, especially those carried out by transnational organized criminal groups, is the United Nations Convention on Transnational Organized Crime (UNTOC). UNTOC will be a basic guide for countries in efforts to combat transnational crime. Due to its strategic location, Indonesia is vulnerable to various forms of transnational crime. For this reason, the Ministry of Foreign Affairs continues to intensify international cooperation in dealing with transnational crimes to protect Indonesia's national interests and sovereignty. Furthermore, Indonesia pays special attention to new and

developing transnational crimes. In this context, there are several transnational crime issues, one of which is that Indonesia plays an active role in tackling human trafficking and human smuggling.

Indonesia is always committed to addressing the issue of human smuggling and trafficking in persons including irregular migration through cooperation at the bilateral, regional, and multilateral levels. For Indonesia, issues related to irregular migration are cross-border and no one country can solve them alone. In handling the problem of irregular migration, Indonesia adheres to two principles; the first principle is burden sharing where countries must work together to find solutions to the problem of irregular migration and avoid shifting the burden to other countries. The second principle is shared responsibility where there is joint responsibility between countries of origin, transit, and destination in dealing with irregular migration. Indonesia also prioritizes a comprehensive and balanced approach between law enforcement and humanity, based on the pillars of prevention, early detection, protection of victims, and prosecution of criminals. Apart from that, the aim of fostering cooperation between countries is to obtain complete and sustainable solutions.

Therefore, Indonesia is of the view that sustainable solutions are needed to address the root causes of problems, such as poverty, lack of access, injustice, lack of enforcement of human rights, development gaps, and lack of education. As an example of Indonesia's commitment, on 27-28 November 2015, Indonesia held the Jakarta Declaration Roundtable Meeting on Addressing the Root Causes of Irregular Movement of Persons in Jakarta. The meeting sought to find concrete areas of cooperation in overcoming the root causes of irregular migration through constructive dialogue between affected countries.

Indonesia also plays an active role in international and regional forums such as the Conference of State Parties of the United Nations Convention against Transnational Organized Crime (UNTOC), various Working Groups under UNTOC, the Global Forum on Migration and Development, ASEAN Ministerial Meeting on Transnational Crime (AMMTC), and Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crimes (Bali Process).

Another important forum for Indonesian foreign policy regarding irregular migration is the Bali Process on People Smuggling, Trafficking in Persons, and

¹⁰ Daniah, Rahmah, and Fajar Apriani. "Kebijakan nasional anti-trafficking dalam migrasi internasional." *Jurnal Politika Dinamika Masalah Politik Dalam Negeri dan Hubungan Internasional* 8, no. 2 (2018): 41.

¹¹ Ministry of Women Empowerment and Child Protection. 2017. *Annual Records On Violence Against*

Women. National Commission on Violence against Women, Jakarta, 2019.

¹² Sepang, Ricky Johannes. "Perlindungan Hukum Terhadap Pekerja Migran dalam Tindak Pidana Kekerasan di Tinjau dari Undang-Undang Nomor 18 Tahun 2017." *Lex Administratum* 9, no. 2 (2021).

Related Transnational Crimes (Bali Process). Indonesia and Australia are the founders and co-chairs of the Bali Process. Since its founding in 2002 until now, the Bali Process has become the oldest and largest Regional Consultative Process in the region. Within the framework of the Bali Process, Indonesia has held various initiatives that bring together regional authorities, practitioners, and experts to increase cooperation in handling irregular migration through better border management, adopting a victim-centered approach, and promoting appropriate migration channels safe. The main decision-making mechanism of the Bali Process is the Ministerial Meeting co-chaired by the Ministers of Foreign Affairs of Indonesia and Australia which is held every two or three years.

The relationship pattern in cooperation to eradicate the Crime of Trafficking in Persons is currently still limited to personal relationships (person to person), especially related to providing information about human trafficking crime networks both within the country and abroad, so it is not yet fully effective and efficient in increasing efforts to eradicate the Crime of Human Trafficking [13]. In the future, this relationship pattern must be changed to a more formal one by creating a Memorandum of Understanding.

Various problems or conflicts that occur in the region will influence the international and national security conditions of countries in the region. At the 28th ASEAN Summit, Indonesian President Joko Widodo raised strategic issues in the Southeast Asia region. With the title ASEAN Declaration on One ASEAN, One Response: ASEAN Responding to Disaster as One in the Region and Outside the Region. At the ASEAN Summit, Indonesia raised 7 (seven) strategic issues in the Southeast Asia region, namely as follows: Human trafficking or trafficking in persons. The ratification process of the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP), has been carried out by Indonesia so it is very important to resolve the root causes of existing cases, while still paying attention to Human Rights.

With the implementation of ASEAN Economic Community cooperation in early 2016, the Government was asked to immediately take the necessary steps to anticipate the surge in foreign national workers in Indonesia so that it does not have an impact on social life and more foreign nationals who work in Indonesia, the more unemployment in the country and for the government to make breakthroughs in improving the quality of Indonesian workers.

The national strategic environment cannot be separated from the domestic situation and conditions. The dynamics of the national strategic environment greatly influence the conditions of security and public order and can even disrupt domestic security and social order. Indonesia borders several countries, namely to the north it borders the Philippines, Malaysia, and Singapore, to the east it borders Papua New Guinea and Timor Leste, to the south it borders Australia, to the west it borders the Indonesian Ocean and Sri Lanka. The land border with Timor Leste is 253 km long, Malaysia is 1,881 km long, and Papua New Guinea is 824 km long. This geographical condition has the potential to make it easier for perpetrators of the Crime of Human Trafficking to carry out their actions.

The ideal condition is a condition that describes cooperation in eradicating the Crime of Trafficking in Persons carried out by Subdirector III Tipidum Bareskrim Polri to anticipate the impact of global political and economic dynamics to support the expected national development. As a comparative example, the country of Spain shows that in the Kingdom of Spain, immigration control is carried out by the National Police Corps. The duties of immigration control by the National Police Corps are supported by border area supervision by the Guardia Civil. Three challenges faced in border guard duties include increasing the exchange of information, both within the European Union and third countries, improving border police training, and revising/innovating border police methodology. Problems related to immigration in Spain include cases of illegal immigration, document falsification, border control, as well as coordination problems with European border control bodies.

Border control by the National Police Corps is carried out by the Border Guard Unit (Unidad Central de Fronteras/CEFRONT). The police unit is tasked with guarding sea and land borders, handling human trafficking, and carrying out risk management analysis. Border guarding requires large amounts of human resources because of the high risks. Therefore, cooperation was established through the European border control coordinating body (FRONTEX) [14]. Border area monitoring cooperation is carried out bilaterally with France, Portugal, and Morocco. The border control function of the Spanish Police Corps includes regulating the entry and exit of foreigners into Spanish territory, preventing and investigating human trafficking networks, and coordinating with the prosecutor's office regarding the handling of minor immigrants who are not accompanied by guardians.

¹³ Danailova-Trainor, Gergana, and Frank Laczko. "Trafficking in persons and development: Towards greater policy coherence." *International Migration* 48, no. 4 (2010): 38-83.

¹⁴ Baranov, Sergey. "Problems of Legal Support for the Organization of Cooperation between the Units of the State Border Guard Service of Ukraine and the National Police of Ukraine on the Protection of the State Border." *J. Int'l Legal Commc'n* 8 (2023): 27.

The border control unit is the unit most supported utilizing transport/vehicles in Spanish territory to control border crossing points. Surveillance has mainly focused on the surge in immigrant arrivals. Specifically, this unit is tasked with coordinating the entry and exit of foreigners to and from Spain, coordinating border crossing point supervision, as well as updating the European Union's border control system. There is also a team to repatriate immigrants who have entered Spain illegally. There are respective teams to monitor land, sea, and air borders. There is also a team that handles cases of asylum seekers and refugees. The border control unit has a Response Brigade (Rapid Action Unit) to handle Illegal immigration cases. This unit is located throughout Spanish territory and is centralized at 43 Schengen airports, 34 Schengen ports, 5 coordination centers with Portugal, as well as at the coordination center with France.

Another step that the National Police can take to increase efforts to eradicate the Crime of Human Trafficking is to create a separate Directorate of Criminal Crimes of Human Trafficking within the National Police, headed by a One Star General, this is based on the fact that the Crime of Human Trafficking has become an extraordinary crime, where the crime of human trafficking has crossed countries and involves international human trafficking crime networks, so that handling cannot be done in the usual way, but must involve the government and police of other countries.

5. CONCLUSION

The Indonesian National Police's resource support in eradicating the Crime of Trafficking in Persons is currently still inadequate in terms of human resources, budget support, and facilities and infrastructure support. Anticipating the impact of low economic growth in Indonesia and limited employment opportunities in the country resulting in many Indonesians being forced to work abroad. The ideal model (role model) offered is measured based on the establishment of reciprocal cooperative relations between countries will become easier and smoother to support the success of eradicating the crime of trafficking in persons. Realizing the acceleration of settlement times for cross-border Criminal Trafficking in Persons cases. Realizing increased communication and exchange of information related which is useful in preventing and enforcing the law, as well as resolving problems between countries.

REFERENCES

- Ali, M., & Pramono, B. A. (2011). *Perdagangan orang: dimensi, instrumen internasional, dan pengaturannya di Indonesia*. Citra Aditya Bakti.
- Atmasasmita, R. (2003). International cooperation on combating human trafficking especially women and children: A view from Indonesia. *Indonesian J. Int'l L.*, 1, 673.
- Baranov, S. (2023). Problems of Legal Support for the Organization of Cooperation between the Units of the State Border Guard Service of Ukraine and the National Police of Ukraine on the Protection of the State Border. *J. Int'l Legal Commc'n*, 8, 27.
- Danailova-Trainor, G., & Laczko, F. (2010). Trafficking in persons and development: Towards greater policy coherence. *International Migration*, 48(4), 38-83.
- Daniah, R., & Apriani, F. (2018). Kebijakan nasional anti-trafficking dalam migrasi internasional. *Jurnal Politika Dinamika Masalah Politik Dalam Negeri dan Hubungan Internasional*, 8(2).
- DiRienzo, C. E. (2022). Human trafficking: what the new IOM dataset reveals. *Journal of human trafficking*, 8(3), 294-308.
- Farhana, F. (2018). Responsive legal approach to law of human trafficking in Indonesia. *Journal of social studies education research*, 9(1), 214-227.
- Irwansyah. (2020). *Penelitian Hukum, Pilihan Metode and Praktik Penulisan Artikel*, Yogyakarta: Mirra Buana Media.
- Ministry of Women Empowerment and Child Protection. 2017. *Annual Records On Violence Against Women*. National Commission on Violence against Women, Jakarta, 2019.
- Sepang, R. J. (2021). Perlindungan Hukum Terhadap Pekerja Migran dalam Tindak Pidana Kekerasan di Tinjau dari Undang-Undang Nomor 18 Tahun 2017. *Lex Administratum*, 9(2).
- Stöckl, H., Fabbri, C., Cook, H., Galez-Davis, C., Grant, N., Lo, Y., ... & Zimmerman, C. (2021). Human trafficking and violence: Findings from the largest global dataset of trafficking survivors. *Journal of migration and health*, 4, 100073.
- Suhartanto, S. (2023). Strategi Penanganan Kejahatan Transnasional Narkotika di Perbatasan Indonesia. *Jurnal Impresi Indonesia*, 2(4), 393-406.
- Sulistyowati, I. (2007). *Perdagangan Perempuan Dalam Jaringan Pengedaran Narkotika*, (Jakarta: Yayasan Obor Indonesia), 1-2.
- Tirto.id. (2021). "Yang Tak Dibicarakan Saat Pandemi: Kekerasan & Perdagangan Manusia". Available online: <https://tirto.id/yang-tak-dibicarakan-saat-pandemi-kekerasan-perdagangan-manusia-gllv>.