

# Law Enforcement against the Crime of Illegal Workforce Placement

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DOI: [10.36348/sijlcrj.2024.v07i06.003](https://doi.org/10.36348/sijlcrj.2024.v07i06.003)

| Received: 18.02.2024 | Accepted: 27.03.2024 | Published: 15.06.2024

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## Abstract

The aim of this research is to analyze law enforcement regarding the criminal act of illegal work placement. The approach method used is sociological juridical. The types of data used are primary and secondary data. The research results found that Law Enforcement of the Crime of Illegal Workforce Placement has not been running optimally considering: There is still a lack of job opportunities in Indonesia, so workers are forced to choose to work abroad via Batam in order to get a decent life; Indonesia is an archipelagic country, so law enforcement in cases of illegal Indonesian Migrant Workers is quite difficult considering that a large archipelagic country like Indonesia opens up opportunities for violations to be committed; The government has not accommodated Indonesian Migrant Workers as victims of illegal Indonesian Migrant Workers, resulting in law enforcement that is beneficial for all citizens not yet being felt optimally. For this reason, the need for law enforcement related to criminal acts of illegal workforce placement requires a holistic and coordinated approach in which strengthening cooperation between related parties must be built by increasing cooperation between law enforcement agencies.

**Keywords:** Indonesian Migrant Worker, Enforcement; Law.

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## A. INTRODUCTION

Globalization has removed the borders of the country, opening people up to make the move for a variety of reasons. The development of globalization is synonymous with the process of liberalization of the world economy, making the world a free market for trade and buying transactions. Globalization also requires the free movement of labor (free personal movement) that will fill jobs across the territorial boundaries of the country [1].

The opportunity to work abroad is quite large for Indonesian, further, coupled with the stimulation of income which is relatively or can be said to be higher than income at home. This is the main attraction for Indonesian Migrant Workers (in Indonesia abbreviated as PMI). In order to regulate the protection and placement of Indonesian Migrant Workers in abroad,

Law Number 18 of 2017 was issued as stated in the general explanation so that Indonesian Migrant Worker (IMW) are protected from human trafficking, including slavery and forced labor, victims of violence, abuse and crime. on human dignity, as well as other treatment that violates human rights [2]. Apart from that, the law places greater emphasis and gives a greater role to the government and reduces the role of the private sector in the placement and protection of Indonesian Migrant Workers [3].

In principle, this law is about equal rights, justice, gender equality without discrimination in any form. The Indonesian Migrant Worker Protection Law (UU PMI), which consists of 13 chapters and 87 articles, is considered advanced because it uses the migrant worker protection convention as the main consideration. The PMI Law is actually parallel to Law Number 6 of

<sup>1</sup>Siti Kuntarti, Analysis of the Content of Foreign Labor Regulation on The Protection of Indonesian Labor, Jurnal Dinamika Hukum, Vol. 20 Issue 1, January 2020, pp.191-213. See too Haryono. (2017). Globalization and Migration of Indonesian Workers (Descriptive Study of Population Sociology. Journal of Hermeneutics. 3 (2). 1-14. See too Agusmidah. (2011). Dilematic of

Employment Law, Review of Legal Politics, Book II. Jakarta: PT. Sofmedia.

<sup>2</sup>Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers

<sup>3</sup>Nurhidayati, N. (2019). Licensing of Foreign Workers, Policies and Implementation. Widya Cipta: Secretarial and Management Journal. 3(2). 241-248.

2012 concerning Ratification of the Migrant Worker Convention. However, there are still several weaknesses that are noted in the Law on the Protection of Indonesian Migrant Workers. Placement of Indonesian Migrant Workers is a service activity to bring together Indonesian Migrant Workers according to their talents, interests and abilities with employers abroad which includes the entire recruitment process, document processing, education and training, accommodation, preparation for departure, departure to the destination country and repatriation from the destination country [4].

The protection of Indonesian Migrant Workers has been regulated by Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers. Law 18/2017 mandates that every PMI must receive protection before, during and after working abroad. The provisions of Article 80 state that every person who places an Indonesian Migrant Worker, even though it is known or reasonably suspected that the person concerned does not meet the age requirements as intended in Article 66, shall be punished with a maximum imprisonment of 3 (three) years and a maximum fine of IDR 500,000,000 (five hundred million rupiah). Article 66 Every person is prohibited from placing Indonesian Migrant Workers who do not meet the age requirements as intended in Article 5 letter a (Every Indonesian Migrant Worker who will work abroad must meet the requirements: at least 18 (eighteen) years of age) supported by having competence; physically and mentally healthy; registered and having a Social Security membership number; and have complete documents required. The problem of illegal Indonesian Migrant Workers (PMI) and the Crime of Human Trafficking (TPPO) is still a scourge for the Indonesian nation. From year to year, the number of illegal or problematic PMI abroad still fluctuates and has not been resolved completely.

Based on 2022 Crisis Center complaint data from the Indonesian Migrant Worker Protection Agency (BP2MI), several problems faced during 2019-2021 include unpaid salaries, PMI failing to leave, human trafficking, work not in accordance with employment

agreements, acts of violence from employers, depression, or mental illness, job opportunity fraud, and so on. The essence of law enforcement itself lies in the activities imposed in the rules to create and maintain peace in social life. The law is the supreme commander for the rule of law, therefore it is necessary to enforce the law so that the law is always obeyed and obeyed by the legal community.

## B. RESEARCH METHODS

This type of research is qualitative research [5]. The approach in this study uses a sociological juridical approach [6]. In the sociological approach, it is deeper to study phenomena that occur in society, can be seen from the point of view of the implementation or implementation of the law, so this research uses direct research to obtain data as accurate as possible [7]. Related to this research, the sources of data used in this study are: Primary Data and Secondary Data. Data collection methods through observation, interviews, and literature studies. Data analysis techniques are qualitative data analysis [8].

## C. DISCUSSION

Law enforcement, according to Satjipto Raharjo [9] is the concrete implementation of the law in people's lives. After the law is made, concrete implementation must be carried out in people's daily lives, this is law enforcement. However, in other terms it is often called the application of law, or in foreign language terms it is often called *rechistoepassing* and *rechtshand* having (Netherlands), law enforcement and application (America). Law enforcement is an executive task in the institutional structure of a modern state, and is carried out by the bureaucracy of the executive in question, or what is called the law enforcement bureaucracy. The executive with its bureaucracy is part of the chain to realize the plans stated in regulations (law) in accordance with the fields handled (welfare state).

<sup>4</sup>Republic of Indonesia Government Regulation Number 4 of 2013 concerning Procedures for Implementing the Placement of Indonesian Workers Abroad by the Government, Article 1 paragraph 3, State Gazette of the Republic of Indonesia of 2013 Number 4, Supplement to State Gazette of the Republic of Indonesia Number 5389.

<sup>5</sup>Anis Mashdurohatun, Zaenal Arifin, The Inconsistency of Parate Execution Object Warranty of Rights in Banking Credit Agreement in Indonesia, *International Journal of Applied Business and Economic Research*, Vol.15 Issue.20. 2017

<sup>6</sup> Esmi Warassih. *Pranata Hukum: Sebuah Telaah Sosiologis*, (Semarang: Suryandaru Utama, 2005), page. 23-24. See too Anis Mashdurohatun, M Ali Mansyur, Product capabilities dynamic on industrial design carved wood in Small and Medium Enterprises (SMES) Jepara

furniture in promoting the protection of intellectual property rights, *International Journal of Applied Engineering Research*, Volume 12, Issue 19, 2017. pp.8217-8226.

<sup>7</sup>Muhammad Zainuddin, *Pemahaman Metode Penelitian Hukum (Pengertian, Paraadigma, dan susunan Pembentukan)*, (Yogyakarta: CV.Istana Agency, 2019), page. 22.

<sup>8</sup>Agus Irawan Yustisianto, Sri endah Wahyuningsih, & Anis mashdurohatun, Reconstruction of Legal Protection Regulations against Victims of Crime of Household Violence Based on Justice Value, *Sch Int J Law Crime Justice*, Dec, 2022; 5(12): 513-519

<sup>9</sup>Satjipto Rahardjo, 2000, *Law in Social Perspective*. Bandung: Alumni.page.177.

Law enforcement according to Soerjono Soekanto [<sup>10</sup>] is an activity of harmonizing the relationship between values described in rules, solid views and embodying them in attitudes and actions as a series of value translations at the final stage to create peaceful social life. In terms of law enforcement in Indonesia, especially in eradicating corruption, Satjipto Raharjo [<sup>11</sup>] is of the view that in general we are still stuck with conventional methods of law enforcement, including culture. The laws implemented have a liberal character and have a liberal culture that only benefits a small number of people (privileged few) over the "suffering" of many people. To overcome this imbalance and injustice, we can take firm steps (affirmative action). This firm step is to create a different law enforcement culture, namely a collective culture. Changing an individual culture into a collective one in law enforcement is not an easy thing.

Sudikno Mertokusumo [<sup>12</sup>], said that the law functions as a protection for human interests, so the law must be implemented normally, peacefully, but violations of the law can also occur, so the law must be enforced so that the law becomes a reality. Law enforcement contains three elements, first, legal certainty (*rechtssicherheit*), which means that the law must apply and must not be deviated, or in the saying, even though the world is collapsing, the law must be upheld (*fiat justitia et pereat mundus*). The law must be able to create legal certainty because the law aims for public order. Second, benefit (*zweckmassigkeit*), because the law is for humans, the implementation of the law or law enforcement must provide benefits or usefulness for society, lest just because the law is implemented cause public unrest. The third is justice (*gerechtigheit*), that in implementing the law or enforcing the law it must be fair because the law is general and applies to everyone and is generalizing. But law is not identical with justice because justice is subjective, individualistic and does not generalize.

In Indonesia, law enforcement is carried out by law enforcers such as police, prosecutors, judges and lawyers. These law enforcers are tasked with maintaining the law so that the community continues to obey it. Law enforcement functions to ensure that the law operates effectively and regulates society towards a better society. The Indonesian state is based on law, not based on power. This shows that Indonesia is part of a legal state that upholds the law as the highest sovereignty. As a law enforcer, the government is obliged to maintain and maintain order in society by enforcing the law against people who commit legal violations.

Law enforcement itself can be interpreted as an activity that harmonizes the relationship between the values contained in the legal rules that exist in society and embodies an attitude of disrespect for the series of final stage value translations to maintain and maintain peaceful social life in society. Law enforcement can be fulfilled if the law can run well. Law enforcement includes, firstly, good law enforcement, namely law enforcement officers who are tough and able to carry out law enforcement well in accordance with statutory regulations. Second is adequate legal equipment. The third is a society that is aware of the law and complies with all applicable laws and regulations and the last is the government bureaucracy that supports law enforcement. Several problems in law enforcement include the first, the gap between normative law and sociological law, between legal facts and existing legal rules. The second is the gap between legal behavior that exists in society which should not be in accordance with people's lives in reality and the third is the difference between the law that exists in society or the implementation of law that is carried out in society. Fourth, the main problem with law enforcement in developing countries, especially Indonesia, is not the legal system itself, but the quality of the people who carry out the law (law enforcers) [<sup>13</sup>].

Apart from that, there are several factors that influence negative law enforcement, the first is the factors that exist within the legal system itself, starting from the law, law enforcement and the infrastructure for law enforcement. Second are factors that exist outside the legal system which include the legal awareness of the community itself. Legal developments in socio-political and cultural society influence this. There are several factors that cause problems with law enforcement, the first is the professional quality of law enforcers, the second is the lack of insight for law enforcers in understanding the law itself, the third is the lack of skills to work to meet legal needs, the fourth is low work motivation, the fifth is damage to morality. law enforcement personnel who make the law unenforceable, the sixth is the low level of legal education, the need to improve legal education from an early age, the seventh is the very few human resource development programs among law enforcement organizations to increase abilities in science. law. Not only law enforcement officers can enforce the law, the community also has the right to participate in law enforcement so that the law is obeyed by the community. This requires an attitude of cooperation between law enforcers and the community in enforcing existing laws in society so that the law can be obeyed and adhered to and legal sovereignty is maintained. The community contributes their ideas in law enforcement, apart from law enforcement officers,

<sup>10</sup> Soerjono Soekanto, 2004, *Factors Influencing Law Enforcement*, Jakarta, Raja Grafindo Persada.p.3.

<sup>11</sup> Satjipto Raharjo, 2007, *Dissecting Progressive Law*, Jakarta: Kompas.page.142-143.

<sup>12</sup> Sudikno Mertokusumo, 2005 *Getting to Know the Law: An Introduction*, Yogyakarta, Liberty.page.160-161.

<sup>13</sup> Eman Sulaiman, 2016, *Problems of Law Enforcement in Indonesia*, Ash-Shahabah, 2016.page.67

the community is encouraged to take part in maintaining the law so that it remains orderly and is obeyed by other members of the community. It is hoped that in law enforcement, law enforcers and the community will help each other and work together in enforcing existing laws so that the law can be enforced for the sake of justice, certainty and benefits which will certainly provide welfare for the community itself. As we know, all countries must have applicable legislation or laws.

Our country, Indonesia, is a country of law which has legal regulations which force all people in the territory of Indonesia to obey and submit to the legal regulations made by the Indonesian people, even in Indonesia regulating foreigners who live in the territory. Indonesia to comply with applicable laws in Indonesia. Law enforcement is considered very important. The government here is responsible for managing a region and its people. To achieve goals in state life, the government is obliged to safeguard the human rights of its citizens. Not only responsibility, the government has a broader interest in creating conditions that are conducive to creating prosperity in society.

Several forms of human trafficking that can be identified based on research by several institutions recorded from findings in the field are as follows: a. Sending Indonesian Migrant Workers (PMI) abroad without official documents or with falsified official documents and under the guise of various legal activities, for example, cultural missions; b. Placement of workers in the country for sexual exploitation; c. The implementation of a marriage is limited in time, only to legalize the sexual relationship in question for a certain period of time by receiving financial compensation (contract marriage).

Thus, human trafficking can take the following forms: a. Women and children are trafficked for prostitution and other sexual exploitation, including pedophilia; b. Migrant workers; c. Child begging; d. Mail Order Brides; e. Domestic workers; f. pornography industry; g. Distribution of illegal drugs and sale of body organs; h. As well as other forms of exploitation such as: 1) prostitution (on the street, brothels, massage places, saunas, call girl services) 2) forced labor (plantations, catering services, factories and so on) 3) servitude in the household and so on other. Various methods are used in the human trafficking process, including: a. Using methods of deception, persuasion, lure, coercion, violence and intimidation, even to the point of confinement and rape during the entire process or part of the process; b. Advertising in stages and continuously; c. Kidnapping; d. Personal contract network; e. Sales by parents, family, relatives, friends, neighbors, acquaintances, husbands, f. Debt bondage and others. The Prolegnas (National Legislation Program) Pro-Women Working Network notes that trafficking is an organized crime and often the perpetrators are people closest to the victim.

Victims of human trafficking are often in a situation where it is difficult to get out of the situation that surrounds them or the control of the trafficker. This is because: a. The perpetrator ensures that the victim will continue to work according to orders and not try to escape, by means of strict supervision; b. Negative stigma about victims so that victims feel ashamed; c. Threats/violence/intimidation/torture against the victim; d. Threats of revenge against the victim's family, especially the victim's loved ones. Such conditions will answer the question of why the victims did not report, did not run away and so on. Factors Causing Human Trafficking Factors are as follows:

1. Economic Factors, Forrel stated "Traffickers are motivated by money". This means that human traffickers are motivated by money. Economic factors are one of the main causes of human trafficking which is motivated by poverty and non-existent or inadequate employment opportunities for the large population. This is what causes someone to look for work even though they have to leave their home area with quite a lot of risk. Severe poverty and scarce job opportunities encourage millions of Indonesians to migrate within and outside the country to find ways to support themselves and their families. Apart from poverty, disparities in welfare levels between countries also cause human trafficking. The countries listed as recipients of human trafficking victims from Indonesia are richer than Indonesia, such as Malaysia, Singapore, Hong Kong, Taiwan and Saudi Arabia. This is because they choose the hope that they will be more prosperous if they migrate to another country. Apart from that, the elite lifestyle with a consumerist culture has colored some people, especially those who live in urban areas. Young women want to enjoy the luxuries of life without the need for more struggle. Taking the fast track to luxury even though they don't have a job or income that allows them to get that luxury. And for human traffickers, this condition is an opportunity to attract victims for trafficking. Thus, the influence of poverty and prosperity can be a factor in human trafficking. Therefore, poverty and the desire to improve one's economic situation are still social factors that are taken into consideration by the government in order to eradicate poverty.
2. Lack of Gender Equality This factor has a broad enough background to be used as a factor in human trafficking. The lack of gender equality is one of the factors of human trafficking, namely as follows: Patriarchal social and cultural values which are still strong place men and women in different and unequal positions and roles. This is characterized by the standardization of roles, namely as wife, mother, household manager, and educating

children at home, as well as additional breadwinner and the type of work is similar to tasks in the household. For example, being a housemaid and looking after children. Apart from the role of women, women also have a double burden, subordination, marginalization and violence against women, all of which originate from discrimination against women which causes them to have no or little access, opportunity and control over development, and no or less benefit from development. fair and equal to men. Many women and children are victims, this is because in society young marriages occur which are used as a way to escape poverty. In families, girls are often a burden on the family's economy, so they are married off at a young age. Marrying children off at a young age has pushed children into commercial sexual exploitation, because firstly, the failure rate of this kind of marriage is very high, resulting in divorce and vulnerability to human trafficking. After divorce they have to support themselves even though they are still children. Low education because after marriage they stop going to school and their low skills result in not having many choices available and from a mental, economic or social perspective they are not ready to live independently, so they tend to enter the world of prostitution as one of the most potential ways to survive. Early marriage often results in children not being ready to become parents, so that children born are vulnerable to not receiving protection and often end up with children entering the world of commercial sexual exploitation. There is an unequal relationship between men and women which makes women cornered and trapped in the practice of human trafficking. This happens to women who experience rape and usually the attitude or response of society is generally not on their side. This societal treatment encourages women to enter the world of commercial sexual exploitation. In fact, the existence of women in the world of sexual exploitation is mostly not due to their own will, but the socio-cultural environmental conditions where the women come from strongly influence them to enter the world of social exploitation, especially to be sent to big cities.

3. Law Enforcement Factors The law should act and take sides for anyone regardless of status. Law is a series of regulations that have sanctions for perpetrators of crimes. Law enforcement lies in the attitude of harmonizing the values described and attitudes to create, maintain and maintain peaceful social life. The lack of law enforcement in Indonesia, especially in prosecuting perpetrators of human trafficking, including owners, managers and

labor companies, is a legal loophole that benefits traffickers.

Based on central data, the causes of overall human trafficking practices that occur in Indonesia are as follows: a. Poverty; b. Low level of community education; c. Illiteracy; d. Limited employment opportunities; e. High unemployment rate; f. Having no skills; g. Conflict or natural disaster; h. Lack of information about the destination city or country; i. Too much trust in agents/recruiters/cabs; j. Inequality in power relations between men and women.

Based on data obtained from BP3AKB West Java province, the factors that cause human trafficking consist of factors from the supply and demand sides. The factors from the supply side are: a. Family conditions due to low education, poverty, limited opportunities and consumer lifestyle; b. Traditional values that consider children to be property that can be treated as the parents wish cause parents to have the heart to sell their children and cause children not to go to school so they do not have the skills to compete in the job market; c. The coverage of birth certificate registration is still low, which allows for falsification of age and other identities; d. Early marriage is a high risk for a woman, especially if it is followed by pregnancy and divorce; e. Violence against women and children causes them to leave their homes and become victims of trafficking and work in high-risk places; f. Want to live a decent life but have minimal skills and lack information on the job market; g. A patriarchal culture that is still strong causes gender inequality and injustice which is characterized by standardized roles, double burdens, subordination, marginalization and violence against women. This condition of women is very vulnerable to being objectified; h. The increasingly weak function of family resilience institutions and community institutions, the permissive attitude of society towards the surrounding community is also developing.

Meanwhile, factors from the demand side are: a. The myth of having sex with children (homo hetero) makes you stay young; b. The increasing international crime of drug trafficking expands human trafficking networks for prostitution and various forms of exploitation; c. The globalization of finance and trade has given rise to multinational industries and financial and banking cooperation causing many foreign workers to live in Indonesia, where their presence increases the demand for sex services; d. Employers want cheap, obedient and easily intimidated workers which has led to an increase in demand for women and child workers; e. Changes in social structure plus rapid industrialization/commercialization have increased the number of middle and upper class families which has increased the need for children to be employed as household servants; f. The growth of tourism businesses around the world also offers sex tourism, driving a high demand for women and children for these businesses.

The fear of customers being infected with the HIV/AIDS virus caused many young virgins to be recruited for that purpose. So, it can be concluded that the factors that cause human trafficking in Indonesia are as follows: 138 a. Patriarchal Culture: sexual objectification of women, value of virginity, commodities; b. Women's self-actualization demands: looking for work; c. Poverty: migration, migrant workers; d. Education and skills: low; e. Marriage: young age (under age), Early Marriage; f. Traditions: slavery and exploitation of women (concubines, women as tribute items, slaves); g. Permissive attitude towards prostitution; h. Urban life style: consumerism, materialism; i. Development has not yet touched remote/isolated areas. Limited job opportunities [14].

Human trafficking is a form of transnational crime that harms many people, especially in Indonesia. Human trafficking is carried out by transnational crime networks that are well organized and very skilled at exploiting existing situations and conditions.

The role of transnational crime networks in human trafficking in Indonesia includes arranging migration routes, facilitating victim transportation, falsifying documents and identities, committing fraud and coercion, as well as other tactics used in human trafficking. Arranging migration routes is one of the main roles of transnational crime networks in human trafficking in Indonesia. This transnational crime network has a wide and well-organized network, so it is able to organize the migration routes of victims in an orderly and measurable manner. This transnational crime network also has networks in various migration destination countries, so it is able to facilitate the transportation of victims from Indonesia to their destination countries easily. In addition to regulating migration routes, transnational crime networks also facilitate the transportation of victims in various ways. Transnational crime networks use sea, air and land routes to facilitate the transportation of victims. Apart from that, transnational crime networks also provide documentation and fake identities for victims, so that victims can pass immigration checks in various destination countries. Not only that, transnational crime networks also falsify documents and identities for victims. Transnational crime networks provide fake documents and identities that are similar to the victims' real documents and identities, so that victims can pass immigration checks easily. Apart from that, transnational crime networks also commit fraud and coercion against victims, such as asking victims for down payments or threatening victims to work in the destination country.

Other tactics used by transnational crime networks in human trafficking in Indonesia include involving victims in the practice of prostitution, organ trafficking, or inappropriate work. Transnational crime networks take advantage of the situation and conditions of victims who are in need of work, and force victims to work in inappropriate conditions.

Human trafficking carried out by transnational crime networks has a very negative impact on victims and society in Indonesia. Victims experience enormous physical and psychological impacts, such as trauma, depression and damage to body organs. Communities around the victims also feel major social and economic impacts, such as the loss of family members or friends, as well as threats to security in the surrounding environment. To overcome the problem of human trafficking carried out by transnational crime networks in Indonesia, there needs to be integrated and sustainable action from various parties, such as governments, communities and international institutions. Some actions that can be taken include increasing immigration control at points of entry and exit from the country, increasing international cooperation in monitoring and prosecuting human trafficking, increasing public awareness about the dangers of human trafficking, and providing protection to victims of human trafficking. Apart from that, strict law enforcement is also needed against perpetrators of human trafficking, especially perpetrators who are involved in transnational crime networks.

Strict law enforcement can be effective in reducing acts of human trafficking and minimizing negative impacts on victims and society. In the context of human trafficking involving transnational crime networks in Indonesia, it needs to be acknowledged that this problem is very complex and difficult to overcome quickly and easily. However, with integrated and sustainable action from various parties, as well as by increasing public awareness about the dangers of human trafficking, it is hoped that human trafficking can be reduced and the negative impact on victims and society minimized. Overall, the role of transnational crime networks in human trafficking in Indonesia is very large and has a very negative impact on victims and society.

Therefore, there needs to be integrated and sustainable action from various parties to overcome this problem effectively [15]. Human Trafficking as an Organized Crime Human trafficking is an organized crime, where the perpetrators of the crime have different roles from one another. Besides that, the scope of the crime of "trafficking in persons" reaches across

<sup>14</sup>J Joni Kasim, Factors in the Occurrence of Human Trafficking, <https://tribrataneews.kepri.polri.go.id/2020/01/20/aktor-terjadinya-perdagangan-human/>, 2020.

<sup>15</sup>Atsil Syah Gibran dan M. Fadly Khusairy, Analisis Impaksi Kajahatan Transnational Organized Crime Dalam Perdagangan Orang di Indonesia: Studi Kasus Rute Imigrasi Ilegal Timur Tengah, *Journal of Law dan Border Protection*, 83 | JLBP | Vol 5 | No. 1 | 2023, page. 3 – 5.

countries, so it is called "transnational crime". There are several things that need to be believed for a type of organized crime [<sup>16</sup>], namely: a. Global and transnational in nature; b. Involves a broad and systematic network; and c. Utilizing high technology, including information communication technology. In line with the opinion above, Mardjono mentioned that "trafficking in women" is also thought to be closely related to the problem of organized crime which refers to a "secret" organization (such as the mafia which was later named La Cosa Nosta, Yakuza, Triad and so on). The FBI (Federal Bureau of Investigation) has the following definition of a criminal organization [<sup>17</sup>]: "Any group that has some formalized structure whose primary goal is to obtain money through illegal activities. Such groups maintain their position through the use of threats of violence, corrupt public officials, bribery or extortion and generally have a significant impact on people in a place or region or the country as a whole. One of the major crime groups according to this definition – La Costa Nosta"). Meanwhile, Cressey, said that: "Organized Crime is a group, gang, squad, association, network, syndicate, cartel and confederation that has criminal objectives and therefore constitutes organized crime". At the United Nations Convention Against Transnational Organized Crime in 2000, it was emphasized that what is meant by organized criminal group is: "A structured group consisting of three or more people, and existing for a certain period of time, acting together. with the aim of committing one or various forms of serious crimes or offenses stipulated by this Convention, with the intention of obtaining directly or indirectly, financial or other material benefits." The two forms of crime that receive priority in this convention are corruption and money laundering. However, apart from the two crimes above, various crimes can be noted which are generally committed within the framework of transnational organized crime, such as Vermonte: a. Migrant smuggling (Migrant Smuggling); b. Money laundering (Money Laundering); c. Human trafficking (Human Trafficking); d. Illegal production and buying and selling of firearms (illicit Production & Trafficking in Fire Arms); e. Fraud via credit cards (Credit Card Frauds); f. Bank-related Crimes; g. Trafficking in narcotics and psychotropics and other illegal drugs (Drug Trafficking), and h. Prostitution and pornography (Prostitution and Pornography).

Loss of education reduces opportunities for future economic success for victims and increases vulnerability to future trafficking. Victims who return to their communities often find themselves tainted and abandoned/alienated, and in need of continuous social

services. Victims are also more likely to be involved in crime [<sup>18</sup>].

Prevention strategies must involve an integrated holistic approach, involving government, society and the private sector. Several strategic steps that can be taken to prevent human trafficking in Indonesia include:

- a. **Raising Public Awareness:** It is important for governments and society to raise awareness about human trafficking and its impact on victims and society. Education and information campaigns distributed on social media and other media can be an effective tool for increasing public awareness of this issue;
- b. **Strengthening the Security and Immigration System:** The government must strengthen the security and immigration system to prevent human trafficking in Indonesia. This includes increasing border security and strict law enforcement against human entrepreneurs and people smugglers.
- c. **Improving Victim Protection:** The government must provide adequate protection for victims of human trafficking and provide victims with access to health services, education and job training.
- d. **International Cooperation:** International cooperation with other countries is also very important in preventing human trafficking. The Indonesian government must cooperate with the governments of other countries in exchanging information, arresting and prosecuting traffickers, and providing assistance to victims. Apart from prevention strategies, effective handling is also very important to overcome the crime of human trafficking in Indonesia.

Several strategic steps that can be taken to deal with this crime include:

- a. **Strengthening International Cooperation:** Increasing cooperation between countries in the fields of intelligence and law enforcement is an effective strategy in preventing and dealing with human trafficking. This is done by strengthening the role of inter-state institutions in preventing and handling human trafficking. In addition, the Indonesian government can strengthen cooperation with countries that are the origin and destination of illegal migration, such as countries in the Middle East and Asia.
- b. **Education and Training:** Education and training can be a strategy to prevent and deal with human trafficking. Education and training is provided to the community and law enforcement officers to increase awareness and ability to identify and

<sup>16</sup>Harkrisnowo, Harkristuti. (2004). "Criminalization of Money Laundering." Paper Presented at the National Video Conference organized by PPAATK, BI, UI, UGM, USU, UNDIP, UNAIR, and ELIPS in Jakarta.pp.12.

<sup>17</sup>Jurnal Masyarakat & Budaya, Volume 12 No. 2 year 2010

<sup>18</sup> D.P.T. Kusumawardani, Pencegahan dan Penanggulangan Perdagangan Perempuan Yang Berorientasi Perlindungan Korban, Jurnal Masyarakat & Budaya, Volume 12 No. 2 year 2010, page. 333 - 336.

handle human trafficking cases. In addition, training can also be provided to victims of human trafficking to provide psychological support and help them develop the skills necessary to start a new life.

- c. **Strengthening the Role of the Financial Transaction Reporting and Analysis Center (PPATK):** The Financial Transaction Reporting and Analysis Center (PPATK) can be a strategy for preventing and handling human trafficking. PPATK can help block sources of funds and assets used for human trafficking. Apart from that, PPATK can also help monitor suspicious financial transactions and provide information to the authorities to take law enforcement action.
- d. **Strict Law Enforcement:** Strict law enforcement against perpetrators of human trafficking is an effective strategy in preventing and dealing with human trafficking. Perpetrators of human trafficking must be dealt with strictly in accordance with applicable law. Apart from that, it is also necessary to increase legal sanctions for perpetrators of human trafficking so that they can provide a deterrent effect for criminals.
- e. **Outreach and Campaigns:** Outreach and campaigns can be strategies for preventing and handling human trafficking. Outreach and campaigns are carried out to increase public awareness about the dangers of human trafficking and the importance of reporting suspicious cases to the authorities. In addition, campaigns can also be carried out to increase public awareness about the rights of human trafficking victims and provide support to human trafficking victims.<sup>19</sup>

Progressive law pays great attention to the role of human behavior in law. This is diametrically opposed to the understanding that law is only a matter of regulations.<sup>20</sup> The role of humans here is a consequence of the recognition that we should not adhere absolutely to the formal text of a regulation. Progressive legal theory contains very strong human morals. If human ethics or morals have faded, then law enforcement will not be achieved, so building a society for human

prosperity and happiness will also not be realized. Interpretation is not merely reading regulations using regulatory logic, but also reading reality or what is happening in society.

## D. CONCLUSION

Law enforcement of the crime of illegal worker placement has not been running optimally considering: a. There is still a lack of job opportunities in Indonesia, so workers are forced to choose to work abroad via Batam in order to get a decent life. b. Indonesia is an archipelagic country, so law enforcement in cases of illegal Indonesian Migrant Workers (PMI) is quite difficult considering that a large archipelagic country like Indonesia opens up opportunities for violations to be committed; c. The government has not accommodated Indonesian Migrant Workers (PMI) as victims of illegal Indonesian Migrant Workers (PMI), resulting in law enforcement that is beneficial for all citizens not yet being felt optimally. This makes Indonesian Migrant Workers (PMI) think that they are only slaves for this nation, considering that their rights as human beings are not given enough attention. For this reason, the need for law enforcement related to the crime of illegal workforce placement requires a holistic and coordinated approach where strengthening cooperation between related parties must be built by increasing cooperation between law enforcement agencies, such as the police, immigration and other authorities and collaborating with private parties and organizations. civil society to support law enforcement. Apart from that, there is also the need to take an educational and outreach approach by conducting educational campaigns to the public and companies about the legal consequences of placing illegal workers with outreach regarding the rules and procedures for recruiting legal workers. The most important thing is that the Government of the Republic of Indonesia is strengthening laws and policies by strengthening regulations and sanctions related to the placement of illegal workers, and encouraging companies to follow legal recruitment procedures by providing incentives or sanctions.

<sup>19</sup>Ibid., page. 11 -13.

<sup>20</sup> Joni Emirzon, Urgensi Etika (Moral) dalam pembangunan Hukum Progresif di Masa Depan, dalam Satjipto Rahardjo, Membedah Hukum Progresif, Ed, I

Gede A.B Wiranata, Joni Emirzon, dan FirmanMuntaqo (Jakarta: Penertbit Buku Kompas, cet 2; 2007), page. 233.