Injuruty: Interdiciplinary Journal and Humanity

Volume 1, Number 1 October, 2022 e-ISSN: 2963-4113 and p-ISSN: 2963-3397



JURIDICAL ANALYSIS OF HUMAN TRAFFICKING IN BATAM CITY VIEWING FROM HUMAN RIGHTS

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Abstract

Violations of human rights, the cause of human trafficking must be eradicated and prevented. Due to the lack of intervention and regulation of a country, this is a very worrying condition that is very dangerous. It is difficult to bring traffickers to justice. Trafficking in persons is an act that is contrary to human rights and dignity. Trafficking in persons has become a threat to society, the nation and the state, as well as the norms of life based on respect for human rights, thanks to its spread by organized and unorganized crime networks, both within the country and between countries. This research relies on library research, also known as normative empirical research methods, and juridical research methods. The normative legal research method is a method that looks at what is already in the library. The results of the research Legislation, legal theory, and opinions of leading legal scholars are examples of secondary data sources used in juridical research methods. According to the 2010 UNAFEI report, women and children constitute one-third of all victims of human trafficking worldwide, with numbers ranging from 200,000 to 225,000 per year. To protect victims on a national and international scale, proper legal protection must be implemented. rather than the perpetrator being punished, the suffering of the victim is only used to make laws or instruments that punish the perpetrator.

Keywords: Jurdical analysis; human traffic, batam city

INTRODUCTION

Indonesia, the problem of human trafficking, especially among women and children, has recently become increasingly widespread (Alvarez & Alessi, 2012). Every year, the number of criminal cases involving human trafficking is increasing, especially those involving women and children, including infants. According to the UNAFEI 2004 report, women and children constitute one-third of all victims of trafficking persons worldwide, with numbers ranging from 200,000 to 225,000 per year.1 According to a report compiled and handled by the National Commission for Child Protection, Indonesia had at least 321 infant trafficking between January and June 2008 Between January and December 2007, there were approximately 282 cases of infant trafficking, according to the National Commission for Child Protection2. An increase in the number of underage village girls being sold as commercial sex workers. There were more than 400,000 people there in the first half of 2008. 42,771 people participated in the event in 2006. In 2007 it reached 745,817 people (Daniel et al., 2017).

This fact is ironic In because the Criminal Code and the 1945 Constitution of the Republic of Indonesia all have adequate provisions against human trafficking. Human Rights, starting from the Child Protection Act of 2002 to the Trafficking in Persons Act of 2007, both of which aim to end human trafficking (Indriati, 2018).

The supreme power, which is a fundamental trait or characteristic of a state, is understood as the source of state sovereignty. However, the limits of this supreme power are limited by the territory of the state. As a result, a state has supreme power only within its territorial boundaries land, sea, and air (Peiru & Alhakim, 2022). When a country claims sovereignty, it means it has

full authority to exercise its territorial rights within its own borders. In this case for example, it is one of the principles or doctrines known as "jus cogens" or "norms to be obeyed." The principle of sovereignty in the United Nations Charter is one of the basic principles that is very important and respected, especially in the equality of rights among countries in the world. Every country must adhere to the principle of State Sovereignty in setting its political policies. This means that each country has exclusive rights, such as full jurisdiction over crimes committed within its borders (Wismayanti et al., 2019).

International migration that occurs is like a currency with two sides that have a positive impact, but sometimes it creates new problems such as Human Trafficking or human trafficking. Human Trafficking or trafficking in persons is the recruitment, transportation, delivery, harboring, receipt of persons, by means of threats/use of violence/other forms, violence, fraud, fraud, abuse of power/in a position of vulnerability to give/receive payments/benefits to reach an agreement from a person who dominates another person, with the intention of being exploited. Exploitation must at a minimum include exploitation of prostitution/other forms of sexual exploitation, forced labor/services, slavery/similar practices, forced labor/selling of organs. Thus, the elements of the criminal act of trafficking in persons are:adequate nutrition and is in accordance with the baby's needs. In addition, breast milk is easily digested in the baby's intestines. Exclusive breastfeeding (ASI) is breast milk given after delivery until the baby is 6 months old (Pusdiknakes, 2003). According to Entwistle Entwistle et al., (2010) it shows that the benefits of breastfeeding are not only for the health of the baby but also for the mother and the country. Various studies have proven that breastfeeding is very important, but the rate of exclusive breastfeeding has not been satisfactory. Based on Gayatri et al., (2022) it shows that 48% percent of infants in Indonesia have not been exclusively breastfed.

Exclusive breastfeeding that is still low can be influenced by several factors, namely maternal, infant and environmental factors. One element of the mother that affects the success of breastfeeding mothers is the mother's belief and confidence in her ability to breastfeed her baby (self-efficacy). The results of the study by Lozano et al., (2012) showed that 27% of mothers with low breastfeeding confidence in the first week of postpartum stopped breastfeeding sooner. In addition to phenomenological research with in-depth interviews, it was found that the main factor causing mothers to stop breastfeeding was the mother's confidence and confidence in the early postpartum period (Zhang et al., 2009). Breastfeeding Self-Efficacy (BSE) is the mother's belief and confidence in her ability to breastfeed her baby (Mardiyaningsih et al., 2021). The mother's lack of confidence in her ability to breastfeed her baby can be caused by the mother not making initial contact with her baby. This can affect the welfare of the baby in the future. According to Klaus and Kennell (1982) in (Hidayati & Walck. 2016) due to prematurity or illness can increase the risk of neglect, violence and developmental disorders. Developmental disorders that can occur in infants are conditions of failure to thrive without organic disease, susceptible to disease, or emotional problems due to maternal abuse and neglect.

- a) Activities (recruitment, transport, transfer, harboring and reception of persons);
- b) By threats/use of power/other forms (violence, fraud, deception, abuse of power);
- c) Purpose of exploitation (sexual, forced labour, slavery/similar practices, sale of organs).

The rise of cases of illegal human trafficking (human trafficking) as a transnational crime issue is very crucial. International crime is the act of a group of people involving two According to the website of the US Embassies and Consulates in Indonesia, the Ministry of State reported identifying 259 cases of trafficking in persons in 2019 (164 cases recorded in 2018, 340 in 2017 and 478 in 2016). , feminist groups, and organizations working in the field of human rights (HAM), among others who are very concerned about this phenomenon and are concerned with the issue of human trafficking, believe that one of the problems trafficking in persons is a

growing number of cases, in particular, a contemporary form of slavery. Sex concerns international migration is a concrete cause for concern, o One example is the government's decision to house foreign nationals who have been identified as victims of human trafficking in Indonesia at the RPTC Jakarta or in one of 13 Immigration Detention Centers as a facility to accommodate illegal migrants, refugees, and asylum seekers. Shelters, international organizations are also permitted to provide legal and counseling services. Trafficking in persons is an act that is contrary to human rights and dignity. Trafficking in persons has become a threat to society, nation and state, as well as norms of life based on respect for human rights, thanks to its spread by organized and unorganized crime networks, both within the country and between countries.

METHOD RESEARCH

This research relies on library research, also known as normative empirical research methods, and juridical research methods. The normative legal research method is a method that looks at what is already in the library. Legislation, legal theory, and the opinions of leading legal scholars are examples of secondary data sources used in juridical research methods. The secondary data sources are then analyzed and conclusions are drawn from the problems that will be used to test and review the secondary data. The author of this paper conducts research and examines the norms incorporated in national and international law relating to human trafficking. The legal materials used in the research of this scientific paper are divided into three categories:

- 1. The main law, or statutory regulations relating to this research;
- 2. Libraries in the form of books, journals, papers, and the like related
- 3. with the subject of this research known as secondary law.
- 4. Explanation of primary and secondary legal materials in the form of dictionaries,
- 5. encyclopedias, and other similar works is called tertiary law

RESULT AND DISCUSSION

Immigration officials must have a courageous, firm, and authoritative attitude in carrying out their duties as state security apparatus and law enforcers of the Unitary State of defense and security of the Republic of Indonesia, which is vulnerable to various international crimes. Drug trafficking, human trafficking, cyber crime, international organized crime, illegal border crossing crimes, licensing, people smuggling, separatism, immigration, and documents whose forgery can threaten the security, unity and existence of the Unitary State are among the transnational crimes being handled. Republic of Indonesia.

The imposition of a fee, inclusion in the list of preventive or deterrence measures, registration, alteration, or Permit of a Stay Permit, even deportation of Indonesia are all administrative actions that can be taken by immigration officials. Indonesia has implemented a policy that does not require a visa to visit 169 countries in accordance with Presidential Regulation 21/2016, which has both positive and negative impacts (Nagin, 2013). Expansion of the economy for the benefit of the state and society. However, from the immigration point of view, the implementation of the Visa-Free Policy for 169 countries has largely resulted in ideological, political, legal, security, and state ownership vulnerabilities.

In implementing this policy, it is necessary to consider the number of visa violations committed by foreigners. After the implementation of the Visa Free policy, ideological, political, legal, and security issues can also be found in the number of asylum seekers and exo citizens to Indonesia. Asylum seekers and refugees cannot be denied entering Indonesia because their existence cannot be separated from the policies of international institutions that use human rights as their actions. policies against immigration principles. Citizens also violate immigration laws in the following ways: illegal crossing) Foreigners pass through Immigration Checkpoints and enter Indonesia illegally or not; stay illegally) Foreign citizens living in Indonesia without a valid Stay Permit or travel document; Misuse of Visa for work or other purposes; Fake Visa and travel documentation.

Increasing the professionalism of human resources within the Directorate General of Immigration in terms of ethics, character, and competence to support immigration performance is an effort that must be made to overcome immigration violations that we must correct from the immigration side; strengthen the function of law enforcement regarding immigration crimes to provide a deterrent effect for those who violate immigration provisions; improve the quality of immigration administrative measures, such as deportation or inclusion in the list of preventive and deterrence measures, as an effort to prevent foreigners from entering Indonesia; through the Foreigner Supervision Team (Tim Pora) consisting of the TNI, Polri, Attorney General's Office, Ministry of Manpower and Transmigration, and other institutions, as well as increasing cross-agency coordination to improve supervision of foreigners.

This is regulated in the Immigration Law Number "Immigration officials refuse foreigners to enter the Indonesian Territory in the event that the foreigner is included in the network of practices or activities of prostitution, trafficking in persons, and people smuggling," reads Article 13 of Law no. 6 of 2011, which was passed in 2011. This article confirms that immigration officials are authorized to refuse or prevent foreign nationals who are involved in human crimes from applying for immigration status.

LEGAL PROTECTION FOR VICTIMS OF THE CRIME OF TRAFFICKING

Legal persons exist with the aim of providing legal certainty and justice. To protect victims on a national and international scale, proper legal protection must be implemented. Even though the victims suffer more. rather than the perpetrator being punished, the suffering of the victim is only used to make laws or instruments that punish the perpetrator. A large number of victims suffer from mental or psychological disorders as a result of the stress they experience. Victims may experience mood swings, avoid their surroundings and even their own families, and worse, they may

consider suicide. With the enactment of Law no. 21 of 2007 concerning Eradication of the Crime of Trafficking in Persons in Indonesia is

- a. Glimmer of hope for victims of trafficking in persons to obtain their rights as victims according to the law. Articles 43 to 45 explain the rights of victims and witnesses of trafficking in persons. The rights granted by law to victims include: The right to use all applicable legal remedies.
- b. The right to obtain compensation for any treatment that has made him suffer.
- c. Right to legal counsel
- d. The right to refuse compensation if it is not needed
- e. The right to obtain legal protection if threatened by the perpetrator
- f. The right of compensation given to the heirs if the victim of the crime of trafficking in persons dies
- g. The right to refuse to give testimony if it is felt that it is dangerous to his life
- h. Right to rehabilitation and development
- i. The right to get back what is rightfully theirs.

So that it can be said that legal protection for victims of the crime of trafficking in persons, apart from imprisoning the perpetrators, is also realized in the form of fulfilling the rights of victims legally. These rights include: The right to obtain restitution, restitution is compensation in the form of material or immaterial given to the victim or heir that is charged to the perpetrator based on the law and the court judge's decision. This is regulated in Article 48 paragraph 1 of the TIP Law. Restitution which is the payment of compensation can be in the form of reimbursement of costs, compensation for suffering or loss suffered by the victim, return of property, and payment of something that should be the victim's right.

- 1. Right to Protect Victim's Identity. The government or authorized official isresponsible for providing guarantees for the protection of victims and their families for the information that has been given, this is regulated in Article 44 paragraph 1 of the PTPO Law.
- 2. Right of Reintegration Repatriation, Social Rehabilitation and Health. Rehabilitation is needed for victims who experience mental disorders due to depression and stress. Rehabilitation is needed so that efforts to restore the psychological and physical condition of victims of human trafficking can return to normal.

Victims have the right to obtain health rehabilitation from the government, return to their place of origin, obtain a good social environment, and obtain reintegration. Victims are also entitled to restitution, this is regulated in Article 48 paragraph 2 UUPTPO, restitution can be obtained by victims or their heirs:

- a. If the victim loses his income or wealth
- b. Recovery of psychological and medical conditions costs money
- c. Compensate for the suffering suffered by others

What happened to the victim as a result of human trafficking. Restitution can be requested at the same time as reporting the case to the local police station. Then the investigator will carry out the handling of the reported crime. The victim was notified by the public prosecutor about the existence of restitution and how much the victim will get for the crime of trafficking in persons.

THE EXISTENCE OF TRADING IN PEOPLE FROM HUMAN RIGHTS PERSPECTIVE

The rampant trafficking in persons in Indonesia is a form of human rights violations, especially against women and children. Because in reality women are victims in the child age category, namely someone who is not yet 18 (eighteen) years old, including children who are still in the womb (Article 1 point 5 UUPTPO).

"Human Rights are a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty and are His obligatory gifts," reads Article 1 point 1 of the 1999 Human Rights Law (hereinafter referred to as UUHAM). respected, upheld, and protected by the state and government, as well as by all people, in order to maintain human honor and dignity. The definition of human rights contained in the Human Rights Law is identical to that contained in Law no. 1 article 1 point 1. concerning the Human Rights Court (UUPHAM) in Law 26 of 2000.

We wish to emphasize the relationship between human rights and human dignity based on the definition of human rights. The formulation of the law that humans were created by God Almighty and is His gift has a more important meaning. In addition, it is emphasized that dignity, rights and human rights are owned by all human beings without exception.

As a result, human trafficking is the most serious crime committed in this century. In other words, it is against human rights. It is unlawful for anyone, regardless of their identity, to treat their fellow human beings as commodities or objects. by trading it for any purpose. Humans who have the same dignity and worth before God Almighty. It is sufficient to have regulations, both explicit and implicit, that classify human trafficking as a form of human rights violation, including the following:

a. From a global perspective, human trafficking is also considered a violation of human rights, especially degrading human dignity. "All human beings are born free and equal in dignity and rights," reads the first paragraph of the Universal Declaration of Human Rights (UDHR). They should come together in a spirit of brotherhood because they are endowed with reason and conscience. Resolution No. 1 The General Assembly of the United Nations adopted the Universal Declaration of Human Rights. on December 10, 1948, in Paris, France, 217 A(III) "No one may be enslaved or enslaved," reads Article 4 of the UDHR. The slave trade and all forms of slavery should be prohibited.

- b. The 1945 Constitution of the Republic of Indonesia also discusses the consequences of these human rights violations, particularly in Article 28I Paragraph 1 which states: the right to freedom of mind and heart, the right to life, and the right not to be tortured. Human rights include the right to conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be retroactively prosecuted. actually hidden in the word "slave" in the 1945 Constitution, especially in Article 28I Paragraph 1. Overall this article reads: Human rights that cannot be reduced in any way include the right to life, the right not to be tortured, the right to freedom of thought and conscience. , the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted retroactively. The right to be free from slavery has an impact on the right to be free from human trafficking, which usually applies to women and children. Therefore, human trafficking retains its substance. Because slaves were usually trafficked by their owners in the past as well. In response to widespread human trafficking in Indonesia, the United States refers to the situation as "modern slavery". Considering that women who are victims of human trafficking are generally children, apart from being subject to human rights violations, they are also subject to violations of children's rights, as stated in Article 28B, Paragraph 2, of the 1945 Constitution of the Republic of Indonesia., which states that "Every child has the right to survival, growth, and development and the right to protection from violence and discrimination." Because "every child has the right to protection by parents, family, community and state," Article 52 of the Human Rights Law states, "every child has the right to protection by parents, family, community and state" if girls are victims of human trafficking. . (verse 1)". To prevent children from becoming victims of trafficking in persons, it is necessary to emphasize that the parties mentioned above must provide maximum protection for the implementation of children's human rights. children are recognized and protected by law from the time they are in the womb (paragraph 2)," as the saying goes, those are the rights of children.
- c. Human Rights Law No. 39/1999 (UU-HAM) states that "no one can be enslaved or enslaved (Paragraph 1)" in Article 20. Trafficking in women, slavery or servitude, slave trade, and any other act that have similar purposes, all of which are against the law (verse 2)." may be enslaved or enslaved" is the meaning of the phrase "similar" in this Article (Article 20 Paragraph 1). In addition, "every child since in the womb has the right to live, maintain life, and improve his standard of living" is stated in Article 53 paragraph 1 of the Law. No. Still related to children's human rights, as stated in Article 56 of the Human Rights Law: "In the event that the child's parents are not able to raise and care for their child properly and in accordance with the law, the child can be raised or adopted as a child by someone else according to the law. this law," reads paragraph 1. "Every child has the right to know who his

parents are, to be raised, and cared for by their own parents." provisions of laws and regulations. In addition, it is regulated in the following sentence in Article 57 of the Human Rights Law: In accordance with the provisions of the applicable laws and regulations, "every child has the right to be raised, cared for, cared for, educated, directed, and guided in his life by his parents. or his guardian until he is an adult. A victim of human trafficking.

d. In particular, Law No. Trafficking in persons, especially children, also contradicts the law (UUPA), article 23 of the 2002 Child Protection Act. As a result, trafficking in persons is not only against international law. and national human rights laws, but also conflict with the Child Protection Act. This is reflected in the phrase "prohibition of trafficking, selling or kidnapping children for oneself or for sale" in Article 83 of the LoGA. h as the right to be able to live, grow, and develop, as well as participate fairly in accordance with human dignity.

Trafficking of women and children, especially babies, is an inhuman act that degrades human dignity as a gift from God and can be done by anyone.27 Infants and children are innocent human beings who are still physically weak. barbaric and inhumane. Their actions are contrary to religious principles and the Second Precepts of Pancasila, which is referred to as "just and civilized humanity." As a creature created by God Almighty, everyone has human rights in accordance with their dignity, which are protected by law based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Trafficking in persons, especially women and children, is a violation of human rights. human rights. dignity and human rights that must be eradicated.

As a result, in addition to contradicting the Human Rights Law mentioned above, the recent symptoms of infant trafficking also violate Law Number 21 of 2007 concerning Eradication of the Crime of Trafficking in Persons and Law Number 23 of 2002 concerning Child Protection. Although the term "infant" is not explicitly used in the law, Article 1 number 5 defines a child as any person under the age of 18—including a child who is still in the womb. With the issuance of the UUPTPPO as previously mentioned, in its development, Article 20 Paragraph 2 of the Human Rights Law and Article 28I Paragraph 1 have previously been clarified. Pay attention to the explanation of the PTPO Law which states that "trafficking in persons is a form of human slavery." Human trafficking is also one of the worst ways to treat people whose dignity has been violated, despite trying to protect human rights.

Women and children are the most frequent victims of human trafficking, according to empirical evidence. In addition to prostitution and other forms of sexual exploitation, victims are exploited in other ways, such as through forced labor or services, slavery, or practices similar to slavery. If so far the regulations regarding the prohibition of trafficking in persons have been scattered in various legal sources which are partial, now they are specifically regulated in the UUPTPO. Therefore, the

government is actually ordered to prevent trafficking in persons, as stated in Article 71 of the Human Rights Law that "the government is obliged and responsible to respect, protect, uphold and promote human rights". Allowing the practice of trafficking in persons to run without any significant obstacles is a violation of human rights that is actually carried out by the government. Human dignity is so high and special that humans are called "imago dei", the image, form, and form of God.

Therefore, the increasingly phenomenal trafficking in persons in Indonesia actually insults and demeans the recognition of human dignity in the context of realizing human rights, including two important things, namely the fulfillment of needs and the fulfillment of the right to growth. Fulfilling these needs means being able to fulfill their basic rights, because various needs are absolute, meaning that they must be fulfilled, otherwise serious disturbances and even death will occur. Fulfillment of the right to development means living in accordance with human dignity, not only meeting needs, especially temporary ones, but also everything that is needed or beneficial for development. Isn't it increasingly realized today that the fulfillment of human needs is not only the minimum need for life, but also more than that for development. However, in many countries including Indonesia this awareness is not yet grounded, it is still only a dead formula in the articles of the law. later became political rhetoric among the political elite, especially during the campaign period, both in regional head elections and especially in presidential and legislative elections

CONCLUSION

In Indonesia, the problem of human trafficking, especially women and children, has recently become increasingly widespread. Every year, the number of criminal cases involving human trafficking is increasing, especially those involving women and children, including infants. According to the UNAFEI 2004 report, women and children constitute one-third of all victims of human trafficking worldwide, with numbers ranging from 200,000 to 225,000 per year. 1 According to a report compiled and handled by the National Commission for Child Protection, Indonesia had at least 321 infant trafficking between January and June 2008 Between January and December 2007, there were approximately 282 cases of infant trafficking, according to the National Commission for Child Protection.

To protect victims on a national and international scale, proper legal protection must be implemented. rather than the perpetrator being punished, the suffering of the victim is only used to make laws or instruments that punish the perpetrator. A large number of victims suffer from mental or psychological disorders as a result of the stress they experience. The right to use all applicable legal remedies.

Because in reality women are victims in the child age category, namely someone who is not yet 18 years old, including children who are still in the womb. "Human rights are a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty and are His obligatory gifts," reads Article 1 point 1 of the 1999 Human Rights Law. The definition of human rights contained in the Human Rights Law is identical to that contained in the Law.

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