

## **LEGAL PROTECTION OF WOMEN TRAFFICKING VICTIMS IN INDONESIA FROM AN INTERNATIONAL HUMAN RIGHTS PERSPECTIVE**

**Bella Kusmayadi, Mohamad Lutfi Awaludin, Sindi Arifah Darayani, Rizka Rizkiatul Ula**  
SILIWANGI UNIVERSITY

[rizkarizkiatulula27@gmail.com](mailto:rizkarizkiatulula27@gmail.com), [Muhamadlutfi441555@gmail.com](mailto:Muhamadlutfi441555@gmail.com),  
[sindiarifah899@gmail.com](mailto:sindiarifah899@gmail.com), [bellakusmayadi20@gmail.com](mailto:bellakusmayadi20@gmail.com)

### **Abstract:**

The purpose of this study is to analyze the legal protection of women victims of human trafficking in Indonesia from an international human rights perspective. The type of research used is empirical normative legal research. The data obtained from this study are primary and secondary data from the results of field research and literature, which are analyzed and examined for legal relevance and used to describe the concepts and theories used in this study. The data is then analyzed qualitatively using a legal approach and a conceptual approach. The results of this study show that from an international human rights perspective, legal protection for women victims of trafficking is already contained in Law No. 21 of 2007 on the Elimination of Human Trafficking, but the provision of such protection for female victims is not supported by implementing measures such as government regulations.

---

---

**Keywords:** Legal Protection, Trafficking in Persons Crimes, and Human Rights

### **INTRODUCTION**

Human beings essentially have the same rights and are always related to themselves, such as the right to life, the right to security, the right to be free from all forms of oppression, and other rights commonly called Human Rights (HAM). The concept of human rights means that rights are defined according to humanity and for the good of mankind. Human rights, which are the basic rights of all people as gifts from God, inherent in human beings, natural, universal, eternal and related to human dignity and worth, are shared equally by everyone, without distinction of gender, nationality, religion, age, language, State. social, political and other opinions (Nuraeny, 2012).

One of the human rights issues in Indonesia is the crime of human trafficking, which is a form of recruitment, delivery, transfer, detention or receipt by threat or use of force or other coercion, kidnapping, fraud, lying, abusing power or vulnerable position, or giving and receiving payments or benefits to obtain the consent of someone in power over another (Hynes, 2015), for exploitation purposes. Exploitation is defined at least as the exploitation of another person for the purpose of prostitution or other sexual exploitation, forced labor or service, slavery or slavery-like practices, servitude or organ harvesting. In Indonesia, trafficking

offenses include trafficking for sexual exploitation, trafficking in domestic workers, migrant workers, child labor, and forced marriage. At the forefront of these crimes is the fact that victims are forced to work in poor working environments and with inadequate pay (Irianto, 2006).

According to a report by the International Organization for Migration (IOM), the number of trafficking victims in Indonesia between 2005 and 2017 was 8,876. In 2017, the National Police's Directorate General of Criminal Investigation successfully repatriated 1083 trafficking victims (Lyneham, 2013). Of these, 1,078 were adult women and the rest were children. Meanwhile, 32 cases of child trafficking were found in three months in 2018. Each province in Indonesia is a source and destination of trafficking. The areas expected to become recruitment centers are Java, Kalimantan, Sulawesi and Bali. Human trafficking occurs in the region. The West Java region topped the list of trafficking victims in 2015 with a total of 2,151 victims. Central Java came second with 909 casualties. Kalimantan ranks third with 732 victims (Putri, S.A, 2018). Today, human trafficking crimes have increased significantly, both qualitatively and quantitatively (Larsen, 2010). The increase in human trafficking crimes is a direct result of the process of social change and industrialization which tends to result in the erosion of human values in society. Prevention of trafficking requires the cooperation of various parties, state and social institutions to provide protection and legal assistance, especially to women and children.

Combating human trafficking crimes certainly requires special strategies, for example through the implementation of repressive and preventive measures, as well as rehabilitation of trafficking victims and crime detection (Emmers, 2003).

The most frequently used definition of human trafficking is the definition of Trafficking Protocol (Purwanti, 2017). Human trafficking is the recruitment, transportation, transfer, detention or acceptance of a person by using threats or other benefits to obtain the consent of a person under the control of another person for exploitation. Exploitation at least includes exploitation, prostitution or other sexual exploitation, namely forced labor, slavery or similar practices, organ prevention or harvesting (Wicaksono, 2020).

Human trafficking is a form of human rights violation against women because it includes elements of threats, torture and sexual violence as commodities which are all human rights. In the situation of trafficked women and children, their rights are still violated. Because then they were arrested, harassed and forced to work abroad (Windiani, 2017). Human rights are the responsibility and obligation of every state, through its mechanisms, to guarantee and provide protection to every citizen. Violence against women is a social and health problem that must be addressed, so the state must use all means to take responsibility for victims of female violence (Bajari, 2013). Indonesia itself has long sought to guarantee women's human rights and is committed to this protection by ratifying the Convention on the Elimination of All Forms of Discrimination Against Women promulgated through Law No. 7 of 1984 (Chan, 2014).

## **METHOD**

This research is a normative empirical legal research with the aim to determine the scientific superiority and truth of the legal protection of women victims of human trafficking in Indonesia from an international human rights perspective. This research is an evaluative and prescriptive research. It is said that this study is evaluative because it provides an in-depth

analysis of the forms of legal protection for women trafficking victims in Indonesia that are bound by international regulations, especially international human rights. The prescriptive nature of the study is reflected in the fact that it is also based on the principles of international law and international standards on human rights, particularly in the field of legal protection, offering appropriate solutions to remove barriers to protection of female victims of violence. Human trafficking.

This research uses a legal approach and a conceptual approach. The author uses a legal approach to review or revise all laws and regulations related to the initiation of the development and implementation of laws, policies, programs, activities and legal protection for women victims of trafficking. Regulatory supervision is carried out from the highest to the lowest in the order of applicable laws and regulations. The conceptual approach used in this study is to examine the teachings, principles and concepts of legal science related to legal issues that are the main concern of researchers, namely legal protection of women victims of human trafficking within the framework of international human rights.

Data analysis is a continuation of analytical methods, which is the way the collected information is used to solve research problems. Primary and secondary data from field research findings and literature are analyzed and examined for their legal relevance and used to describe the concepts and theories used in the study. This research data is analyzed qualitatively, meaning that this analysis aims to find out the truth based on the value or quality of the data obtained, ie. H. application of justice indicators for abused women. To conduct this qualitative analysis, researchers conduct an analysis with the following steps: (1). collect information grouped based on research objects or variables; (2) sort and process information related to cross-border K-12 education laws and regulations, policies, programs, activities, and funding; (3). Evaluate information quantitatively and in order of importance, (4). If necessary, make conclusions and recommendations.

## **HASIL DAN PEMBAHASAN**

---

### Legal Protection of Women Trafficking Victims in Indonesia from an International Human Rights Perspective

Legal protection of women from all forms of illegal exploitation is essentially a violation of human rights, inherent human rights from birth and the grace of God that must not be diminished. All forms of human trafficking, particularly trafficking in women, are human rights violations where victims are treated as commodities to be bought, sold, transported and resold. This global phenomenon continues to develop and change its form and complexity, only human exploitation (Anis Hamim and Ruth Rosenberg, 2003: 12). Within the framework of human rights protection, the protection of women is essentially a manifestation of the right to life, the right to be free from slavery or servitude. This human right is permanent and universal, meaning that it applies to everyone regardless of origin, sex, religion and age, so that every country without exception is obliged to fulfill it (Iksan). There are several international treaties on trafficking, including the Universal Declaration of Human Rights. Article 4 of the Universal Declaration of Human Rights (UDHR) states: "Slavery and servitude are not permissible: The slave trade is prohibited in all its forms." The provisions of Article 4 clearly prohibited slavery and the slave trade.

In 2007 there was Law No. 21 in Indonesia concerning the eradication of human trafficking. Although trafficking regulations already exist, there are currently no binding orders, such as government orders, supporting these laws. The government also failed to use this law in addressing trafficking cases, particularly in terms of providing legal protection to trafficking victims.

Legal protection of trafficking victims is to protect the right of every victim of trafficking offenses to equal treatment and protection in accordance with laws and regulations. Victims are entitled to the necessary assistance and protection in accordance with the rule of law, ie. H. equality before the law, in all violations of the law against the victim and the consequences for the victim. On the other hand, victim support and protection refers to the basic rights of victims, for example. B. The right to physical assistance, the right to assistance in problem solving, the right to remedy, the right to counseling and rehabilitation, the right to assistance in problem solving, protection from threats and the right to compensation (reimbursement/compensation) both from the perpetrator and the state.

The Criminal Procedure Code only provides legal protection to victims in the form of compensation in combined cases and does not regulate other forms of legal protection. The lack of specific legal protections for victims of crime, particularly trafficking victims, led to injustices, with prosecutors representing victims often only indicting or imposing relatively light sentences on perpetrators. Protection of trafficking victims can be abstract (indirect) or concrete (direct). Abstract protection is essentially a form of protection that can only be enjoyed or felt emotionally (psychologically), such as satisfaction.

Meanwhile, material protection is essentially a form of protection that can be enjoyed tangibly, for example through tangible and intangible gifts. Material provision can be in the form of compensation or reimbursement, exemption of living expenses, or training. The provision of inviolable protection can be threats to freedom and messages that dehumanize it. Protection of trafficking victims can be implemented through legal, administrative, civil, and criminal channels. Indeed, the definition of the crime of trafficking and legal efforts to combat trafficking in its various stages also includes efforts to protect victims of trafficking, albeit abstractly or indirectly. However, it can be said that the criminal structure of protection of victims of crime has not shown a clear pattern (Muladi, 2006: 87).

The formulation (definition) of trafficking in persons as a criminal offense (with criminal threat) in legal provisions is essentially an indirect protection for victims of such crimes. court decision regarding the case. It is assumed that the higher the number of criminal threats against traffickers, the more legal protection victims have, because by imposing severe penalties on the perpetrators, it is hoped that similar cases will not arise, namely. H. Would-be criminals should think twice about human trafficking. in people who think about a serious threat. Punishing criminals (violence) does not deliver full justice. Especially if the victim has physical and mental injuries. Protection may also be offered in other forms, such as medical and psychological services juga diperlukan untuk memulihkan kepercayaan dan semangat hidup korban, dan santunan berupa biaya santunan untuk menutupi biaya pengobatan korban. Perlindungan ini sangat penting bagi korban perdagangan manusia yang sangat membutuhkan pemulihan dari kerugian fisik (finansial, kesehatan) dan emosional (traumatis).

States may protect trafficking victims if they fail to provide guarantees to their citizens, in this case trafficking victims.

One of the concrete protection efforts is the provision of shelters. Basically, the politics of victim protection is an integral part that cannot be separated from protection policy. Based on this concept, the role of the state in the implementation of social welfare is not limited to meeting the material needs of citizens, but rather to realizing a sense of comfort and security in activities. Legal protection for trafficking victims has become increasingly important in connection with Law No. 21/2007 on the Eradication of Trafficking.

According to empirical evidence, women are the most frequent victims of human trafficking. Victims are trafficked not only for the purpose of prostitution or other sexual exploitation, but also for other forms of exploitation such as forced or forced labor, slavery or slavery-like practices. Therefore, the protection of women victims of trafficking should be of particular concern to all stakeholders, including the government.

The law's anti-trafficking victim protection arrangements for the elimination of trafficking are reflected in the law's implementation, for example.

#### **A. Right to Confidentiality of Victim's Identity**

This is explained in Article 44(1). Second-degree relatives of victims also have the right to keep their identities confidential if the victim experiences external physical or psychological threats in connection with his testimony (Article 44 (2)).

#### **B. Right to Restitution**

This is regulated in Article 48 paragraph 1. According to Article 1(13) of the Law on Combating Trafficking in Persons, compensation is "the payment of compensation to the offender for material and non-pecuniary losses suffered by the perpetrator, victim or heir", based on a decision of a court or permanent judge".

#### **C. Right to Health, Social Rehabilitation, Repatriation and Reintegration**

This is regulated in Article 51 paragraph 1. Rehabilitation is one of the concrete actions to correct deviations or damage. Rehabilitation efforts for trafficking victims are carried out in such a way that the physical and psychological condition of victims improves, so that victims can return to their former social lives. On that basis, the government was actually ordered to prevent human trafficking and provide protection, particularly human rights, to victims. The requirements for the defense of human rights include two (two) important things, namely the fulfillment of needs and the fulfillment of the right to development. The fulfillment of these needs means the ability to realize human rights, because different needs are absolute, that is, they must be met, otherwise there will be unrest and even death. Meanwhile, realizing the right to development means living in accordance with human dignity and dignity and not only meeting needs, but everything that is necessary or useful for development (Piet, 2004: 38). In many countries, for example in Indonesia, this awareness is not considered, it is still limited to a dead formula of legal articles and then becomes political rhetoric in the political elite.

## **BIBLIOGRAPHY**

---

- Adiastari, C., & Hartiwiningsih, H. (2018). Legal Protection of Child Trafficking in the Provision of Compensation and Restitution Rights in Indonesia. *International Journal of Multicultural and Multireligious Understanding*, 5(2), 368-374. <https://doi.org/10.18415/ijmmu.v5i2.424>
- Andi Hamzah and Simanjuntak. 2016. [https://www.merdeka.com/pendidikan/\\_iniopinion-andi-hamzah-dan-simanjuntak-question-protection-law.html](https://www.merdeka.com/pendidikan/_iniopinion-andi-hamzah-dan-simanjuntak-question-protection-law.html)
- Andrevski, H., Larsen, J. J., & Lyneham, S. (2013). Barriers to trafficked persons' involvement in criminal justice proceedings: an Indonesian case study. *Trends and Issues in Crime and Criminal Justice*, (451), 1.
- Anis Hamim and Ruth Rosenberg. 2003. Review of Indonesian Legislation on Child Trafficking in Indonesia. USAID. Jakarta.
- Bairah, Chairul. 2005. *Trafficked (Trafficking in Women and Children) Law*. USU Press. Medan.
- Bajari, A. (2013). Women as Commodities, the Analysis of Local Culture Factor and Communication Approach of Women Trafficking in West Java, Indonesia. *Research on Humanities and Social Science*, 3(5), 193-200.
- Chan, C. (2014). Gendered morality and development narratives: The case of female labor migration from Indonesia. *Sustainability*, 6(10), 6949-6972. <https://doi.org/10.3390/su6106949>
- Djanggih, H., Thalib, H., Baharuddin, H., Qamar, N., & Ahmar, A. S. (2018, June). The effectiveness of law enforcement on child protection for cybercrime victims in Indonesia. In *Journal of Physics: Conference Series* (Vol. 1028, No. 1, p. 012192). <https://doi.org/10.1088/1742-6596/1028/1/012192>
- Emmers, R. (2003). The threat of transnational crime in Southeast Asia: drug trafficking, human smuggling and trafficking and sea piracy. *Revista UNISCI*, (2), 1-11.

- Evingrum, S., & Jamin, M. (2019, October). Developing Human Rights- Based Legal Protection Model on Victims of Child Trafficking in Indonesia. In 3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW 2019). Atlantis Press. <https://doi.org/10.2991/icglow-19.2019.20>
- Farhana, F. (2018). Responsive Legal Approach to Law of Human Trafficking in Indonesia. *Journal of Social Studies Education Research*, 9(1), 214-227.
- Ford, M. (2003). Beyond the Femina fantasy: Female industrial and overseas domestic labour in Indonesian discourses of women's work.
- Handayani, T. A., Prasetyo, T., & Rahmat, D. (2019). Legal Protection of Women Victims of Sexual Harassment in Indonesia. *UNIFICATION: Journal of Legal Sciences*, 6(2), 209-218. <https://doi.org/10.25134/unifikasi.v6i2.1939>
- Hynes, P. (2015). No 'magic bullets': Children, young people, trafficking and child protection in the UK. *International Migration*, 53(4), 62- 76. <https://doi.org/10.1111/imig.12195>
- Kimura, K. (2006). Human Trafficking in Indonesia: Rethinking the New Order's Impact on Exploitative Migration of Indonesian Women (Doctoral dissertation, Ohio University).
- Larsen, J. J. (2010). Migration and people trafficking in southeast Asia. *Trends and issues in crime and criminal justice*, (401), 1.
- Lathifah, A., & Noveria, M. (2014). The Gender Perspective on Human Trafficking in Indonesia. *Journal of Society and Culture*, 16(3), 373-382.
- Lindquist, J. (2010). Images and evidence: Human trafficking, auditing, and the production of illicit markets in Southeast Asia and beyond. *Public Culture*, 22(2), 223-236. <https://doi.org/10.1215/08992363-2009-026>
- M. Hadjon, Phillip. 1987. Legal Protection for the People of Indonesia. PT. Build Knowledge. Surabaya.

- Mahardika, A. P., & Wicaksono, S. S. (2020). Legal Protection of Illegal Indonesian Migrant Workers Abroad as Victims of Human Trafficking. *Law Research Review Quarterly*, 6(2). <https://doi.org/10.15294/lrrq.v6i2.37366>
- Marlina, Azmiati Zuliah. 2015. Hak Restitusi Terhadap Korban Tindak Pidana Perdagangan Orang. PT Refika Aditama. Bandung.
- Michelle.O.P.Dunbar. The Past, Present, and Future of Internasional Trafficking in Women for Prostitution, *Buffalo Women's. Law Journal*, Vol 8. 2000.
- Naibaho, N. (2011). Human Trafficking in Indonesia: Law Enforcement Problems. *Indon. L. Rev.*, 1, 83. <https://doi.org/10.15742/ilrev.v1n1.48>
- Nuraeny, H. (2019). Legal Protection for Contract Marriage Victims in Indonesia. *Journal of Legal, Ethical and Regulatory Issues*, 22(3), 1-7.
- Nuraeny, Henny. 2012. *Wajah Hukum Pidana Asas Dan Perkembangan*. Gramata Publishing. Jakarta.
- Palmer, W., & Missbach, A. (2017). Trafficking within migrant smuggling operations: Are underage transporters 'victims' or 'perpetrators'?. *Asian and Pacific Migration Journal*, 26(3), 287-307. <https://doi.org/10.1177/0117196817726627>
- Pertiwi, R. Y., & Sambas, N. (2019). Legal Protection of Children who are Victims of Criminal Trade in West Java Province Reviewed in Positive Criminal Law Perspectives in Indonesia.
- Purwanti, A. (2017). Protection and Rehabilitation for Women Victims of Violence according to Indonesian Law (Study on Central Java Government's handling through KPK2BGA). *Diponegoro Law Review*, 2(2), 312-325. <https://doi.org/10.14710/dilrev.2.2.2017.68-81>
- Raharjo, Satjipto. 2006. *Ilmu Hukum*. PT. Citra Aditya Bakti. Bandung. Rhona, K.M. Smith. 2010. *Hak Asasi Manusia, Cetakan 2*. Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia. Yogyakarta.
- Setiono. 2004. *Rule of Law (Supremasi Hukum)*. Universitas Sebelas Maret. Surakarta.

- Simbolon, N. Y., & Ablisar, M. (2018). The prevention of child trafficking crimes and its legal reform. In *E3S Web of Conferences* (Vol. 52, p. 00033). EDP Sciences. <https://doi.org/10.1051/e3sconf/20185200033>
- Sulistiyono, T., Arifin, R., Sumardiana, B., & Ramada, D. P. (2019). Legal Protection to Child Labour: The Effectiveness of National Criminal Law and International Law Instrument (A Case Study Of Indonesia And China). *International Journal of Business, Economics and Law*, 18(4), 45-52.
- Sulistiyowati, Irianto. 2006. *Perempuan & Hukum*. Yayasan Obor Indonesia. Jakarta.
- Surtees, R. (2003). Female migration and trafficking in women: The Indonesian context. *development*, 46(3), 99-106. <https://doi.org/10.1177/10116370030463016>
- Takariawan & Putri, S. A. 2018. Perlindungan hukum terhadap korban human trafficking dalam perspektif Hak Asasi Manusia. *Jurnal Hukum Ius Quia Iustum*. <https://doi.org/10.20885/iustum.vol25.iss2.art2>
- Turkey, F. A., Indonesia, S. A., de Escoto Honduras, M. M. F., France, F. G., & Cuba, M. Y. F. G. (2000). *Convention on the Elimination of All Forms of Discrimination against Women*.
- Vlieger, A. (2012). Domestic workers in Saudi Arabia and the Emirates: Trafficking victims?. *International Migration*, 50(6), 180-194. <https://doi.org/10.1111/j.1468-2435.2012.00785.x>
- Wahyuningsih, S. E., Lubis, M. R., Jayanto, A. D., & Iksan, M. Legal Protection of Women As Victims Of Domestic Violence In East Luwu District Indonesia. *Man In India*, 97(24), 85-96.
- Wijayanti, H., & Windiani, A. (2017). Legal Protection and Advocacy for Indonesian Migrant Worker. *IMC 2016 Proceedings*, 1(1).
- Yenny, A. S., Nurfitriawati, N., Dawi, K., & Septinawati, S. A. (2018). Legal Protection for Human Trafficking Victim, Especially Women and Children in West Kalimantan. *International Journal of Multi Discipline Science (IJ-MDS)*, 1(1), 42-49. <https://doi.org/10.26737/ij-mds.v1i1.419>



**Copyright holder:**

Bella Kusmayadi, Mohamad Lutfi Awaludin, Sindi Arifah Darayani, Rizka Rizkiatul Ula (2023)

**First publication right:**

[\*ADVANCES in Social Humanities Research\*](#)

**This article is licensed under:**

