



## Legal Policy Against the Crime of Women Trafficking in Indonesia

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### ARTICLE INFO

*Article history:*

### ABSTRACT

The National Commission Against Violence against Women, also known as Komnas Perempuan, was established over a decade ago in Indonesia. The ratification of numerous policies to protect women also applies in this situation. Paradoxically, there continues to be a significant number of crimes targeting women, with one such crime being the act of trafficking women. The problem is being defined as follows: 1. What is the legal framework governing the offence of human trafficking in women in Indonesia? The implementation of legal policy against the crime of trafficking in women in Indonesia is assessed. Indonesia's legal policy on criminal trafficking of women has been regulated, but its implementation has not been optimal. This is evident from the increasing number of trafficking cases in the country. The Indonesian government needs to take appropriate measures to reduce or minimize these criminal acts. This can enhance underlying variables, such as economic, social, cultural, and political advancements.

*Keyword:*

Legal Policy, Crime, Trafficking in Women.

### INTRODUCTION

The National Commission Against Violence against Women was created over a decade ago in Indonesia. The approval of numerous policies to seek the protection of women likewise follows this pattern (Robinson & Bessell, 2002). Paradoxically, there are still numerous instances where women are treated as mere objects. Human trafficking is a scenario that frequently involves women being treated as objects. Observing this fact, the Minister of

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Women's Empowerment and Child Protection, Yohana Susana Yembise, openly declared on an internet news platform that the ministry under her leadership is commonly called the "Ministry of Tears". Yohana Susana Yembise made this statement in response to the documented incidents of Indonesian women being subjected to illegal acts of human trafficking in foreign shelters.

Many Indonesian women leave their hometowns with optimistic aspirations of attaining an improved and more respectable lifestyle through overseas employment (Somaiah et al., 2020). Nevertheless, the harsh truth that must be acknowledged is that they have fallen prey to criminal acts of human trafficking and have been forcibly relocated far away from their home nation. This typically occurs when the victim succumbs to the enticement of the criminal involved in the act of human trafficking.

Regardless of the establishment of numerous commissions and the enactment of various policies, the issue of trafficking of women persists as an unsolvable crime. Minister of Foreign Affairs Retno Marsudi recently revealed on an online news page that there were Indonesian female citizens (WNI) who were suspected of being victims of human trafficking in China. This case pertains to 15 Indonesian women who are believed to have been subjected to criminal acts of human trafficking in China.

Women trafficking is not limited to international borders; it also happens within the country. As an illustration, there was a case in 2016 in West Pasaman. Three ladies from Jakarta were discovered as victims of women trafficking. Uninformed individuals are requested to engage in employment without prior knowledge of the specific task they would be performing. Subsequently, the trio of women secured employment at a nightclub located in West Pasaman. The victim's testimony subsequently exposed a woman trafficking syndicate operating in multiple districts across Indonesia. The West Sumatra Civil Society Coalition and the Indonesian Legal Aid and Human Rights Association played a role in facilitating this disclosure, which took place in the Pasaman Cafe.

A similar incident has recently taken place in Bali, another region in Indonesia. Two weeks have passed since the Bali Police Criminal Investigation Directorate

apprehended five underage females and two suspects in connection with a case involving Person Trafficking Crime (TPPO). The five individuals have undergone rehabilitation for their mental and physical well-being in the Tabanan region of Bali. Following this procedure, the five girls have now been sent to Jakarta's Ministry of Social Affairs of the Republic of Indonesia for additional rehabilitation and training. This training can undoubtedly serve as a means of preparation for future survival.

The escalating issue of female traffickers demands immediate attention from multiple stakeholders due to its severe nature and growing prevalence. This is not only from the National Commission for Women and Children but also primarily from the government, which is responsible for acting as the guardian and servant of society. Fundamentally, the government has implemented multiple measures to mitigate the incidence of women trafficking. Thus far, the execution of these policies has not yielded any noteworthy outcomes. Hence, it is imperative to conduct further research on the legislative regulations regarding the criminal offence of human trafficking in Indonesia.

## **LITERATURE REVIEW**

### **Legal Policy**

Legal policy is a complex topic that encompasses converting political objectives into government programs and initiatives accomplished through the implementation of laws (Okriashvili et al., 2019). It has a crucial function in facilitating structured exchanges between people and nature, particularly in ecology. It ensures the establishment of objectives and the ability to adjust to changes while preserving stability (Zakharkina, 2017). The link between state and legal policy is intricate, as both shape the modern constitutional state and promote social advancement (Rusenko, 2024). The stability of legislation relies heavily on legal policy, as exemplified in tax law, where any shortcomings in

policy can impede its stabilizing impact (Kysar, 2019). Legal laws in criminal law, specifically about social issues like gambling, need to adapt to technological advancements to ensure efficient law enforcement (Rimawan et al., 2023). The implementation of legal rules differs worldwide, as different regions employ distinct approaches to community policing, minority rights, and drug enforcement (Nagel, 2000).

Legal policy plays a crucial role in Russia's civic control of the correctional system by guaranteeing the efficient implementation of legal standards and processes (Svinin & Kubyshkin, 2021). Legal policy is composed of principles and functions, and new strategies are constantly being developed to make it better in formulation and application (Mima et al., 2020). To guarantee access to justice and preserve fair trial standards, the Council of Europe, for instance, has incorporated cutting-edge digital communication techniques into legal procedures (Raymond & Shackelford, 2013). Overcoming the dilemma in the contemporary liberal perception of its purposes, legal policy's ultimate goal should be the individual's personal growth. Ultimately, the active involvement of multiple parties in implementing a legal policy determines its effectiveness in meeting societal requirements and maintaining the supremacy of the law (Okriashvili et al., 2019).

### **Crime of Trafficking in Women**

The exploitation of women mainly for sexual purposes is known as "trafficking in women," which is a severe and multifaceted criminal violation motivated by financial gain and made possible by force, assault, or fraud (Reid & Fox, 2023). This crime, which brings in \$5-\$7 billion in revenues annually, is a significant consequence of globalization (Stewart & Gajic-Veljanoski, 2005). Eighty per cent of the estimated 800,000 women

and children who are trafficked annually across international borders wind up working as forced prostitutes (Joffres et al., 2008). Women trafficking is frequently associated with organized crime, which preys on weaker groups of people, particularly those from economically unstable nations like India and Eastern Europe, where both domestic and international trafficking is common (Joffres et al., 2008; Monzini, 2004; Scharie Tavcer, 2006). Many women who are involved in human trafficking have been victimized or coerced through personal relationships with male traffickers, and they frequently work in lower-level roles that make them more susceptible to discovery and prosecution (Broad, 2015).

Human trafficking networks are intricate, involving the active participation of organized criminal syndicates in the covert sex trade industry, exploiting both the suppliers and consumers (Monzini, 2004). The United Nations has acknowledged the enormity of the issue, resulting in the creation of global norms to prevent and penalize human trafficking. However, these policies have faced criticism about their efficacy and strategy (Reid & Fox, 2023; Sullivan, 2003). The fundamental reasons that give rise to human trafficking, such as poverty, gender disparity, and limited resources, play a significant role in motivating women to move and making them susceptible to exploitation (Musacchio, 2004). The problem of forced prostitution is further worsened by the lack of visibility and low priority given to it by law enforcement agencies despite the ongoing international efforts (Cao, 1986). To effectively combat the issue of trafficking in women, it is necessary to adopt a comprehensive strategy that encompasses legal reforms, victim safeguarding, and tackling the socioeconomic determinants that contribute to this worldwide problem (Broad, 2015; Reid & Fox, 2023).

## RESEARCH METHODS

This study is an example of normative legal research. Normative legal research refers to the process of conducting legal research that involves studying and utilizing library materials or secondary data. Data collection is conducted through literature reviews or bibliographic research. The legal materials used in this research encompass primary legal materials, secondary legal materials, and tertiary legal materials. Analyzed qualitative descriptive data from legal texts gathered through the research data collection process.

## RESULTS

### **Legal Policy Against the Crime of Trafficking in Women in Indonesia**

The terms policy and discretion are frequently used interchangeably. These two terms share numerous similarities and only a few distinctions; hence, there is no substantial issue if they are used interchangeably. The phrase "policy" typically refers to beneficial, financially advantageous, or positive behaviors. The English term for "policy" is "policy". The term "policy" originates from the Latin word "politeia," which refers to the concept of citizenship. Policy is intrinsically linked to governance; hence, it is more suitable to translate it into policy and discretion.

The phrase "policy" refers to the conduct or actions of an individual (such as an official, group, or government institution) or a collection of individuals in a particular area of activity. Carl Friedrich posited that policy can be comprehended as a planned course of action by an individual, collective, or governing body within a specific context. Policies are formulated to establish strategies, barriers, and avenues for attaining a specific objective or fulfilling a particular purpose.

The term "policy" primarily refers to public policy, namely the policies formulated by the state. Public policy refers to a set of deliberate activities undertaken

or not undertaken by the government, with specific aims to benefit the entire population. Public policy can shape legislation, regional regulations (Perda), and other mechanisms. Anderson provides a comprehensive explanation of public policy, highlighting that it is always driven by a specific objective or characterized by goal-oriented actions. The policy encompasses the behaviours or recurring behaviours of government authorities. Policy refers to the actual actions taken by the government rather than its intentions or stated plans.

Public policy can have a good connotation as it refers to government actions taken to address a specific issue. Conversely, it can have a negative connotation when it involves government officials deciding not to act. In a positive context, government policy is consistently grounded in legislative regulations and exercises authoritative control. Public policy is an iterative process that builds upon previous government actions, making incremental changes over time. Jones additionally expounded upon other principles of this technique, specifically:

1. Various groups and individuals view societal events differently, and these interpretations may vary over time.
2. Numerous issues arise as a result of identical occurrences.
3. Pressure groups must undergo multiple levels or phases to participate in the established policy process.
4. The government's objective does not encompass all public challenges.
5. Many policy issues in governance also involve the concerns of elite interests.
6. The government fails to solve numerous problems, either deliberately or inadvertently.
7. Policy making does not address pre-existing societal groups.
8. Many judgments rely on precise information and effective communication.

9. The policies formulated are frequently manifested as a consensus rather than the essence of problem-solving.
10. There are disparities in how policy is defined by policy makers and the communities they affect.
11. Indeed, numerous programs are developed and executed in a manner that deviates from their original design.
12. Organizations in society possess diverse interests and areas of concentration.

According to Thomas Dye, public policy refers to the deliberate decision made by the government to either take action or refrain from taking action. According to Thomas Dye, public policy refers to decisions and actions taken by government agencies rather than private groups. Furthermore, public policy pertains to the decisions that government bodies ought to make or avoid. According to Woll, public policy refers to a range of governmental actions to address societal issues, either through direct intervention or by utilizing other institutions that impact individuals' lives.

From this comprehension, it is evident that the government establishes public policy through its acts. Public policy serves a distinct objective, whether to take action or refrain from it. In addition, public policy is directed towards the welfare of society.

The government frequently creates public policies that contain loopholes, which allow specific individuals to exploit them for their benefit. In addition, numerous public policies fail to cater to society's welfare. Consequently, a legal policy was formulated. Public policy encompasses specific provisions regarding the policy, its implementation requirements, and the consequences for individuals or entities that breach it. Legal policies provide individuals with guidelines for permissible and prohibited actions.

The United Nations enacted a proclamation on December 18, 1979, to

combat gender-based discrimination against women. After five years, the Indonesian population officially approved the commitment of the entire nation to combat gender discrimination against women. Nevertheless, even after more than three decades after its legalization and acknowledgement, Indonesian women continue to endure significant prejudice. Women are frequently perceived as frail beings. This belief often leads to women being subjected to discriminatory conduct. Such discriminatory conduct usually renders women vulnerable to criminal crimes.

The Law of the Republic of Indonesia Number 7 of 1984, which ratifies the Convention Concerning the Elimination of All Forms of Discrimination Against Women, mandates that the country must undertake necessary measures, including enacting legislation, to combat all instances of human trafficking involving women and the exploitation of women in prostitution. According to Article 6, it is evident that Indonesia, as one of the nations that have recognized it, is obligated to establish legislation and implement necessary measures to eliminate the exploitation of women, specifically regarding human trafficking.

Law Number 26 of 2000, often known as the Human Rights Courts Law, is the following legislation aimed at combating the issue of trafficking in women. The purpose of this legislation is to enhance the legal safeguards for those who have been trafficked for sexual exploitation. The protection offered by Law Number 26 of 2000 includes both physical and psychological safeguards against threats, harassment, terrorism, and violence perpetrated by any entity. In addition to that, protection is offered through the provision of compensation, restitution, and rehabilitation.

The act of trafficking in women is considered a crime against humanity, as

defined in Article 7 of Law Number 26 of 2000, which pertains to Human Rights Courts. Article 9 defines a crime against humanity as an action carried out within a broad or systematic attack that specifically targets the civilian population. This article summarizes the violation of international law through deprivation of liberty or other arbitrary restrictions on physical freedom. It includes acts such as torture, rape, sexual slavery, forced prostitution, forced pregnancy, forced infertility or sterilization, and other similar forms of sexual violence. All of these crimes undoubtedly exhibit the hallmarks of women's trafficking.

Moreover, safeguarding victims and witnesses in Law Number 26 of 2000 is governed by Government Regulation of the Republic of Indonesia Number 44 of 2008, which addresses the provision of compensation, restitution, and assistance to witnesses and victims. Presidential Decree Number 88 of 2002 pertains to the National Action Plan (RAN) aimed at eradicating the trafficking of women and children. This decree is derived from the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which is an addition to the United Nations Convention Against Transnational Organized Crime (Protocol to prevent and punish trafficking in Persons, Especially Women and Children, in addition to the UN Convention against transnational organized crime, 2000). Presidential Decree Number 88 of 2002 comprises eight articles and includes one attachment to the National Action Plan for the Eradication of Trafficking in Women and Children.

The eight articles outline the essence and goals of RAN-P3A (article 2), the execution of RAN-P3A (Article 3), the RAN-P3A Task Force (Article 4-Article 5), and the funding of the RANP3A Task Force (Article 7). The NAP does not expressly address the regulation of women trafficking victims' protection. The NAP's goals and

objectives include ensuring the safety of women trafficking victims through their rehabilitation and social reintegration, thereby providing legal guarantees for their well-being.

In addition, the NAP aims to encompass the distribution of funds from both central and regional government budgets to rehabilitate and socially reintegrate victims. Ensuring families and women have guaranteed access to education, training, income growth, and social services. This demonstrates that RAN has adopted a comprehensive understanding of victims, encompassing not only those who experience direct harm but also extending consideration to families and individuals at risk of becoming victims. This NAP's scope of victim protection extends beyond mere compensation, rehabilitation, and restitution. It also encompasses social recovery through education, training, income enhancement, and improved access to social services to achieve greater effectiveness.

The Law Number 21 of 2007, which addresses the eradication of human trafficking, also provides legal safeguards for female trafficking victims. Chapter V of Law Number 21 of 2007 governs explicitly the provisions for protecting victims. According to Article 44, Chapter V of Law Number 21 of 2007 on the Eradication of Human Trafficking, witnesses and victims of human trafficking crimes are entitled to have their identities kept anonymous.

Moreover, according to Article 48, every individual who falls victim to a criminal act of trafficking in persons or their beneficiaries is entitled to get restitution. The regulations about this matter can be found in Articles 48 to 50 of Law Number 21 of 2007. According to Law Number 21 of 2007, a provision in Article 50, paragraph (4) mandates the culprit to provide reparation. If the criminal cannot fulfil this obligation, they will face

imprisonment. This demonstrates the substantial advancements made by Law Number 21 of 2007, particularly in terms of the accountability of offenders towards victims, in comparison to prior legislation.

Specific regulations additionally govern health rehabilitation, social rehabilitation, repatriation, and social reintegration. In addition to reparation, victims of illegal acts of trafficking in women are entitled to receive aid and protection in the form of rehabilitation, as stipulated in Articles 51 to 53 of Law Number 21 of 2007.

Given the severity of the threat situation in Indonesia, the government is implementing several measures to address the problem. One way to address this issue is by implementing numerous rules specifically targeting human trafficking. Currently, trafficking in women and children is described as a series of actions that involve recruiting, transporting between regions or nations, transferring ownership, facilitating departure, receiving, and providing temporary refuge. The act of trafficking women and children frequently involves the utilization of threats or the application of verbal or physical force, abduction, deceit, and exploitation of vulnerable individuals, as well as the exchange of compensation or advantages.

Women and children who fall victim to trafficking are exploited for various purposes such as prostitution, sexual exploitation, labor migration (both legal and illegal), child adoption, journal work, mail-order brides, domestic servitude, the pornography industry, drug trafficking, organ trafficking, and other forms of exploitation. The issue of trafficking necessitates immediate action from all sectors of the country. This is because of its association with the perception of the Indonesian government in the global community. According to data from the United States Department of State, Indonesia ranks third as a source country

for human trafficking involving women and children. Indonesia faces the formidable task of safeguarding the nation's youngsters from hardship.

The formidable challenges in addressing cross-border human trafficking stem from the substantial financial gains involved, as well as the extensive involvement of numerous countries and transnational corporations seeking inexpensive and illicit labor. Human trafficking is a multifaceted issue that arises from various reasons, including economic, social, cultural, and political influences. Human trafficking is intricately linked to political labor policies that aim to minimize production costs, resulting in the exploitation of individuals.

Typically, individuals who are trafficked experience economic hardship and have incomes that fall below the poverty threshold. Given that the majority of victims are women, it is evident that women continue to occupy a marginalized and inferior position, which will have both direct and indirect consequences on their well-being. The presence of poverty issues and limited labor prospects in rural areas has prompted women and even children to seek employment in urban areas and even overseas. Insufficient education and restricted access to information render individuals susceptible to becoming trapped in the crime of human trafficking.

Managing victims of women and children trafficking is a challenging task that cannot be accomplished quickly. Nevertheless, working with individuals who have been trafficked is a protracted and continuous undertaking. The effectiveness of prevention activities relies heavily on the dedication of government administrators at different levels, the involvement of community organizations/NGOs and the community itself, and the extent of law enforcement initiatives.

Essentially, the government has endeavored to enforce legislative measures

for the management and safeguarding of women who fall prey to female trafficking. Nevertheless, the current trend indicates a continuous rise in the number of women being trafficked, which is a growing cause for concern. This is inseparable from the underlying reasons that contribute to the occurrence of women trafficking. To eliminate instances of women trafficking, it is necessary to implement more comprehensive policies that address the root causes of this phenomenon. The current policies appear to have been ineffective in deterring the individuals responsible. An optimal course of action for the government in this scenario would be to enhance the underlying economic, social, cultural, and political variables.

## CONCLUSION

There are several legal policies related to trafficking in women in Indonesia. These include the Law of the Republic of Indonesia Number 7 of 1984, which ratifies the Convention Concerning the Elimination of All Forms of Discrimination Against Women. Additionally, Article 7 of Law Number 26 of 2000 states that trafficking in women is considered a crime against humanity. Presidential Decree Number 88 of 2002 establishes the National Action Plan (RAN) for the Elimination of Trafficking in Women and Children. Furthermore, Law Number 21 of 2007 provides legal protection for victims of female trafficking.

The formidable challenges in addressing cross-border human trafficking stem from the substantial financial gains involved, as well as the extensive network of nations and transnational corporations reliant on inexpensive and illicit labour. The government has made steps to enact legislative regulations for the care and protection of women who are victims of female trafficking. Nevertheless, the current trend indicates a continuous rise in the number of women being trafficked, which is a growing cause for concern. This

is inseparable from the underlying reasons that contribute to the occurrence of women trafficking. Hence, to eliminate instances of women trafficking, it is imperative to implement more holistic measures that address the root causes behind the occurrence of such activities. The current policies appear to have been ineffective in deterring the individuals responsible. The optimal course of action for the government in this scenario is to enhance the underlying elements, including economic, social, cultural, and political advancements.

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