

Conference Paper

Social Reintegration of Victims of Human Trafficking in Indonesia

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Abstract.

Victims of trafficking in persons are understood as Victims of crime are persons who have suffered personal or collective harm, including physical or mental injury, mental suffering, financial loss, or substantial damage to their basic rights, as a result of acts or omissions that violate applicable criminal laws and laws. That prevents criminal abuse of power. Victims of human rights crimes, namely the right to obtain restitution, medical rehabilitation, social rehabilitation, social reintegration, and refoolment. This study uses normative legal research methods with a research approach, namely the statutory approach and the legal concept analysis approach. As well as the data analysis technique used is a qualitative descriptive analysis technique. the result of the social reintegration of victims of trafficking in persons as a process of reuniting victims with their families or communities includes physical, psychological and rehabilitation protection and ensures that the reintegration process of applicable social norms can be understood by victims who wish to return to their hometowns. In the Indonesian context, especially the Social Service in Malang, victims must also ensure that they have identity cards, family cards, and other supporting data as tools for identification and a complete assessment of human trafficking victims. However, considering that human trafficking victims are vulnerable, especially in population data and administration, other identification options are needed to make integrating human trafficking victims easier.

Keywords: Social Reintegration; Victims; Human Trafficking; Indonesia.

1. INTRODUCTION

Trafficking in persons as contained in the provisions of article paragraph 1 of Law No. 21 of 2007 is defined as the act of recruiting, transporting, accommodating sending or transferring to receiving someone with threats of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or a vulnerable position, debt bondage or giving payments or benefits, in order to obtain consent from the person who has control over the other person, whether done within the country or between countries, for the purpose of exploitation or causing people to be exploited. this shows that trafficking in persons is an act that is contrary to human dignity and violates human rights, related to the right to life, independence, and other rights. Trafficking in persons demeans

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human dignity because the modus operandi is carried out by kidnapping, deception, and coercion with the aim of depriving a person's right to freedom and independence [1].

The prohibition against trafficking in persons including trafficking in women has been regulated in The International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which has been ratified in Law No. 5 of 2009. The Child, which was ratified through Law No. 7 of 1984, relates to efforts to eradicate trafficking in persons whose main targets are women and children, and in Indonesia, it is regulated in Law No. 21 of 2007 concerning Trafficking in Persons which does not only regulate in general about the general provisions for the crime of trafficking in persons. but also regulates the rights of victims. Where victims of human trafficking tend to experience physical, emotional, and psychological trauma long after trafficking. Consequently, Henriksen has argued that scholars of trafficking, sex work, and migration should move beyond moral panic and the urge to rescue women and instead focus on documenting the long-term realities of life after trafficking. Implicit here is also the need for the regime of care provided to survivors to shift emphasis from just recovery to including reintegration of survivors [2].

Protection for victims of trafficking persons includes forms of protection that are both abstract (indirect) and concrete (direct). Abstract protection is basically a form of protection that can only be enjoyed or felt emotionally (psychically), such as satisfaction (satisfaction). Meanwhile, concrete protection is basically a form of protection that can be enjoyed in real terms, such as gifts in the form or nature of material or non-material. Material gifts can be in the form of compensation or restitution, waiver of living expenses, or education. Providing non-material protection can be in the form of liberation from threats, from news that denigrates the victim [3].

Legal protection for victims of TIP in the Criminal Code includes the provision of compensation to victims. As stipulated in Article 98 regarding the combination of claims for compensation in criminal cases for victims of criminal acts which contain: [4]

1. Article 98 paragraph 2 "If an act which forms the basis of an indictment in an examination of a criminal case by a district court causes harm to another person, then the chief judge of the trial at the request of that person may decide to combine the case for compensation to the criminal case"
2. Article 98 paragraph 3 "A request can only be made no later than before the public prosecutor files a criminal charge. If the public prosecutor is not present, the request can be submitted no later than "before the judge makes a decision".

3. The article above provides an explanation that victims of criminal acts can request compensation for events that harm them by filing a lawsuit through a civil examination. However, the victim can also combine it with a criminal examination so that this can simplify the victim so that he does not need to go through 2 processes. The purpose of the process of combining compensation is: To make it easier for victims and the process of examining cases in court is faster, then victims can ask for compensation for costs that have been incurred without going through examinations which take a very long time, and it is hoped that there will be a combination of compensation cases in Criminal justice can lighten the burden on the victim concerned.

The provisions in Law 21/2007 provide protection for victims of TIP, especially with regard to, the right to confidentiality of the victim's identity, the right to restitution and compensation, the right to rehabilitation, return and integration, this is in line with the legal protection that must be given to victims of human rights crimes who provide protection in the form of restitution, compensation and rehabilitation which is not only imposed on the state to fulfill these rights but also on the perpetrators. As for the form of legal protection in the form of compensation which is the responsibility of the state towards victims as a community group that must be protected by the government, and is the responsibility of the government if the perpetrator/convict is unable to pay restitution to the victim. In addition, as a result of the crime of trafficking in persons, victims often experience severe trauma, so it is necessary to restore the victim's psychological state to its original state through rehabilitation [5].

Repatriation in the context of trafficking in persons, refers to the process of repatriating victims of trafficking in persons to their country of origin regulated in Article 8 of the Palermo Protocol. This article stipulates that the repatriation of victims of trafficking in persons must be carried out with due regard to safety and is voluntary. Voluntary return in the sense that it must be with the consent of the person who will be returned to the country of origin by providing information that is considered sufficient and accurate regarding potential risks and alternative options for entering a transit country considering that research has shown that forced repatriation to a country of origin has serious consequences for victims of trafficking person. For example, a recent IOM study found that trafficked persons who had been forcibly returned to their countries of origin are more vulnerable to re-trafficking because upon returning home, victims faced the same adverse conditions that contributed to their vulnerability to trafficking [6].

2. METHODOLOGY/ MATERIALS

This study focuses on the social reintegration of victims of trafficking in Indonesia on the analysis of the urgency of social integration for victims of trafficking in persons and studies of obstacles to the process of social integration of victims of trafficking in persons in Malang Regency. Meanwhile, the dependent variable is Social Integration. This study is suitable for knowing the problems in the process of social integration of victims of trafficking in persons. The causal relationship that will be examined in this study is the rights of victims of trafficking persons, especially the right to reintegrate. In other words, this research is to investigate whether social reintegration as part of the rights of victims of trafficking persons can be carried out following the objectives of the provisions of Law no 21/2007.

3. RESULTS AND DISCUSSIONS

Trafficking in persons in the past was only seen as the organized transfer of people abroad carried out by certain groups or organizations. The mode of trafficking in persons is carried out by persuasion or advertisements in print and electronic media. The perpetrators organized the crime by building a network from the region or country of origin of the victim to the area or country of destination; Networks of perpetrators take advantage of social conditions and practices in the victim's country of origin with promises [7]. However, in its development, the form of trafficking in persons, especially against women and children, developed into various modus operandi, among others: [8]

1. Adoption/adoption of children with procedures or being sold to residents themselves/foreigners
2. Orders of brides or requests from certain places to contract wives
3. Involving children in the trade of illicit drugs
4. Employed children
5. Sexual exploitation or pedophilia
6. Pornography of women and children
7. Trafficking of women and children for forced labor
8. Employing women and children for begging or begging on the streets

9. Employing women and children in sex work or prostitution activities

The Ministry of Social Affairs of the Republic of Indonesia noted that between 2020 and 2021 there will be 364 victims of the crime of trafficking in persons who have reported them to witness and victim protection agencies. In addition, they also received 1,082 referrals for the same case, namely TIP. Then based on existing data in the Online Information System for the Protection of Women and Children (SIMFONI PPA) in 2021 there will be 678 victims of the crime of trafficking in persons. Based on the number of cases available, the central statistics agency recorded the number of cases and the percentage of victims who received comprehensive services in 2019 as many as 13,821 cases, and records of the number of cases from the Malang City P3AP2KB Social Service in 2021 to 2023 there were 141 cases of several types of violence experienced by victims including the crime of trafficking in persons [9].

The high number of cases of victims of trafficking in persons in Indonesia shows that protection from the government is still lacking, among others, because the internal parties themselves have not found a suitable format to be used as a conclusion. The concept of a Mutual legal system used by the government in the scope of cross-country crimes has not been maximized considering that the government prefers the concept of Bilateral agreements in solving cross-border crimes with the rationality that the two countries that have cross-trade circuits will be more flexible in determining the legal intervention that is the epicenter of the problem. The two countries, which are often trade routes, will deal with it earlier [10].

Protection for victims of trafficking persons is primarily related to the right to confidentiality of the victim's identity, rights to restitution and compensation, rights to rehabilitation, return, and social integration. As for the implementation of granting restitution, compensation, or rehabilitation to victims of the crime of trafficking in persons as a form of legal protection, this cannot be applied. because there is no clear mechanism or indicator regarding the mechanism for granting restitution and the calculation procedure used as a measuring tool used by law enforcers, namely judges in imposing restitution sanctions that must be given to human trafficking. In addition, it is difficult for victims and law enforcers to prove or detail the total losses suffered by victims, so that law enforcers, especially judges, cannot determine the number of victims' losses in evidence in court [5].

Trafficking experiences can negatively affect victims' personal physical, mental, emotional, and economic well-being. Trafficking in a person's experiences can also create tension and problems in their relationships and interactions with their families, communities, and society at large. Therefore, reintegration efforts must consider and address

the various impacts of trafficking in persons at the individual, family, community, and structural levels because of this, reintegration is not only about overcoming the effects of trafficking in persons. Reintegration is also about addressing pre-existing vulnerabilities and problems that arose in victims' lives after trafficking, addressing all of these issues is important to prevent victims from being re-trafficked or experiencing further exploitation services must meet the needs and interests of reintegration of various victims and victims of all kinds form of human trafficking. A comprehensive package of reintegration services covering housing, accommodation or options, medical assistance, legal assistance and support, including during the trial process, psychological support and counseling, case management, safety, and security measures, education, training and life skills, mediation family, and counseling, assistance to family members, administrative assistance and support, economic empowerment opportunities and return assistance [11].

Reintegration services must be voluntary, confidential, non-discriminatory, and non-judgmental, and must comply with human rights principles. Actions taken must be trauma-based, victim-sensitive, child-friendly, gender-sensitive, and culturally appropriate. Trafficked children should receive specialized and child-friendly reintegration services. A variety of practitioners should be involved in the recovery and reintegration of victims. This includes social workers and social assistance, health care practitioners, psychologists and counselors, lawyers and paralegals, teachers and school administrators, skills trainers, employment advisers and business experts, public service providers and specialists, and authorities dealing with child protection. and it must be ensured that the process of integration

1. Trauma-based: recognizing the impact of trauma and providing an environment that supports healing and recovery
2. Sensitive to victims: prioritizing the wishes, safety, and well-being of victims in all matters and procedures
3. Child friendly: designing and implementing measures taking into account the needs, interests, safety, and best interests of the child
4. Gender sensitive: treating all victims with respect regardless of gender identity, refraining from stereotypes or assumptions
5. Culturally appropriate: taking into account and respecting the beliefs, values, norms, cultural and religious practices, and language of victims

4. CONCLUSION AND RECOMMENDATION

First, the conclusion that the process of Social Reintegration of Victims of Trafficking in Indonesia has become the right of victims of human trafficking which must be carried out voluntarily, confidentially, non-discriminatory, non-judgmental, and must comply with human rights principles. Actions taken must be trauma-based, victim-sensitive, child-friendly, gender-sensitive, and culturally appropriate. Trafficked children should receive specialized and child-friendly reintegration services. by prioritizing the fulfillment of a comprehensive package for reintegration services which includes housing, accommodation or options, medical assistance, legal assistance and support, including during the trial process, psychological support and counseling, case management, safety and security measures, education, training and life skills, mediation family, and counseling, assistance to family members, administrative assistance and support, economic empowerment opportunities, and repatriation assistance.

Based on the conclusion made above, two recommendations are offered here. First, victims of trafficking persons are in a vulnerable condition, so it must be ensured that the integration process receives comprehensive integration services. The two integration processes must ensure that victims of TIP are served trauma-based, sensitive to victims, child-friendly, and gender-sensitive, and pay attention to the cultural elements of the victims.

References

- [1] M. Ibad and Juli Nurani, "TINDAK PIDANA TERHADAP PERDAGANGAN ORANG DALAM PERSPEKTIF HAK ASASI MANUSIA DI WILAYAH KEPOLISIAN DAERAH JAWA TIMUR," *J. Huk. Dan Keadilan*, pp. 21–36, Jun. 2023, doi: 10.56943/judiciary.v12i1.153.
- [2] U. Idemudia, N. Okoli, M. Goitom, and S. Bawa, "Life after trafficking: reintegration experiences of human trafficking survivors in Nigeria," *Int. J. Migr. Heal. Soc. Care*, vol. 17, no. 4, pp. 449–463, Nov. 2021, doi: 10.1108/IJMHSC-03-2021-0023.
- [3] D. Abdullah, "PERLINDUNGAN HUKUM TERHADAP KORBAN TRAFFICKING ANAK DAN PEREMPUAN," *Al-Adl J. Huk.*, vol. 9, no. 2, p. 231, Nov. 2017, doi: 10.31602/al-adl.v9i2.945.

- [4] H. Renata, T. Peiru, and A. Alhakim, "Perlindungan Hak Anak Dibawah Umur Korban Human Trafficking di Kota Batam: Perspektif Hukum Pidana," *fahmi-irijal.wordpress.com*, 2016. <https://fahmiirijal.wordpress.com/2016/04/29/10-daerah-perbatasan-indonesiaperjanjian-bilateral-yang-ada-dankonflik->.
- [5] A. Takariawan and S. A. Putri, "PERLINDUNGAN HUKUM TERHADAP KORBAN HUMAN TRAFFICKING DALAM PERSPEKTIF HAK ASASI MANUSIA," *J. Huk. Ius Quia Iustum*, vol. 25, no. 2, pp. 237–255, May 2018, doi: 10.20885/iustum.vol25.iss2.art2.
- [6] K. Ramaj, "The Aftermath of Human Trafficking: Exploring the Albanian Victims' Return, Rehabilitation, and Reintegration Challenges," *J. Hum. Traffick.*, vol. 9, no. 3, pp. 408–429, Jul. 2023, doi: 10.1080/23322705.2021.1920823.
- [7] Tumundo Edwin, "Penyidikan Tindak Pidana Perdagangan Orang Pada Tingkat Kepolisian Dalam Perspektif Hak Asasi Manusia," *Lex Soc.*, vol. IV, no. June, pp. 83–93, 2018.
- [8] C. Wulandari, Sonny, and S. Wicaksono, "Tindak Pidana Perdagangan Orang (Human Trafficking) Khususnya Terhadap Perempuan dan Anak: Suatu Permasalahan Dan Penanganannya Di Kota Semarang." .
- [9] F. Anjelina, "Kajian Yuridis Reintegrasi Sosial Korban Human Trafficking sebagai Wujud Perlindungan Hak Korban (Studi di Dinas Sosial Pemberdayaan Perempuan, Perlindungan Anak, Pengendalian Penduduk dan Keluarga Berencana Kota Malang)," *E-Prints UMM*, 2023. <https://etd.umm.ac.id/id/eprint/5218/2/BAB I.pdf>.
- [10] A. Alfian, "UPAYA PERLINDUNGAN HUKUM TERHADAP KORBAN TINDAK PIDANA PERDAGANGAN ORANG Legal Protection Against Crime Victims of Human Trading," *Fiat Justisia J. Ilmu Huk.*, vol. 9, no. 3, pp. 331–339, 2015.
- [11] P. Praktisi, "Pemulihan dan Reintegrasi Korban Perdagangan Orang," *www.BaliProcess.net*, 2021. www.BaliProcess.net/Regional-Support-Office/%0A%0A.