

Legal Implications of Human Trafficking as a Weakness in the Authority of Public Policy

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This study aims to illustrate the legal implications of human trafficking in persons as a weakness of the authority of public policy through criminological analysis as part of criminal policy. This study uses a type of empirical (nondoctrinal) research; sources of data obtained from primary data (interviews, and questionnaires) and secondary data (documentation); respondents from legal counsel, judges, correctional institutions and non-governmental organisations; qualitative data analysis techniques through legal reasoning and legal argumentation against crimes found empirically and pragmatically. This research shows that the statutory regulation governing the crime of trafficking in persons has criminal liability, the content of maximum sanctions, but empirically also shows the increasing crime in trafficking in persons. This arises because of the weak oversight of public policy. The basis for increasing the qualifications of trafficking in persons into extraordinary crimes includes the lack of public policy authority to prevent the occurrence of human trafficking that starts from the illegal documentation process.

Key words: *Human Trafficking, Criminological Analysis, Public Policy Authority.*

Preface

Today many cases of human trafficking are reported in print and electronic media. Most of the victims were women and children. The various modes of recruiting victims are varied, ranging from offering jobs abroad with high salaries to other persuasions through social networks such as Facebook. And there are also cases by force and abduction. Humans are used as objects or land for traffickers to earn money and benefit themselves. Human traffickers do not think about the condition of victims, for them the most important thing is the worldly benefits generated in the practice of human trafficking itself. Human traffickers use several modes to ensnare

victims, especially women and children with weak finances and lack of knowledge. The recruitment mode found in the cases handled is by way of persuasion. This is done by the perpetrators with adolescents, and is usually carried out in malls where they are offered luxuries and money. One method is to offer jobs outside the city/country with a large salary. There are even cases when there is a new friend who is known on Facebook, then makes the child a victim by asking to meet first, then inviting to a place that is not known to the victim, then there is imprisonment and being sent out of the area.

The Indonesian Child Protection Commission (KPAI) said there are 12 modes of human trafficking that rely on tourism as one of the favourite places for illegal business. Commissioners of the Indonesian Child Protection Commission (KPAI) mention the frequent trading modes of sending women as migrant workers, sending domestic helpers, sexual exploitation, slavery, mail order brides, child labour, organ harvesting, child adoption, and servitude. Then ambassadors of arts, culture, and language, and forced labour to kidnap children or teenagers. (KPAI.CNN Indonesia, 2019). Actors are usually quite patient. Based on internet crime, there is an approach to the victim with a virtual courtship for about 6 months, then the approach is very intense starting from the introduction, and understanding the rhythm of the child.

The most reports obtained by the Indonesian Child Protection Commission are from West Java and are related to childcare. The main hope for all levels of society can also help intensify awareness in the public to avoid the crime of human trafficking. The Indonesian Commission for Child Protection Commission considers that the problem of trafficking in Indonesia has been classified as serious and needs to be addressed immediately. Moreover, in the current internet era, opportunities for perpetrators in conducting human trafficking are increasingly open. The majority of victims of human trafficking come from the cyber system, starting from cyber-based communication via Facebook or Twitter. Finally, the child is used for certain interests, including sexual exploitation.

Which becomes the problem of this research: why are the rules regarding the prohibition of trafficking in persons already applicable, whereas in practice empirically significant violations of law are still found? The authority of public officials is an absolute authority to conduct supervision and prevent the emergence of indications of trafficking in persons. In the practice of human trafficking according to Rahmi Purnama Melati (2015), the perpetrator is the party that causes a person to become entangled in a circle of human trafficking practices. The closest people to the victim are more prevalent as traffickers. It could be that parents sell their children to other people for a meagre amount of money. It could be relatives, neighbours, friends and even a husband or girlfriend becomes the culprit. From them, then the victims were handed over to certain elements to be made the subject of further trafficking. Besides, it should be noted that those who falsified the victim's documents sent out of the country, including

traffickers, also involved public officials who completed the documentation. Generally, the perpetrators work very neatly and well organised so that it is difficult to be touched by law enforcement officers. Thus, traffickers are people who have enough networks to control victims (Mazana et al., 2019).

Theoretical Background

Trafficking, according to Hadi Supeno (2007), is an activity of sending workers, which is the activity of moving or removing someone from their neighbourhood or relatives. Trafficking has been criminalised in Indonesian law in Law No. 39/1999, among others are listed in:

- a. Article 297 of the Criminal Code states that trafficking of women and the trafficking of boys who are not old enough is punishable with imprisonment for a maximum of six years.
- b. Article 65 of the Human Rights Law 39/1999 which states that every child has the right to get protection from sexual exploitation and exploitation, kidnapping, child trafficking, as well as various forms of abuse of narcotics, psychotropic substances, and other addictive substances.
- c. ILO Convention 182 has a positive impact on the protection of working children from acts of trafficking. Ratification of ILO Convention 182 in Indonesian Law with Law No.1 of 2000.

The definition of trafficking or trafficking in persons according to Trafficking in Persons is regulated in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, Supplementing The United Nations Convention Against Transnational Organised Crime that is, trafficking in persons means the mobilisation, transportation, transfer, concealment. (Crossette.2000). The definition of trafficking according to various opinions is:

- a. According to the International Convention on Trafficking (Conventions for the Suppression of Other, 1949) in the last protocol, "Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing The United Convention Against Transnational Organisation".
- b. According to Wijers M. & Lap-Chew, defines trafficking as the movement of people (especially women, children), with or without the consent of the person concerned, within a country or abroad, for not only prostitution and slavery under the guise of marriage, thereby expanding This definition to cover more issues. Convention on the Rights of the Child (CRC) is one of the conventions that regulate matters relating to the protection of children's rights. Article 1 states that what is meant by a child is every human being below the age of eighteen years unless, under the law applicable to the child, the majority is attained earlier.

The history of human trafficking or trafficking in Indonesia

There have been several efforts to eradicate slavery globally: in particular, Indonesia had begun in 1854, when the government and the Dutch Parliament issued Wet or Dutch Law Number 2 of 1854 which was announced in the Dutch East Indies Staatsblad under the title "Reglement op het Beleid der (Wijers M & Lap-Chew), Trafficking in Women in Forced Labour and Practical Practices such as Slavery in Marriage, Household, and Prostitution, Foundation Against Trafficking in Women in the Netherlands, 1999. Then Regering van Nederlands-Indie Regulations of Parliament Article 1 which states that: at most by January 1, 1860, slavery in the Indies had to be abolished completely. Trafficking of women of childbearing age, accompanied by relocation, coercion, continuous rape, (begun during the Japanese colonial era (Jugun Ianfu) between 1941-1945), sex commercialisation developed in addition to forcing indigenous women to become prostitutes, but also brought many women from Java to Singapore, Malaysia and Hong Kong to serve Japanese officers.

The following are some regulations related to handling human trafficking practices in Indonesia:

1. Law Number 32 of 2004 concerning Regional Government.
2. Law Number 21 of 2007 concerning Eradication of Trafficking in Persons
3. Government Regulation No. 38/2007 concerning the Sharing of Government Affairs, Provincial Governments, and Regency/City Governments.
4. Government Regulation No. 9 of 2008 concerning Procedures and Mechanisms for Integrated Services for Witnesses and / or Victims of Trafficking in Persons.
5. Presidential Regulation No. 69 of 2008 concerning the Formation of a Task Force on the Prevention and Handling of Criminal Trafficking in Persons.
6. Coordinating Minister for People's Welfare Regulation No. 25 of 2009 concerning the National Action Plan for the Criminal Act of Trafficking in Persons.
7. State Minister of Women's Empowerment Regulation No. 08 of 2008 concerning the Formation of a Sub-Task Force for the Prevention and Management of Trafficking in Persons.
8. State Minister for Women's Empowerment Regulation No. 01 of 2009 concerning SPM Integrated Services for Witnesses and / or Victims of Trafficking in Persons in Regencies / Cities.
9. State Minister for Women's Empowerment and Child Protection Regulation No. 01 of 2010 concerning SPM Integrated Services for Women and Children Victims of Violence.
10. Republic of Indonesian Police Chief Regulation No. 10 of 2007 concerning the Organisation and Work Procedures of the Women's and Children's Services Unit (PPA Unit) within the Republic of Indonesia's National Police.
11. Indonesian Police Chief Regulation No. 3 of 2008 concerning Mechanisms and Procedures for Examination of Witnesses and/or Victims of Trafficking in Persons in Women and Children Units.

12. Circular of the Minister of Health No. 659/2007 To Establish an Integrated Service Centre in Hospitals and Victim Services in Health Care Centre.

Public Policy and Control

Public policy according to Thomas (Winarno, 2012) is to do something or not to do something (whatever the government chooses to do or not to do) (Winarno, 2009). According to Thomas (1995), everything is done by the government, why they do it, and the results that make a life together appear different (what government do, why they do it, and what difference it makes). (Nugrogo, 2009: 93-101). According to Rian it is a group of people who are bound by a particular issue. So, "the public is not the public, the people, the community, or just stakeholders. The public is a sphere where people become citizens, a city where citizens interact, where the state and society exist. So public policy is, any state of government (as the hold of the authority) decision to manage public life (as the sphere) to reach them of the nation (remember, a nation consists of two institutions: state and society).

Simply stated public policy:

Public policy is a strategy to deliver the community at an early stage, entering the community at a time of transition, towards the aspired society. (Nugroho, 2009: 96). One of the policies issued by the government to overcome the public problems that occur at this time is the policy regarding the prevention and handling of victims of trafficking in women and children. The policies issued have different stages, from the central to the regional level. Therefore, it is important to know the direction of policy and the impact of a policy by analysing the policy.

Factors of Human Trafficking

Factors are things that cause someone to enter into a situation. Likewise, with the practice of human trafficking, which also has things that cause victims to fall into the trap of the perpetrators of human trafficking practices.

Economic Factors

Farrell, Courtney (2011) stated, "Traffickers are motivated by money". Economic factors become one of the main causes of human trafficking, which is underpinned by poverty and employment that does not exist or is inadequate within the larger population. This is what causes a person to look for work even though he has to go out of his home area with no small risk. Such severe poverty and the scarcity of employment opportunities drive millions of Indonesians to migrate in and out of the country to find ways to support themselves and their families.

In addition to poverty, disparities in welfare levels between countries also lead to human trafficking. Countries listed as recipients of trafficking victims from Indonesia are richer than Indonesia, such as Malaysia, Singapore, Hong Kong, Taiwan, and Saudi Arabia. This is because they choose the hope that they will be more prosperous if they migrate to other countries. Besides, an elite lifestyle with a consumptive culture has coloured some of the people, especially those who live in urban areas. Young women want to enjoy the luxury of a life without the need for more struggle: take the fast track to get the luxury of not having a job or income that allows them to get that luxury. And for traffickers, this condition is an opportunity to attract victims to be trafficked. Thus, the influence of poverty and prosperity can be a factor in human trafficking. Therefore, poverty and the desire to improve one's economic condition are still social factors that are considered by the government in the context of alleviating poverty.

Lack of Gender Equality

This factor has a broad enough background to be one of the factors of human trafficking. The absence of gender equality is one of the factors of human trafficking, which is as follows: the patriarchal socio-cultural values that are still strong place men and women in different and unequal positions and roles. This is marked by the standardisation of roles, namely as a wife, as a mother, household manager, and education of children at home, as well as additional breadwinners and the type of work is similar to household duties – for example, being a housemaid and caring for children. In addition to the role of women, there is also a double burden – subordination, marginalisation, and violence against women, all of which start with discrimination against women that causes them to have no or less access, opportunities and control over development, and do not or cannot receive development benefits.

Early marriage often results in the unpreparedness of a child to become a parent, so that children who are born are vulnerable to the lack of protection and often ends up with the entry of children into the world of commercial sexual exploitation. The existence of inequality of relations between men and women leads to women being cornered and trapped in the practice of human trafficking. This happens to women who experience rape, and usually people's attitudes or responses are generally not in their favour. The treatment by that society drives women into the world of commercial sexual exploitation. The presence of women in the world of sexual exploitation is not more from their own volition than the socio-cultural conditions from which the women come very strongly influence their plunge into the world of social exploitation, especially to be sent to big cities.

Law Enforcement Factors

The law should act and take sides with anyone, regardless of status. The law is a series of regulations that have sanctions for perpetrators of crime. Law enforcement lies in the attitude of harmonising the values that are spelled out and the attitude to create, and maintain peaceful social relations.

Lack of law enforcement in Indonesia, especially in prosecuting traffickers, including owners, managers and labour companies, is a legal loophole that benefits traffickers. Based on central data, the causes of the overall practice of human trafficking in Indonesia are as follows:

- a. Poverty
- b. Low level of community education
- c. Illiteracy
- d. Limited employment opportunities
- e. High unemployment rate
- f. Don't have skills
- g. Conflict or natural disaster
- h. Lack of information about the city or country of destination
- i. Too trusting of the agent / recruiter / cab
- j. Inequality in power relations between men and women.

Based on data obtained from BP3AKB of West Java province, the factor of human trafficking consists of factors in the supply and demand sides. The supply-side factors are:

1. Family conditions due to low education, poverty, limited opportunities, and consumptive lifestyles
2. Traditional values that assume children are property that can be treated as parents want cause parents to sell their children and cause children not to go to school so they do not have the skills to compete in the labour market
3. The range of recording birth certificates is still low, which allows the falsification of age and other identities.
4. Marriage at a young age is a high risk for a woman, especially if followed by pregnancy and divorce.
5. Violence against women and children causes them to leave home and then become victims of trafficking and work in high-risk places.
6. Wanting to live a decent life but minimal ability and lack of knowledge of the labour market.
7. A patriarchal culture that is still strong causes gender inequality and injustice which is characterised by the standardisation of roles, double burden, subordination, marginalisation and violence against women. Women like this are very vulnerable to becoming objects.

8. The weakening of the functions of family and community resilience institutions, also the development of community permissive attitudes towards the surrounding community.

While the factors from the demand side are namely:

1. The myth that having sex with children (heterosexual) makes one younger.
2. Increasing international crime in drug trafficking, expanding human trafficking networks for prostitution and various forms of exploitation.
3. Globalisation of finance and trade gave rise to multinational industries and financial and banking cooperation led to a large number of foreign workers living in Indonesia, where they increased the demand for sex services.
4. Employers want cheap, obedient and easily frightened workers, which has driven the increasing demand for women and children workers.
5. Changes in social structure coupled with rapid industrialisation/commercialisation, have increased the number of middle and upper families, which increases the need for children to be employed as domestic servants.
6. The progress of the tourism business worldwide also offers sex tourism, encouraging the high demand for women and children for the business. Fear of customers infected with the HIV/AIDS virus, causing many young virgins to be recruited for that purpose.

So, it can be concluded that the factors of human trafficking in Indonesia are as follows:

Patriarchal Culture: women's sexual objectification, virginity values, commodities.

1. Demands for self-actualisation of women: looking for work
2. Poverty: migration, migrant workers.
3. Education and skills: low
4. Marriage: young age (underage), Early Marriage
5. Tradition: slavery and exploitation of women (concubines, women as tribute goods)
6. Permissive attitude towards prostitution
7. Urban lifestyle: consumptive, materialism
8. The development has not touched remote/isolated areas.
9. Limited employment.

Some elements apply to human trafficking based on the Palermo UN Protocol, the purpose of human trafficking, consisting of three elements, namely (Rahmi Purnama Melati.2015):

Process

Includes: recruiting, transporting, moving, hiding or receiving (potential victims).

Facilities

To control victims, the perpetrators use threats, various forms of violence, kidnappings, fraud, abuse of power, or vulnerable positions or gifts to receive benefits to get approval from the person holding control over the victim.

Purpose

Includes acts of exploitation: at least for prostitution or other forms of sexual exploitation, forced labour, slavery, servitude, and organ harvesting.

Related to the process and facilities, there are ways taken by traffickers to recruit victims and launch their steps in the practice of trafficking in persons, namely:

- a. Dispatch of labour
- b. Ambassador of Cultural Arts
- c. Marriage order
- d. Appointment of children
- e. Falsification of documents such as family cards, identity cards, or other documents
- f. Using a non-Indonesian private labour recruitment company (PPTKIS) Using a student visa to certain countries
- g. Carry out training at work.
- h. Transferring illegally from one region/country to another region/country.
- i. Debt bondage
- j. Forced labour
- k. Kidnapping

Regarding the purpose of human trafficking, the forms of exploitation carried out by traffickers are:

1. Prostitution
2. Drug and drug dealers
3. Work does not match the promised work
4. Work without time limits
5. Salary is never paid
6. Baby smuggling
7. Illegal adoption
8. Selling babies/children
9. Students are used as ABK for fishing vessels or fishing platforms
10. Organ transplant

Human trafficking is a violation of human rights that treats humans/victims solely as commodities that are bought, sold, shipped, and resold. The following are the criteria for

traffickers based on data from the Ministry of Women's Empowerment and Child Protection (Farhana.2012).

1. Pimp / "Mami" / "Papi"
2. The closest people such as parents, uncles, aunts, aunts, neighbours/acquaintances in the Sponsor / Cab village
3. Employees or company owners
4. Person of government apparatus
5. Person of the teacher
6. Trafficking syndicates.

Regarding the criteria for victims, anyone can be a victim, not knowing their age or gender, but in general, the victims are often women and children because of their vulnerable position (prone to exploitation). Some individuals vulnerable to becoming victims of human trafficking are:

1. Poor people
2. People with a consumptive lifestyle
3. People who do not have the skills
4. People who have low education and drop out of school
5. Illiterate people
6. People who dream of high salaries by working outside the area/country without clear information
7. Victims of Domestic Violence (Domestic Violence)
8. People who have lost family members
9. Victims of conflict
10. Disaster victims
11. Unemployed
12. Street children
13. Widowed/ divorced due to early marriage

There are three regional classifications in human trafficking practices, namely (Farrell, Courtney.2011):

Origin or Sending Area

Region of origin or sending area is the area where the victim came from. Usually, this area is an area with a high level of poverty and high school dropouts, so parents allow their children to work outside the area to help with the family economy (Farrell, Courtney. 2011).

Temporary Transit Area or Transit Area

A stopover area is an area that accommodates victims who have been recruited before reaching their destination. In this area, victims are usually exploited. Some characteristics of trafficking victims in transit areas that can be recognised are:

- a. Victims are in groups (if many victims are recruited) and are in a state of confusion, fear, and depression.
- b. The victim is placed in a closed house or building and cannot be visited by other people or the community, the place of residence is hidden or kept secret.
- c. The victim does not have enough money, so it is difficult to return to the area of origin.

Reception / Destination Area

This area is the final area where victims are placed. In this area, victims experience exploitation both economically and sexually. The forms of violence experienced by victims in the destination area include:

- a. Victims should not socialise or communicate with the community around where the victim works.
 - b. Victims are forced to live in a community monitored by traffickers.
 - c. The identity of the victim is held by the perpetrator.
 - d. Victims experience physical, emotional and sexual abuse.
- Two neighbouring countries that are included in the transit area and the destination of this practice are Malaysia and Singapore.

The Impact of Human Trafficking

There are many impacts arising from the practice of human trafficking. There are physical, psychological, and social and emotional impacts experienced by families and victims of human trafficking itself. These impacts are:

1. Isolation
2. Depression (severe mental disorder)
3. If you experience torture, physical disability will occur
4. Hopelessness
5. Disruption of reproductive function
6. Unwanted pregnancy
7. If prostituted will be infected with HIV-AIDS
8. Death for the victim
9. The shame experienced by the victim's family
10. Feeling a negative view by the surrounding community.

This is where the role of the community is to help the victims to immediately lose their sense of trauma.

Method

This research is normative-empirical. This type of research is based on the formulation of the problem raised as a consequence of the logical consequences of legal research in the background of the problem. This type of research is to be adapted to the formulation of the problem raised. The nature of this study is the characteristics of research that describes the classification of research objects or targets that will be used by researchers for conducting research, (Muhammad, 2004).

This research looks at the compatibility between theory and empirical facts, so this research is also explanatory in answering the problem formulation. The nature of this research according to the right author is used to remember trafficking in persons as extraordinary crimes in Indonesia has been widespread and regular while the government continues to supervise. According to (Soerjono Soekanto, et al 1983). The Documentation Guidelines are used to collect primary legal materials, tertiary and secondary legal materials. The data collection techniques of normative-empirical legal research are using interview guides (interview in-depth) and questionnaires (closed and open) and documentation guidelines by taking samples from population cases that occur at the level of prosecution of trafficking in persons.

The analysis technique used in this research is qualitative analysis through legal and criminal arguments (Jhonny Ibrahim, 2005), research data. using the stages of inventory of convicting materials and data by research, identifying punitive material and data according to formulas is the problem raised is, analysing the legal implications and data with facts in the field.

Results

From the series of regulations, some regulations cover the stages of prevention, meaning actions taken before humans are made victims. However, some regulations specify sanctions for perpetrators who have carried out human trafficking practices. These sanctions are expected to have a deterrent effect on traffickers, but with the hope that there is firmness in overseeing public policy on perpetrators and potential abductees. The following are several articles that contain sanctions for traffickers.

With the passing of Law No. 21 of 2007 concerning the Eradication of Trafficking in Persons (the PTPPO Law), it is hoped that the handling of trafficking in persons will improve. Policies issued by the government have tried in various ways to control and deal with the impact of problems caused by the human trafficking business, through counselling activities, seminars, and work training. Besides, there are sanctions whose main purpose is the solution of the

humanitarian problems in society. The method of sanctioning the problem of trafficking in persons is a restitutive legal method with a criminal element contained in it. The legal method is then associated with the form of solidarity that characterises certain societies, therefore the type of legal method is the result of certain forms of solidarity, including:

1. Mechanical solidarity is mainly found in simple societies that are relatively homogeneous in their social and cultural structures. In this form the community depends on the group and the integrity of the community is guaranteed by human relations because of a common goal.
2. Organic solidarity marked by the division of labour in the society, which is usually found in complex and heterogeneous societies of social and cultural structures. In this case, returning the position of someone who is harmed is a priority.

Related to human trafficking, there are legal sociological implications in that case, where studying the sociology of law is related to its effectiveness, or Law in action by evaluating the effectiveness of law in society, because the main purpose of the view of the sociology of law is to present as many conditions as are needed so that the law can apply efficiently. The role of the sociology of law is to understand the law in a social context, analysing the effectiveness of law in society both as a means of social control and as a means to change society. In essence, in studying sociology of law there are three important things, namely understanding the law in a social context, analysing the effectiveness of law and evaluating the power of influence of social structures and social processes in shaping the rule of law.

Table 1: Matrix Implications of Law Number 21 in the Year 2007 Concerning Eradication of Trafficking in Persons with Policy Control.

Policy	Sanctions	Field Facts	Policy Control
Chapter II Article 2 of Law Number 21 the Year 2007	Anyone who solicits the transportation, collection, transfer, or receipt of someone with the threat of violence, use of force, abduction, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or provide payment or benefits despite obtaining approval and the person holding control over others for the purpose of exploiting the said person in the territory of the Republic of Indonesia, shall be liable to a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp.120,000,000 (one hundred and twenty million rupiahs) and a maximum of Rp.600,000,000 (six hundred million rupiahs).	Weak Violations	Occur

<p>Chapter II Article 3 of Law Number 21 the Year 2007</p>	<p>Anyone who puts a person into the territory of the Republic of Indonesia with the intention to be exploited in the territory of the Republic of Indonesia or exploited in another country shall be liable to a maximum imprisonment of 3 (three) years and a maximum of 15 (fifteen years and a fine of at least Rp120,000,000.00 (one hundred and twenty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah).</p>	<p>Weak Violations</p>	<p>Occur</p>
<p>Chapter II Article 4 of Law Number 21 the Year 2007</p>	<p>Anyone who takes an Indonesian citizen outside the territory of the Republic of Indonesia with the intent to be exploited outside the territory of the Republic of Indonesia is sentenced to a maximum imprisonment of 3 (three) years and a maximum of 15 (fifteen years and a fine of at least Rp120,000,000.00 (one hundred twenty million rupiah) and a maximum of Rp600,000,000.00 (six hundred million rupiah).</p>	<p>Weak Violations</p>	<p>Occur</p>
<p>Chapter II Article 5 of Law Number 21 the Year 2007</p>	<p>Every person who adopts a child by promising something or giving something with the intention to be exploited shall be sentenced to a maximum imprisonment of 3 (three) years and a maximum of 15 (fifteen) years and a fine at least Rp120,000,000.00 (one hundred and twenty million rupiah) and a maximum of Rp 600,000,000.00 (six hundred million rupiah) ".</p>	<p>Trespassed</p>	<p>Weak</p>
<p>Article 6 Chapter II of Law Number 21 the Year 2007</p>	<p>Everyone who sends children into or out of the country in any way that results in the child being exploited will be sentenced to a maximum imprisonment of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp120,000,000.00 (one hundred twenty million rupiah) and a maximum of Rp 600,000,000.00 (six hundred million rupiah)</p>	<p>Trespassed</p>	<p>Weak</p>

<p>Article 7 Chapter II of Law Number 21 the Year 2007</p>	<p>1) If the criminal acts as referred to in Article 2 paragraph (2), Article 3, Article 4, Article 5 and Article 6 result in the victim suffering serious injuries, severe mental disorders, other infectious diseases that endanger his life, pregnancy, or disturbance or loss reproductive function, then the criminal threat is added 1/3 (one third) of the penalty in Article 2 paragraph (2), Article 3, Article 4, Article 5, and Article 6.</p> <p>2) If the criminal acts as referred to in Article 2 paragraph (2), Article 3, Article 4, Article 5 and Article 6 result in the death of the victim, shall be sentenced to a minimum of 5 (five) years in prison and a maximum of life imprisonment and criminal a fine of no less than Rp. 200,000,000.00 (two hundred million rupiahs) and a maximum of Rp. 5,000,000,000.00 (five billion rupiah).</p>	<p>Trespassed</p>	<p>Weak</p>
<p>Article 8 Chapter II of Law Number 21 the Year 2007</p>	<p>1) Every state organiser who abuses the power resulting in the crime of trafficking in persons as referred to in Article 2, Article 3, Article 4, Article 5, and Article 6 shall add a 1/3 criminal sentence (one third) of criminal threats in Article 2, Article 3, Article 4, Article 5, and Article 6.</p> <p>2) In addition to the criminal sanctions referred to in paragraph (1) the offender may be subject to additional criminal offences in the form of a dishonourable discharge from his position.</p> <p>3) Additional crimes referred to in paragraph (2) are listed at the same time in the court decision.</p>	<p>Trespassed</p>	<p>Weak</p>

<p>Article 9 Chapter II of Law Number 21 the Year 2007</p>	<p>Anyone who tries to mobilise others to commit the crime of trafficking in persons, and that crime did not occur, shall be sentenced to a maximum of 1 (one) year imprisonment and a maximum of 6 (six) years year and a fine of at least Rp. 40,000,000.00 (forty million rupiahs) and a maximum of Rp. 240,000,000.00 (two hundred and forty million rupiah).</p>	<p>Trespassed</p>	<p>Weak</p>
<p>Article 10 Chapter II of Law Number 21 the Year 2007</p>	<p>Anyone who assists or attempts to commit a crime of trafficking in persons shall be convicted of the same crime as referred to in Article 2, Article 3, Article 4, Article 5, and Article 6.</p>	<p>Trespassed</p>	<p>Weak</p>
<p>Article 11 Chapter II of Law Number 21 the Year 2007</p>	<p>Anyone who plans or commits an evil agreement to commit a crime of trafficking in persons is convicted of the same crime as the offender as referred to in Article 2, Article 3, Article 4, Article 5, and Article 6</p>	<p>Trespassed</p>	<p>Weak</p>
<p>Article 12 Chapter II of Law Number 21 the Year 2007</p>	<p>Anyone who uses or exploits victims of trafficking in persons by committing copulation or other obscene acts with victims of trafficking in persons, employs victims of trafficking in persons to continue the practice of exploitation, or takes profits from the proceeds of crime in trafficking in persons will be convicted with the same crime as referred to in Article 2, Article 3, Article 4, Article 5 and Article 6.</p>	<p>Trespassed</p>	<p>Weak</p>
<p>Article 15 Chapter II of Law Number 21 the Year 2007</p>	<p>1) In the case of a criminal act of trafficking in persons committed by a corporation, other than imprisonment and fines against its management, a criminal that can be imposed on a corporation is a fine with 3 (three) times of criminal charge fines as referred to in Article 2, Article 3, Article 4, Article 5 and Article 6.</p>	<p>Trespassed</p>	<p>Weak</p>

	<p>2) In addition to the fines as referred to in paragraph (1), corporations may be subject to additional penalties in the form of:</p> <ul style="list-style-type: none"> a. Revocation of business licence; b. Confiscation of assets resulting from criminal acts; c. Revocation of legal entity status; d. Dismissal of management; and / or e. Prohibition to the management from establishing a corporation in the same line of business. 		
Article 16 Chapter II of Law Number 21 the Year 2007	In the case of trafficking in persons committed by organised groups, then every perpetrator of trafficking in persons in the organised group shall be convicted with the same crime as referred to in Article 2 plus 1/3 (one third).	Conditioned	Conditioned
Article 17 Chapter II of Law Number 21 the Year 2007	<p>If the criminal act referred to in Article 2, Article 3 and Article 4 is committed against a child, then the criminal threat is added 1/3 (one third). There are 5 (five) elements that influence law enforcement that affects the course of law enforcement, namely:</p> <ul style="list-style-type: none"> a. Constitution. b. Law Enforcement, c. Infrastructure. d. The community. e. Social and cultural law. 	Conditioned	Conditioned

In outlining the theory of the Durkheim people, they paid great attention to the legal method which they associate as a type of solidarity in society, the law was formulated as a method of sanction in which its severity depends on (1) the nature of the violation, (2) the community's perception and beliefs about the good and bad behaviour (3) the role of sanctions in society. In the case of human trafficking, each victim is offered various benefits from one of the labour recruitment offices. He readily conducted a recruitment process for prospective migrant workers from various regions of NTB, West Java, Central Java. Finally, what is needed now is no longer debating who is the most responsible. In the context of prevention especially, vertical institutions must be more active in monitoring. Then the role of the coordinating ministry is needed to coordinate between government agencies and the private sector. Local governments also need to ensure the readiness of human resources (HR) working abroad so that there are no



bureaucratic obstacles: especially human resources, who are still not ready to work under one roof because the sectoral bureaucracy is still constrained (Ombudsman RI.2016).

The regional government also needs to monitor and cooperate with the government at the sub-district and village level to ensure the existence of a single policy, related to control over the mushrooming of institutions authorised by the recruitment process. This step must be taken so that control remains in the government down to the lower levels. The government network at the lowest level up to the provincial government must function like the human trafficking task force. Various service institutions that have been working hard to support sectoral institutions must be intensively involved, not left behind, because it has been proven that the work of eradicating human trafficking is not easy. So, the process of involving civil society is an important part of public services, including socialisation activities and anti-trade education of people in the community and educational institutions need to be optimised. The government needs to empower the community so that they fully understand the dangers of human trafficking, and are willing to build a complaints unit in the community. With an understanding that leads to high concern, anyone can prevent human trafficking. The community must be invited to care and be willing to report if there are indications of counterfeiting and other efforts related to the requirements of prospective migrant workers.

The development of these community complaint service units is expected from the beginning to actively invite the community to "complain" if there is a problem so that there are complaints that become the basis for developing the problems that existed before there were serious violations against the victim. Understanding how to make a complaint is part of the obligation of the community to be formalised, because ignorance and reluctance and ignorance of the community must also turn out to be proactive. Thus, these complaints must be responded to by the government, in this case, public authorities who are authorised before serious problems occur, or it can be said that the abduction and sale of people have not yet entered the serious stage. But if the community is not responded to or less proactive, then the public can also use the services of the Ombudsman institution to represent their interests. At the same time, relevant ministries and legislative bodies need to make strategic efforts to improve in the policy context, including by reviewing domestic worker protection laws and criticising migrant worker protection laws abroad.

Discussion

This case of trafficking in persons is international because it involves several countries to conduct a transgression, namely, there is a country of origin and there is a destination country for trafficking in persons. Each country has a legal binding governing trafficking in people, especially women and children (United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children) in 2000 or also known as the Palermo

Protocol. This protocol complements the United Nations Convention against Transnational Organised Crime (United Nations Convention Against Organised Transnational Crime).

The key to understanding the boundaries of human ownership and sale is to recognise three interrelated elements that must exist cumulatively so that human trafficking can be said to have taken place, namely process, method, and purpose. The process of abduction and human trafficking must be achieved through means and both must be to achieve exploitative goals.

The process is defined as the mobilisation, transportation, delivery, concealment or acceptance of people. In this case, not all elements must be met. One of these processes has already happened, so it can be said that human trafficking has taken place. The method, defined as an act with threats or the use of violence or other forms of coercion, kidnapping, fraud, abuse of power or position of vulnerability or acceptance or payment or benefits to reach agreement from someone who has power over another person. In this element, not all methods described must be used, the use of only one method is already eligible.

Purpose, namely for exploitation purposes. Where in this definition, exploitation includes but is not limited to sexual exploitation. Still referring to the definition, like adults, for children who are defined as someone who is not yet 18 years of age, consent must be considered irrelevant. Article 3 section c of the Palermo Protocol recognises the special situation of children, which eliminates the element of "means" asserting that insofar as it relates to children as victims, none of the methods of coercion or deception need to be used to prove the presence/absence of trafficking in persons. This means that there is no need for "threats or use of force or other forms of coercion, kidnapping, forgery, fraud". In other words, a child who has been recruited, sent, moved from one place to another, accommodated or accepted for exploitation purposes must be categorised as a "victim of trafficking" even if the child is not threatened, forced, kidnapped, cheated, persecuted, sold or rented out.

Public policy through the supervision of public officials has been carried out so far, although there is evidence that illustrates that trafficking in persons is increasing in all regions of the world in line with the oversight authority that is carried out. But only a handful of traffickers have been arrested. Effective law enforcement efforts will function as prevention efforts for traffickers, and thus will have a direct impact on the demand for labour from abroad. The implication of effective law enforcement against trafficking depends on cooperation between public officials, trafficked persons, and witnesses who know the work procedures and processes. The Palermo Protocol acts as a tool to enforce the law and conduct surveillance at the border. For this reason, the state is obliged to investigate, investigate and punish every perpetrator of trafficking in persons with an appropriate sentence.

Conclusion and Recommendation

Based on the analysis of normative legal reasoning and legal sociology, it can be concluded that it still requires firmness in overseeing public policy on the process of sending workers abroad. Legal implications that occur now require supervision and prevention. Future expectations of the firmness of public officials in overseeing the process of sending workers abroad. How can the law give a sense of justice and how can the law be effective?

Public officials as government officials who indirectly issue documents that are not reviewed for their completeness and validity, pay less attention to their duties and functions properly, so that children who are underage who should be receiving education become victims of trafficking. Besides that, local government officials should not legalise prostitution venues to increase regional income, which indirectly triggers trafficking in persons.

Even though efforts to increase local revenue are very beneficial to the local government, humanitarian considerations need to be put forward, as the localisation sites in each tourist area seem to be an opportunity for perpetrators to continue recruiting victims to become prostitutes and sell them.

Strengthen the five elements that influence the course of law enforcement namely: the existence of the law, law enforcement, infrastructure, society and social and legal culture, can go hand in hand with one another, aka walking together to achieve one goal, which is to eradicate the crime of trafficking in persons, until the desired target was reached. But if the five elements are defective in one of the elements, it feels very hard going to be able to eradicate the crime of trafficking in persons. For this reason, there needs to be a common perception among all parties and the public in responding to the series of regulations that have been made to achieve a trafficking-free society.

Human trafficking means mobilising, transporting, transferring, hiding or accepting people using various threats or coercion or other forms of violence, or kidnapping. Human trafficking is a modern form of slavery, occurring both on a national and international level. With the development of information technology, communication, and transmission, the mode of the crime in human trafficking is increasingly sophisticated. Trafficking in persons/humans is not an ordinary crime, is organised, and is transnational, so that it can be categorised as Transnational Organised Crime (TOC).

Overcoming the problem of child trafficking does not only involve one institution but must involve all stakeholders in the community, namely government agencies, NGOs, social organisations that are members of a partnership that is strengthened by government regulations, at least the minister's decision to jointly handle child trafficking problems. One of the factors



driving child trafficking is the inability of the existing education system and the community to keep children from dropping out of school and continuing to a higher level.

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