

# JURNAL CITA HUKUM

*Indonesian Law Journal*



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- **Disparity in The Judge's Ruling About Community Property Disputes After Divorce;  
(An Analysis of The Verdict in The South Jakarta Religious Court, Religious Court of Jakarta  
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Jurnal

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**Jurnal**

# **CITA HUKUM**

INDONESIAN LAW JOURNAL

Welcoming contributions from scientists, scholars, professionals, and researchers in the legal disciplines to be published and disseminated after going through script selection mechanisms, reviewing sustainable partners, and rigorous editing processes.

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# Human Trafficking in Accordance with Prosperity and National Economic Development\*

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## Abstract:

Nowadays, Human trafficking has spread their wings and becomes a crime, the trafficker works with a good organization and works between country to country, it becomes a threat for society, nation and country itself. To prevent this issue, we need to collaborate with another institutions. Law enforcer, government, Social services and also Non-Governmental Organization need to collaborate to resolve this issue for Indonesia and for International society. Government has a responsibility and also active in various development condition such as prosperity development, economic development because it is the main responsibility for country to protect the law of the country including Human rights. This main responsibility cannot be reduced by political reasons, economic and also cultural reasons. This research aims an overview of the solutions regarding the form of the prevention and the protection of the law against human trafficking and also to find a concrete measure in the form of regulations to covers the victims of the human trafficking for a prosperity and economic development. However, based on the empirical data, there are many problems and obstacles in the implementation of the provision of legal protections in the term of restitution and rehabilitation. The suggestion is, to prevent and to protect human trafficking victims, we need to make sure the local regulations in each province is suitable with the act of PTPPO and also, we need to strengthen the coordination. Moreover, to strengthen the prosperity of the human trafficking victims and to immune the economic development in society, we need to make sure the coordination between the central government and the local government in each province is strong in the term of budgeting. The utilizations of the APBN is to covers about prosperity and local economic development in the village who have the most potential to be a human trafficking victim.

**Keyword:** Human Trafficking, Protections of the victims, prevention, Welfare and economics.

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## ***Human Trafficking Dihubungkan Dengan Kesejahteraan dan Pembangunan Ekonomi Nasional***

**Abstrak:**

Saat ini, perdagangan manusia telah melebarkan sayap dan menjadi kejahatan. Pelaku bekerja dengan organisasi yang baik dan memiliki jaringan antar negara. Ia menjadi ancaman bagi masyarakat, bangsa dan negara itu sendiri. Untuk mencegah masalah ini, perlu dilakukan kolaborasi dengan institusi lain. Penegak hukum, pemerintah, layanan sosial dan juga LSM (organisasi non-pemerintah) perlu berkolaborasi untuk menyelesaikan masalah ini bagi Indonesia dan masyarakat internasional. Pemerintah pun memiliki tanggung jawab dan juga aktif dalam berbagai kondisi pembangunan seperti pembangunan kemakmuran, pembangunan ekonomi karena merupakan tanggung jawab utama bagi negara untuk melindungi hukum negara termasuk hak asasi manusia. Penelitian ini bertujuan untuk memberikan gambaran tentang solusi mengenai bentuk pencegahan dan perlindungan hukum terhadap perdagangan manusia dan juga untuk menemukan langkah-langkah konkret dalam bentuk peraturan yang mencakup korban perdagangan manusia untuk kemakmuran dan pembangunan ekonomi. Namun, berdasarkan data empiris, ada banyak masalah dan hambatan dalam pelaksanaan ketentuan perlindungan hukum dalam istilah restitusi dan rehabilitasi. Karenanya untuk mencegah dan melindungi korban perdagangan manusia, perlu dipastikan bahwa peraturan lokal di setiap provinsi sesuai dengan tindakan PTPPO dan juga perlu memperkuat koordinasi. Selain itu, untuk memperkuat kemakmuran korban perdagangan manusia dan untuk melindungi perkembangan ekonomi masyarakat, perlu juga dipastikan koordinasi antara pemerintah pusat dan pemerintah daerah di setiap provinsi khususnya dalam hal penganggaran. APBN pun juga harus mencakup kemakmuran dan pembangunan ekonomi lokal di desa, karena desa paling berpotensi menjadi korban perdagangan manusia.

**Kata Kunci:** *Human Trafficking, Perlindungan Korban, Kesejahteraan dan Ekonomi*

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## Introduction

An old problem that gets a lack of intentions, so its existence is not too visible on the main land but, in the practice, it is a social problem. That problem day by day becoming a crime to society, where human is the objects of the trafficking. Beside of the main problem about the lack of preventive remedies for the offenders, it is also based on the level of awareness to understand about the dangers of human trafficking. In Indonesia human trafficking is one of the major threats, almost every year thousand women and children became a victims of human trafficking, sometimes they just dont know that they are the victims of this issue. These is a problems that has happend in Indonesia and other country as well.

The government has the responsibility of various improvements and policy in advancement of prosperity and economic development. It is universally accepted that the government carry the responsibility for the development of human rights and legal protection. This responsibility can not be reduced by any kind of reason including political reason, economic, and also culturally reason. This norm might be expected as something that not implemented in concrete, generally in protecting citizen from the human trafficking especially women and children. In addition, there is no reason to recognizing and legalizing the human trafficking and as a state which the stakeholders and upholds the human dignity especially for the victims of human trafficking.

The low or weak awareness of the citizen will trigger the practice of human trafficking to grows. So government should continue the process of making the formal form of the legal protection for the victims of human trafficking and make a firm action for the actor of this crime. Besides that, we also need to aware and play active to eradicate the practice of human trafficking, so the eradiction of human trafficking will nicely be done by the cooperation between citizen and the government. Human trafficking currently as expanded, in the shape of an organize crime which practice between country to country. The trafficker or the actors of the crime works really well and it makes a threat for the community, nation and country itself.

The number of the victims, especially women and children cannot be counted because it is difficult to make sure the real numbers are the United Nations estimates that at least there are 4 million victims every year. There are around 600.000-800.000 men, women and children who cross the international border. *International Organization for Migration (IOM)* reported there are 500.000 women became a victims of human trafficking every year in western Europe.



*International Organization for Migration (IOM)* also estimates there are 250.000 victims in South East Asia every year.<sup>3</sup> Indonesia is the main locations for human trafficking especially in Java, West Borneo, Lampung, North Sumatera, Banten, South Sulawesi, NTT, and North Sulawesi. The trade is about selling teenage girls especially from West Borneo to Taiwan pretend to be a bride and when they arrive in Taiwan they will be forced to work as a prostitution.<sup>4</sup>

One of the cases is coming from Mekarmaya Village, Cilamaya, Karawang, West Java, Apiyah, 15 years old girl who became a victim of a human trafficking. It was started when a woman who became a labor sponsor offers Apiyah to work as a waiter in Malaysia. the reality is Apiyah not worked for the restaurant in Malaysia but she works as a prostitute in Batam.<sup>5</sup> Another case is coming from 17 years old girl named Atin Suratin who came from Gempol, Cilamaya Wetar, Karawang, West Java, Atin got a promise to get a work as a TKW in Saudi Arabia but in reality after she works two years in Saudi Arabia, Atin came back to her home with mental illness.

Indonesian labor Company (PJTKI) which is operating in Karawang has many human trafficking cases. The most recent case occurred in April 2014, the Indonesian Embassy in Kuala Lumpur managed to uncover cases of trafficking and citizens in the minors age are founded in Malaysia as victims of this cases. Actors who claimed to be a trade agent in the form of a network suspected of Indonesia. A total of nine Indonesian citizens become victims of human trafficking crime (TPPO) in Malaysia. They cheated then employed as Commercial Sex Workers in the neighboring country. The victims were initially promised work in a restaurant or salon with a large salary in Malaysia, but in fact employed as prostitutes. They were sent to Malaysia by using genuine passports whose identities are not particularly old. TPPO citizen of the victims, seven of whom are under age but data is their date of birth on the passport was changed to an older.<sup>6</sup>

Based on the description above, the human trafficking is an iceberg phenomenon, that means cases encountered and resolved in the field are still

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<sup>3</sup> R. Valentina Sagala dan Ellin Rozana, *Memberantas Trafficking Perempuan dan Anak*, Institut Perempuan, Bandung, 2007, p.5.

<sup>4</sup> *Laporan Perdagangan Manusia 2013*, [http://indonesian.jakarta.usembassy.gov/news/keyreport\\_tip-2013-id.html](http://indonesian.jakarta.usembassy.gov/news/keyreport_tip-2013-id.html), Diakses tanggal 7 juni 2014, Jam 19.00 WIB.

<sup>5</sup> *Perdagangan Orang Terkait dengan Analisa Kasus* <http://raja1987.blogspot.com>, Diakses Tanggal 7 Juni 2014, Jam 19.15 WIB.

<sup>6</sup> *Perdagangan Manusia di Malaysia*, <http://www.antarane.ws.com/berita/430681/kbri-kuala-lumpur-pulang-9-korban-perdagangan-orang>, diakses tanggal 8 juni 2014, Jam 08.00 WIB

not entirely finish and there are still many cases of trafficking are hidden and not revealed. Therefore, writer interested to analyze more deeply in accordance to the relation to the development of social welfare, especially in West Java, as well as how the government's efforts are adequate in preventing trafficking in persons (human trafficking) through its policies. In this case, how the government's efforts against trafficking victims from the perspective of well-being and economic development. This study aims to obtain an overview, and find the form of policies through the Regional Regulation (PERDA) prevention and protection of the law against trafficking in persons, to do with the welfare and economic development.

### **The Definition of Human Trafficking**

Human Trafficking is considered similar to a slavery, which is defined as a condition of a person who is under the ownership of others.<sup>7</sup> Slavery is the act of putting a person in someone else's power, so that the person is not be able to refuse a job that was unlawfully ordered to him, even if the person does not want to do it. Indonesian National Police (INP) is one of law enforcement officers in the Criminal Justice System/SPP (Criminal Justice System/CSJ, in relation to the extraordinary crimes including, money laundering (money laundering), cyber crime, corruption, illegal logging, illegal drugs and other transnational crimes, as well as human trafficking, then the role of the police as law enforcement are required to optimize the ability of good law enforcement in order to realize security and a conducive public order.<sup>8</sup>

The definition of Human Trafficking is in various conventions, legislation said that:

UN. Protocol to prevent, suppress and punish trafficking in persons article 3(a):  
"Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the

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<sup>7</sup> C.S.T Kansil (et.al), *Tindak Pidana Dalam Undang-Undang Nasional*, Jala Permata Aksara 2009, p. 129.

<sup>8</sup> Frangky Parapat, M.L.J. Mangundap dan Yusran Cahyo (Ed), *Tindak Pidana Pencucian uang, cyberCrime, Korupsi Illegal Logging dan Narkoba di Tingkat KOD Guna Meningkatkan Profesionalisme POLRI dalam Rangka Mewujudkan Kamtibmas yang Kondusif*, Pasis Sespim DIK REG — 44, Bandung, 27. p. 2.

exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”

Human trafficking means the recruitment, transportation, transferring, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or and a position of vulnerability or of the giving or acceptance of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include at least, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. "Article 71 of Law No. 39 of 1999 states that, "The government shall and is responsible to respect, protect, uphold and promote human rights." Protection of victims includes: repatriation (into the country), including efforts to provide legal aid and counseling, rehabilitation (recovery of physical and psychological health), reintegration (reuniting them with their families or communities) and empowerment (economic and education) so that the victim does not fall again into trafficking (trafficking).

The rights of victims of human trafficking had not been effective because of:

1. Commitment of stakeholders, especially the state in an effort to streamline the service functions with several policies relating to the functioning of the service
2. The implementation of inter-state agreements on handling victims of human trafficking victims are not only foreign nationals considering not only Indonesian citizens but also foreign nationals is not complete yet.

In the context of national law has been regulated in Law Number 21 of 2007, which includes:

### **1. Recruitment for Exploitation.**

Article 2 (1) of the Law Combating Trafficking in Persons, stated that:

"Anyone who does the recruitment, transportation, harboring, transportation, transfer, or receipt of persons by threat of violence, use of force, abduction, confinement, fraud, deception, abuse of power or vulnerability, debt bondage or giving payments or benefits despite the approval of a person having control over another person, for the

purpose of exploiting that person in the territory of the Republic of Indonesia, shall be punished with imprisonment of minimum 3 (three) years and a maximum of 15 (fifteen) years of imprisonment and a minimum fine of Rp. 120,000,000.00 (one hundred and twenty million rupiah) and at most Rp. 600.000.000,00 (six hundred million rupiah)."

## **2. Incorporate People into Indonesian Territory for Exploitation.**

Article 3 of the Law on Combating Human Trafficking, stated that:

"Everyone who enter the territory of the Republic of Indonesia with a view to being exploited in the territory of the Republic of Indonesia or exploited in another country shall be punished with imprisonment of minimum 3 (three) years and a maximum of 15 (fifteen) years and fined at least Rp. 120.000.000,00 (one hundred and twenty million rupiah) and at most Rp. 600.000.000,00 (six hundred million rupiah). "

## **3. Bring Indonesian Citizens Abroad.**

Article 4 of the Law on Combating Human trafficking, stated that:

"Every person who brings an Indonesian citizen outside the territory of the Republic of Indonesia for the purpose of exploitation outside the territory of the Republic of Indonesia shall be punished with imprisonment of minimum 3 (three) years and a maximum of 15 (fifteen) years and fined at least Rp. 120.000.000,00 (one hundred and twenty million rupiah) and at most Rp. 600.000.000,00 (six hundred million rupiah)."

Furthermore, the background of the human trafficking, among others:

### **1. Lack of Economical factor**

Economic factors are the main factors for causing a person to be victims of trafficking, the low economic level resulted in someone think to make money by way of a shortcut without thinking about the risk that he will receive.

### **2. Sociological and Cultural factor**

Many victims of human trafficking, especially women crave to live in the city because they believe that life in the city can change social status but expectations are not consistent with the fact that there are, in fact many village girls who are sold as prostitutes.

### 3. Low intellectual factor

Low levels of education can cause someone to fall into trafficking victims, someone who has a low level of education usually have no legal awareness and knowledge about the dangers of trafficking so that he unknowingly become a victim of a crime.

Crime is a result of interaction, because of the interaction between the phenomena that exist and influence each other. Perpetrators and victims of crime domiciled as a participant, involved actively or passively in an offense, each playing an important role and decisive. Victims formed perpetrator intentionally or unintentionally related to the situation of each condition (relative). Among the victims of the offender is no functional relationship.<sup>9</sup>

The role of victims of trafficking when linked between the factors that resulted in them becoming a victim to the typology of victims, these victims categorized as Participating victims were those who did not care or other behavior that causes them to become victims or those with behavior ease himself into a victim. The main factor is the lack of economic factors, poverty has forced the victims to find work easily without looking at risk and the job. Witness and Victim Protection Agency (LPSK), is the institution in charge and authorized to provide the protection and rights of witnesses and/or victims, including providing legal protection for victims of trafficking. Legal protection of the victims aims to provide security to the victim in providing information on any criminal justice process, so that the victims free from the threat actors.

## Results and Discussion

Human trafficking as well as transnational crime, human trafficking is also an organized crime, whether done by conventional way (through persuasion and links) or modern way (through job advertisements in print and electronic media). The traffickers who run and help the process of recruitment, harboring, transfer, shipping, and transportation of the victim is generally referred to as recruiters, tekons, sponsors, brokers, and brokers). Meanwhile, the traffickers who commit and aiding confinement, fraud, kidnapping, debt bondage, threats and use of force against the victim is generally known as an employer, pimps, procurers, pimps, boss, child predators, and others. The traffickers who have different degrees and roles. it makes them so difficult to

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<sup>9</sup> Arief Gosita, *Masalah Korban Kejahatan (kumpulan Karangan)*, *Op. Cit.*, p. 115

find and to tear their mask down, because the degree of actors consisting of several layers making it difficult for law enforcement process.<sup>10</sup>

Based on the data obtained in this study, it can be described below:

**Recapitulation of Trans National Crime Data  
Of the Criminal Investigation Police Headquarters Indonesia  
2011 – 2013**

TP	2011			2012			2013		
	JTP	JPTP	%	JTP	JPTP	%	JTP	JPTP	%
Drugs	18.560	17.098	92	19.641	15.902	81	30.610	24.820	81
<i>Human Trafficking</i>	901	695	77	747	526	70	484	254	52
<i>Cybercrime</i>	754	294	38	724	330	46	1.433	493	34
<i>Money Laundering</i>	77	69	89	152	37	24	159	63	40
<i>Terrorism</i>	28	16	57	15	12	80	13	8	62
<i>Arms Trafficking</i>	22	21	95	1	1	100	9	7	78

Source : The Criminal Investigation Police of Indonesia, 2014

Keterangan : TP (Crime);  
JTP (the total number of the crimes)  
JPTP (The total number of the crime settlement).

<sup>10</sup>M. Lukman Syarif, "Pemaparan lembaga kepolisian dalam upaya pencegahan dan pemberantasan tindak pidana perdagangan orang", dalam *focus group discussion (FGD)*, FH UNPAD, 2015, p. 2.

Furthermore, in a broad sense, the crime of Human trafficking depicted through several phases consisting of processes and the way that ended in a goal. The series of processes, methods and objectives envisaged as the table below:<sup>11</sup>

PROCESS	+	METHOD	+	PURPOSE
recruitment or transport or Delivery or displacement Or Reception	<b>D E N G A N</b>	Threat or The use of violence or Kidnapping or forgery or Fraud or Abuse of power or Debt bondage	<b>U N T U K</b>	Exploitation  (Including) Prostitution or Forced labor or Slavery or Sexual violence or Organ transplants

SOURCE : Lia Pratiwi, Kejaksaan Negeri Bandung.

The table above shows that, the crime of Human trafficking has a set of processes and long and complex, so it ends on a true purpose is a violation of human rights of victims. Victims are not given basic human rights, such as the right to freedom of movement, the right to adequate standard of living, including adequate food, clothing and shelter, the right to life to the level of health and well-being of self.

<sup>11</sup>Lia Pratiwi, "Rangkaian Proses, Cara, dan Tujuan Tindak Pidana Perdagangan Orang", *Focus Group Discussion (FGD)*, FH UNPAD, 2015, p. 3.

Various forms of trafficking, including the trafficking of women, which are as follows:<sup>12</sup>

1. **Migrant workers**, both inside and outside the country without protection, it is common knowledge that many people, including minors, migrate without the knowledge of the Ministry of Labor, through informal or illegal, thus increasing significantly the number of migrant workers. Exploitation of migrant workers throughout the migration process from recruitment until the pre-departure, during work and after returning.
2. **Workers/Domestic (Maid)**. Domestic workers often face great danger because of the nature of their work are housed in private homes and closed off from the public spotlight. Often heard reports of sexual violence committed by the employer. MAid space is usually limited. They are limited where they want to go, and usually they are locked at home when their employers go. As domestic workers into the informal sector, the profession is often not iatur by governments and are beyond the reach of the National Employment Law.
3. **Prostitutes**. Recruitment for the commercial sex industry is often under the guise of recruitment to be migrant workers. Many women who have given some money to recruiters to find them jobs abroad or outside the area, and did not know of the actual form of the work they reached their destination. Traffickers falsify their documents, and they are afraid to complain to the authorities for fear of being deported and so forth. Recruiters use of violence or threat of violence that women do not dare to escape. Victims are also being held by force and closely guarded. The women were initially recruited to serve as a housekeeper, restaurant employees or to work in the entertainment sector kemuian forced to work in the commercial sex industry.
4. **Slavery**. People who do work that is not his own will, and without obtaining rewards tayak or without receiving remuneration at all.
5. **Bride**. There is a trend that is prevalent among men in industrialized countries to seek brides from developing countries is often called the order brides such as Taiwan, Hong Kong, Japan, Gina, Australia, North America and Europe. Most women who have ordered a lot coming

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<sup>12</sup> Kusumawardhani, *et.al*, *Human Trafficking – Pola Pencegahan dan Penanggulangan Terpadu Terhadap Perdagangan Perempuan*, Laporan Akhir Program Insentif Peneliti dan Perekayasa, Pusat Penelitian Kemasyarakatan dan Kebudayaan LIPI, 2010, p. 8-11.



from Southeast Asia, Eastern Europe and Latin America. Miskipun many marriages are cases of successful and happy, but on the other hand many cases of maltreatment and physical abuse or practices similar to slavery. Where a wife purchased alone to do the work of domestic workers and provide sexual services.

6. **Pedophilia.**Sexual orientation is the object of children. People say pedophiles or pedophiles practice when having sexual intercourse as sodomy, touching, groping, play genitals, fantasizing about small children. Some of the activities of pedophiles who fall into the category of child trafficking, usually keep children away from parents or a family environment with a specific purpose such as sexual exploitation.
7. **Escort.**People who work in nightclubs accompany visitors so that visitors feel comforted. Many cases occur in which women are recruited into force entertainer of sexual harassment and threats if they do not want to serve the visitors.
8. **Beggar.**Many cases that occurred in Indonesia where children were recruited, kidnapped for begging and homeless kid (children working on the street).

Various forms of Human trafficking above would cause harm to the victim. The loss suffered by the victims of human trafficking crime is not only economically and socially, most felt by the victims is the trauma will be what happened to her is always inherent in memory and psychological effects that will cause shock and excessive emotional reactions. For example, as in the case Atin Suratin (17 years) from the village Gempol Wetan Cilamaya, Karawang, West Java. Atin promised to work as maids in Saudi Arabia with high wages. In fact, after working for two years in Saudi Arabia, Atin returned to the village in a disturbed state. Psychological pressure suffered by the victim either consciously or unconsciously is a loss that is serious in addition to their economic and social losses.

Furthermore, consumers of actions perpetrators of human trafficking, either directly or indirectly, among others, are:<sup>13</sup>

- a. pimps and brothel managers who need women and children to work as prostitutes;

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<sup>13</sup> Syaifulloh Yoppi, "Perlindungan Hukum terhadap anak sebagai korban perdagangan orang di Kota Pekanbaru", Jurnal Ilmu Hukum Vol 3, <<http://www.jurnalperempuan.com>>.

- b. male johns, people with pedophilia and other sexual disorders as well as expatriates (expats) and international businessman who stay temporarily in a country;
- c. employers who need child labor are cheap, obedient, manageable and easily cowed;
- d. employers who need child labor are cheap, obedient, manageable and easily cowed;
- e. businessmen in the tourism sector who offer sex tourism services;
- f. employment agency is not responsible;
- g. drug syndicate that requires new dealers to expand their network;
- h. middle class families and on the need for women and girls employed as domestic helpers.
- i. families who want to adopt children;
- j. Chinese men from overseas who want traditional women as brides.

Many factors causes by women and children when they become the victims of human trafficking. These factors include poverty, gender discrimination, disparities of development and Low Participation of Women, High Demand Still Weak and Law Enforcement.<sup>14</sup>

### **Government Efforts Against The Victims of Human Trafficking from the Perspective of Welfare and Economic Development.**

Central government's efforts in providing protection for victims of trafficking in Indonesia based on the Law PTPPO. When we look to the perspective of prosperity and economic development, the government in addition to referring to the Law PTPPO also refers to the law beyond that, such as the Law 6 of 1974 on the Fundamentals of Social Welfare, Act 4 of 1979 on Child Welfare, Law Number 39 year 1999 on Human Rights, Act 23 of 2002 on Child Protection, Law No. 13 of 2003 on Manpower, Law Number 39 year 2004 regarding the Placement and Protection of Overseas Labor, Law No. 13 of 2006 on the Protection of Witnesses and Victims Act 6 of 2014 concerning the village and much more. Judging from the many regulations that affect the government efforts in the provision of legal protection of the victims showed that our legal

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<sup>14</sup> *Ibid*, p. 6-8.

instruments still sectoral. It will certainly result in the performance of the government in determining the direction of policy and economic development that will be addressed.

Crime victims, particularly victims of trafficking in addition to experiencing physical, economic and social are also suffer mental/psychological issues. Victims who are women and children mostly, they are really weak and vulnerable and they need to be given legal protection. Theoretically, the forms of legal protection for victims of crime, especially human trafficking can be administered in various ways, depending on the suffering/losses that suffered by the victims. For example, for losses that are in mental/psychic term, it should be a pension would have to be balanced with efforts to restore mental/psychic victims. Conversely, if the victim suffered economic losses, then the psychic nature protection is not appropriate. Therefore, efforts to protect victims of trafficking should be tailored to the circumstances of the victim. In the context of well-being and economic development, that the prevention and protection of victims of human trafficking should be increase.

Based on the cases of human trafficking crimes that have occurred, especially in some of the provinces in Indonesia, there is some form of legal protection of victims are usually given, for examples:

**a. Giving Restitution and Compensation**

*Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* by the United Nations (UN), as a result of *The Seventh United Nation Congres on the Prevention of Crime and the Treatment of Offenders* which took place in Milan, Italy, in 1985. In one of the recommendations stated that:

“Offenders or third parties responsible for their behaviour should where appropriate, make **fair restitution** to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.”

Besides, The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Restitution is also regulated in Article 1 paragraph 13, Article 48, Article 49 and Article 50 of Law PTPPO. Restitution is the payment of compensation charged to the offender by a court decision that is legally binding for the losses of material and/or immaterial suffered by the victims. Restitution is one of the efforts to improve the welfare and economic development of a victim after the occurrence of the crime of human trafficking. Restitution is the right of every victim of the crime of trafficking in persons.

Procedures for restitution as expressly provided in Article 48, 49 and 50 of Law PTPPO.

**b. Counseling/Social Rehabilitation**

In general, this protection is given to the victim as a result of the emergence of the psychological pressure of the crime of trafficking in persons. Counseling or social rehabilitation should be given to the victim to prevent the occurrence of prolonged trauma, particularly those related to trafficking in persons with the aim of relating to morality. For example, the case Atin Suratin (17 years) from the village Gempol Wetan Cilamaya, Karawang, West Java. Atin promised to work as maids in Saudi Arabia with high wages. In fact, after working for two years in Saudi Arabia, Atin returned to the village in a disturbed state. Counseling or mental rehabilitation should be given to Atin, because if the terms of the conditions are very dire need of refurbishment for the soul.

**c. Health Services**

Health services provided to victims who are suffering medically as a result of trafficking. Health services in question may be a medical examination and a written report a post mortem. This health service is required, especially if the victim was about to report the crimes to law enforcement officers. Legally, health care as well as counseling or social rehabilitation set forth in Articles 51 and 52 of Law PTPPO Pasa.

**d. Legal aid**

The provision of legal aid to trafficking victims must be given either directly or indirectly, requested or not requested by the victim. It is important to remember that given for the low level of legal awareness of the majority of trafficking victims. Neglect of victims of trafficking by not providing proper legal assistance may result in further decline of the condition of victims of trafficking. With the legal aid services for victims of trafficking, certainly in terms of prosperity and economic development would not be a big impact. However, the nature of judicial assistance is intended for the victims of trafficking in persons become aware of and optimistic to be able to fight the practice of human trafficking crime.

**e. provision of information**

One small form of protection of victims of trafficking is the provision of clear information regarding the condition of the victim, the investigation process, and transparency in revealing the identity of the trade network. Police

sub-system as a front-runner in the criminal justice system is obliged to provide information to victims or their families that can be done through electronic media (such as websites, e-mail, sms, etc.) and print media (letters, etc.). Neither the notice of the investigation of an offense of trafficking in persons must be notified immediately to the victims and families of victims.

#### **f. Victim Identity Protection**

The main protection for victims of trafficking is to hide the identity of the victim and give it a new identity. Article 5 of Law on Witness and Victim Protection, witnesses and victims are entitled to get a new identity. The new identity was given in order to protect the life safety of witnesses or victims who are dealing with organized crime, such as the crime of trafficking in persons.

### **Conclusion**

First results showed that the crime of Human Trafficking is a form of cross-border crimes or transnational organized with the purpose of forced labor, prostitution, narcotics network, migrant workers, etc. Various forms of Human Trafficking is certainly cause harm to the victim, not only economically and socially, most felt by the victims is the trauma will be what happened to her is always inherent in memory and psychological effects that will cause shock and excessive emotional reactions. The Efforts to prevent and provide legal protection to victims of trafficking, has been formed PTPPO Act. At the level of Local Government, arranged through the local legislation of each province that has the substance that is different. Thus, the difference in terms of the impact on the regulation of different forms of prevention and the provision of protection for victims of Human Trafficking in every province in Indonesia. Second, one of the efforts of legal protection of victims of human trafficking, namely the establishment of institutions Restitution and Rehabilitation. In the perspective of well-being and economic development, restitution and rehabilitation support the fulfillment of the economic well-being and the victim. However, based on empirical data, the provision of legal protection in the form of restitution and rehabilitation remains sectoral and many obstacles in its implementation. Advice given, in terms of regulations such as local regulations in each province to be changed and must adjust to PTPPO Act and needs to be strengthened in terms of coordination in the prevention and awarding ceremonies protection of trafficking victims. In addition, improving the welfare of victims of trafficking and economic development of society, in this case should be coordination between the central government, local government, and the village in terms of

budget absorption village funds from the State Budget. Utilization of village funds from the state budget devoted to rural development have great opportunities to improve the welfare and economic development of rural communities that most of the potential victims of trafficking.

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