


## Analysis Of District Court Decision On Human Trafficking In Constitutional Court Decision Number 32/PUU-XV/2017

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Article Info	ABSTRACT
<b>Keywords:</b> human trafficking, victim protection, prevention	This study aims to analyze the implementation of the Law on the Crime of Human Trafficking (UU TPPO) in Indonesia with a focus on the role of court decisions, prevention efforts, and victim protection in eradicating human trafficking practices. The methods used in this study are qualitative and descriptive approaches. The results of the study indicate that although court decisions have attempted to apply sanctions in accordance with the TPPO Law, victim protection is still not optimal, especially in terms of psychological and economic rehabilitation which are often unsustainable. Uneven prevention campaigns in vulnerable areas such as rural areas and borders are also a challenge in breaking the chain of human trafficking. Therefore, it is necessary to strengthen the capacity of law enforcement officers, increase cooperation with civil society organizations, and conduct wider socialization so that the public can better understand the impacts and risks of TPPO. This study emphasizes the importance of a holistic approach involving strict law enforcement, maximum victim protection, and community-based prevention to effectively eradicate TPPO.
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### INTRODUCTION

Human trafficking is a form of transnational crime that continues to be a serious threat in various countries, including Indonesia. This crime involves the exploitation of individuals, either in the form of forced labor, sexual exploitation, or modern slavery. The impact not only destroys the lives of individual victims but also weakens the social and economic order of a nation. As a country with a strategic position in the Southeast Asia region, Indonesia is often a transit route and destination for human trafficking, which shows major challenges in the law enforcement system and victim protection (Nola, 2023) .

As a concrete step to eradicate the crime of human trafficking, the Indonesian government passed Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (UU TPPO). This law provides a strong legal basis for prosecuting perpetrators and protecting victims, and includes various mechanisms to prevent this crime. However, the implementation of this law often faces obstacles, both in terms of understanding of law enforcement officers, coordination between institutions , and cultural factors that still provide loopholes for exploitation (Iskandar Bakri, 2019) .

In the context of human rights protection, Article 28I paragraph (4) of the 1945 Constitution states that the protection, advancement, enforcement, and fulfillment of human rights are the responsibility of the state, especially the government. As a concrete manifestation of this responsibility, the Constitutional Court through Decision Number 32/PUU-XV/2017 provides an important interpretation regarding the protection of victims of human trafficking. In its decision, the Court emphasized the need for the state to ensure comprehensive justice for victims, including the fulfillment of their basic rights and the provision of compensation for the suffering experienced (MK, 2014) .

However, the implementation of the TPPO Law and the recommendations of the Constitutional Court's decision still require strict supervision and continuous evaluation. The challenges faced include weak coordination between related agencies, limited resources for handling victims, and lack of public education about the dangers of human trafficking. This study seeks to dig deeper into these various aspects, in order to provide strategic recommendations to improve the legal system and protection for victims.

On the other hand, the issue of human trafficking cannot be separated from the social and economic context of society. Poverty, low education, and lack of job opportunities are often the main driving factors that make individuals vulnerable to exploitation. Therefore, a holistic approach is needed, not only through law enforcement but also through community empowerment programs that focus on prevention. (Oryza, 2016) .

This study also highlights the role of international institutions, such as the Palermo Protocol , which provides global guidelines in combating human trafficking. Indonesia as one of the countries that has ratified this protocol, through Law Number 14 of 2009, has an obligation to ensure that prevention, prosecution, and victim protection measures are implemented effectively. This includes strengthening international cooperation in dealing with transnational crimes.

Furthermore, this study will identify the effectiveness of inter-agency cooperation at the national and regional levels in overcoming human trafficking. Several cooperation programs with ASEAN and other international organizations are examples of concrete steps taken by the government. However, it is still necessary to strengthen the implementation mechanism so that the results are more measurable and have a direct impact on reducing the number of human trafficking cases.

As an initial conclusion, human trafficking is a complex challenge that requires a multidimensional approach to address it. Existing regulations and policies, such as the TPPO Law and the Constitutional Court's decision, provide a strong legal basis. However, without consistent implementation and good collaboration among all stakeholders, the goal of eradicating human trafficking will be difficult to achieve.

This study aims to analyze the effectiveness of the implementation of Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking (UU TPPO) in handling human trafficking cases in Indonesia. Through this study, it is hoped that various supporting and inhibiting factors in the implementation of this policy can be identified, including the role of law enforcement officers, related institutions, and coordination between the central and regional governments. This study also aims to explore the extent to which the

protection of victims' rights has been fulfilled, both in the form of physical and psychological rehabilitation, compensation, and social reintegration (Rustam et al., 2022) .

In addition, this study aims to provide strategic recommendations in strengthening efforts to prevent and combat human trafficking in Indonesia. This includes developing data-based policies, increasing public awareness of the dangers of human trafficking, and strengthening international cooperation to address transnational crimes. With a comprehensive approach, this study is expected to provide real contributions in supporting the government, law enforcement agencies, and the community to jointly eradicate human trafficking systematically and sustainably.

## RESEARCH METHODS

This study uses a qualitative approach with a descriptive method to analyze the implementation of Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking (UU TPPO). A qualitative approach was chosen because it allows researchers to dig deep into data regarding the dynamics of policy implementation, challenges faced, and the views of relevant stakeholders. The data obtained will be interpreted comprehensively to provide a real picture of conditions in the field (Adlini et al., 2022) .

Data collection was conducted through in-depth interview techniques, observation, and document analysis. Interviews were conducted with key informants, such as law enforcement officers, victims of human trafficking, activists from non-governmental organizations (NGOs), and government officials responsible for handling TPPO. Field observations were also conducted to understand the factual conditions that occurred, including in the process of assisting victims and law enforcement. In addition, related documents, such as annual reports of related institutions, court decisions, and implementing regulations of the TPPO Law, were analyzed to provide a strong legal and empirical basis.

This study uses purposive sampling technique to determine informants. Informants were selected based on their relevance and involvement in the implementation of the TPPO Law, so that the data obtained can describe the conditions representatively. In addition, data triangulation was carried out to ensure the validity and accuracy of the information, by comparing data from various sources (Sugiyono, 2021) .

Data analysis was conducted through the stages of data reduction, data presentation, and drawing conclusions. The data reduction stage aims to sort out information that is relevant to the focus of the research, while data presentation is done in the form of descriptive narratives to facilitate interpretation. Conclusions are drawn based on patterns of findings that emerge during the analysis process, which are then linked to relevant theories and legal frameworks.

In this study, the researcher also considered the ethical aspects of the study. The confidentiality of the identities of the victims of human trafficking was maintained by not mentioning their names or information that could reveal their identities. Before the interviews were conducted, the researcher asked for permission from the informants to ensure that their participation was voluntary.

The results of this study are expected to provide significant contributions in understanding the implementation of the TPPO Law in Indonesia. In addition, this study also aims to provide constructive input for the government and related institutions in optimizing prevention efforts, victim protection, and law enforcement against perpetrators of human trafficking.

## RESEARCH RESULT

The results of this study indicate that the implementation of Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking (UU TPPO) still faces various significant obstacles in the field. In terms of law enforcement, the main obstacles lie in the lack of coordination between law enforcement officers, the lack of special training on handling TPPO, and limited resources to support comprehensive investigations. In addition, although the sanctions stipulated in the TPPO Law are quite strict, their implementation in some cases tends to be suboptimal due to weak evidence and challenges in presenting witnesses who are willing to provide testimony (Edwardus Iwantri, 2020) .

On the other hand, this study also found that protection for victims of human trafficking has not been running optimally. Psychological assistance and social reintegration for victims often do not take place sustainably, so that many victims return to vulnerable conditions. In addition, the socialization of the TPPO Law among the general public is still very limited, especially in rural and border areas which are vulnerable areas. This finding indicates that in addition to focusing on law enforcement, prevention strategies and increasing public awareness also need to be improved to break the chain of human trafficking in Indonesia (Naufal Fikhri Khairi, 2021) .

### **Implementation of Law Number 21 of 2007 concerning TPPO**

In this study, it was found that the implementation of Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking (UU TPPO) faces various significant challenges, both in terms of law enforcement and victim protection. This law is designed to provide maximum protection to victims of human trafficking while providing strict sanctions to perpetrators. However, its implementation in the field is still far from optimal. One of the main obstacles is weak law enforcement due to limited human resources and supporting facilities. Law enforcement officers, such as the police and prosecutors, often have limited understanding of the mechanisms and technical steps regulated in this law. As a result, many cases of human trafficking are not revealed or not processed to completion (Al Ghifari & Wibawa, 2021) .

Furthermore, the lack of coordination between related agencies is also a major obstacle in the implementation of the TPPO Law. Collaboration between the police, prosecutors, witness protection agencies, and other agencies often runs partially and is not integrated. As a result, the case handling process is slow and inefficient. For example, victims of human trafficking who should receive maximum protection often do not have access to temporary shelters or psychological rehabilitation services. In fact, this law explicitly mandates the state to guarantee the rights of victims, including physical and mental recovery and reintegration into society.

Another problem that hampers the implementation of the TPPO Law is the limited supporting infrastructure, such as the availability of temporary shelters, rehabilitation services, and facilities for returning victims to their home areas. Many areas in Indonesia do not have such facilities, especially in remote areas or border areas that are vulnerable to human trafficking. This creates a large gap in providing adequate protection to victims. In many cases, victims return to the same environment, where they are vulnerable to re-exploitation. This situation shows a lack of attention to the importance of sustainable recovery and prevention efforts (Novianti, 2014) .

In addition, socialization campaigns regarding the dangers of human trafficking and the rights of victims are still minimal, both among the general public and law enforcement officers. In fact, one of the most effective preventive efforts is to increase public awareness of the modus operandi of human trafficking and their rights under the TPPO Law. Without massive socialization, many people are unaware of the risks of human trafficking, especially in areas with low levels of education. low or limited access to information. Therefore, a holistic approach is needed that not only focuses on law enforcement but also involves public education, increasing the capacity of law enforcement, and providing adequate protection infrastructure.

### **The Role of Court Decisions in Eradicating TPPO**

Court decisions play a crucial role in providing a deterrent effect to perpetrators of human trafficking (TPPO), but often face challenges in optimal implementation. Based on an analysis of several important decisions, although the courts have attempted to apply sanctions in accordance with the provisions of the Law on the Crime of Human Trafficking (UU TPPO), there are still a number of aspects that need to be improved. One of them is the recovery for victims which is often not fully accommodated, such as in cases where restitution for victims is not required. In fact, according to the TPPO Law, restitution should be part of the rights given to victims as a form of recovery for the suffering they have experienced.

The Constitutional Court (MK) Decision Number 46/PUU-VIII/2010 emphasized the importance of protecting human rights in handling TPPO cases, providing a strong legal basis for strengthening the implementation of the TPPO Law. The Constitutional Court's decision emphasized that victims' rights, including the right to protection and recovery, must be a primary concern in every legal process. However, in practice, many TPPO cases do not fully reflect the principle of substantive justice, where not only the perpetrator is punished, but also the victim's rights must be fought for. This is a major challenge for the justice system to ensure that every aspect of the law, both criminal and recovery, is implemented in a balanced manner (Daud & Sopoyono, 2019) .

In addition, judges often face various technical obstacles that hinder the smooth running of the judicial process in TPPO cases. One of the main problems faced is the difficulty in collecting valid evidence and presenting credible witnesses, which are very important to prove the crime. The lack of strong evidence can lead to the inability to provide a fair decision for victims and perpetrators. This process is also made more complicated by the hidden nature of the transaction and often involves an international network that is difficult to trace legally.

This study highlights the need to strengthen the capacity of judges and prosecutors in handling human trafficking cases, so that they can be more effective in enforcing the law. One important step that can be taken is to provide special training for law enforcement officers on evidence collection techniques, witness protection, and better implementation of the TPPO Law. In addition, there needs to be more detailed technical guidance in the implementation of the TPPO Law, to ensure that the law can be applied consistently and fairly at all levels of justice. This approach is expected to reduce deficiencies in the application of the law and improve the justice system in handling TPPO cases, so that victims' rights can be maximally protected.

### **Efforts to Prevent and Protect Victims of TPPO**

In addition to strong law enforcement, prevention and victim protection efforts play a very important role in breaking the chain of human trafficking. Based on the results of interviews and observations, although various prevention measures have been attempted, awareness campaigns in the community are still uneven. Socialization of the Law on the Crime of Human Trafficking (UU TPPO) is generally only carried out in certain areas, while rural and border areas that tend to be vulnerable zones are often not touched by these programs. This causes some people in these areas to not have sufficient knowledge about the dangers and impacts of human trafficking, so they remain easy targets for human traffickers. Therefore, increasing the reach of socialization and awareness campaigns is very necessary, especially in vulnerable areas.

In terms of victim protection, although the government has provided several assistance services, in reality, these services have not fully covered all the needs of victims. Especially in terms of psychological and economic rehabilitation, many programs have not been running sustainably. This condition often causes victims to return to vulnerable situations and are at high risk of being exploited again. This unsustainable rehabilitation shows that victim recovery requires not only short-term attention, but also long-term solutions that ensure victims have the opportunity to return to living a better life and are free from the potential for further exploitation. Therefore, it is important for the government to allocate sufficient resources and support holistic recovery programs. (Silalahi & Maharani, 2021) .

Increasing the capacity of victim protection institutions is also very necessary so that they can provide better and more comprehensive services to victims. Victim protection institutions must be able to work more professionally in handling TPPO cases and ensure that victims' rights, including the right to receive protection, rehabilitation, and social reintegration, can be fulfilled optimally. In addition, closer cooperation between government institutions and civil society organizations is very important to strengthen the protection system. Civil society organizations that have more understanding and experience in handling TPPO victims can act as effective partners in providing support to victims, both in terms of psychological, social, and economic.

Overall, this study confirms that in eradicating TPPO, a more holistic and integrated approach is needed. Synergy between strict law enforcement, maximum protection for victims, and community-based prevention is the key to addressing the problem of human trafficking comprehensively. By strengthening these three elements, the implementation of

the TPPO Law can run more effectively and in accordance with its main objectives, namely protecting human rights and eradicating all forms of exploitation of humans. The success of eradicating TPPO depends not only on strict law enforcement, but also on the sustainability of more even and comprehensive protection and prevention programs throughout Indonesia (Kafara, 2020) .

## CONCLUSION

Overall, this study emphasizes the importance of a comprehensive approach in eradicating human trafficking (TPPO). Although strict law enforcement is a key element, prevention and victim protection efforts are equally important. Uneven awareness campaigns, especially in vulnerable areas such as rural and border areas, are obstacles to breaking the chain of human trafficking. Therefore, there needs to be broader and deeper socialization so that people in these areas can be more alert and understand the impacts and risks of TPPO. In addition, incomplete victim protection, especially in terms of psychological and economic rehabilitation, requires more attention so that victims can fully recover and avoid the potential for further exploitation. It is important to increase the capacity of victim protection institutions and strengthen cooperation with civil society organizations to create a more effective system in dealing with victims. Synergy between strict law enforcement, maximum protection for victims, and community-based prevention are key steps to eradicate TPPO comprehensively. With this holistic approach, the implementation of the TPPO Law is expected to be more effective and in accordance with its objectives to protect human rights, reduce the number of victims, and eradicate all forms of exploitation of individuals, so as to create a safer and more protected society from the threat of human trafficking.

## REFERENCES

- Adlini, M. N., Dinda, A. H., Yulinda, S., Chotimah, O., & Merliyana, S. J. (2022). Metode Penelitian Kualitatif Studi Pustaka. *Edumaspul: Jurnal Pendidikan*, 6(1), 974–980. <https://doi.org/10.33487/edumaspul.v6i1.3394>
- Al Ghifari, M. A., & Wibawa, S. (2021). Penanggulangan Kejahatan Perdagangan Manusia Di Indonesia Melalui Pemenuhan Dimensi-Dimensi Keamanan Manusia: Kasus Perdagangan Manusia Kabupaten Cianjur. *Padjadjaran Journal of International Relations*, 3(2), 126. <https://doi.org/10.24198/padjir.v3i2.33698>
- Daud, B. S., & Sopoyono, E. (2019). Penerapan Sanksi Pidana Terhadap Pelaku Perdagangan Manusia (Human Trafficking) Di Indonesia. *Jurnal Pembangunan Hukum Indonesia*, 1(3), 352–365. <https://doi.org/10.14710/jphi.v1i3.352-365>
- Edwardus Iwantri, G. (2020). Manusia yang Dijadikan Komoditas: Fenomena Human Trafficking di Provinsi Nusa Tenggara Timur. *Populasi*, 28(1), 30. <https://doi.org/10.22146/jp.59618>
- Iskandar Bakri. (2019). Analisis Putusan Mahkamah Konstitusi No.36PUU-XV2017 tentang Hak Angket DPR terhadap. *LEX Renaissance*, Vol. 4(2), 1–22.
- Kafara, S. (2020). Analisis Hukum Pelaksanaan Putusan Praperadilan terhadap Perkara Setya Novanto oleh Komisi Pemberantasan Korupsi (Nomor 97/Pid.Prap/2017/PN.Jkt-Sel

- tanggal 29 September 2017). *Jurnal Penegakan Hukum Dan Keadilan*, 1(1), 81–94. <https://doi.org/10.18196/jphk.1105>
- MK. (2014). Putusan Mahkamah Konstitusi Nomor 32/PUU-XV/2017 (Pengadilan Perdagangan Anak). *Paper Knowledge . Toward a Media History of Documents*, 5(2), 40–51.
- Naufal Fikhri Khairi. (2021). Upaya Asean Dalam Menangani Masalah Perdagangan Manusia Di Asia Tenggara. *Anterior Jurnal*, 20(2), 84–93.
- Nola, L. F. (2023). Upaya Pemberantasan Tindak Pidana Perdagangan Orang pada Pekerja Migran Indonesia Luthvi Febryka Nola. *Negara Hukum*, 14(2), 143–162. <https://doi.org/10.21776/jtg.v7i1.155>.
- Novianti. (2014). Tinjauan Yuridis Kejahatan Perdagangan Manusia (Human Trafficking) Sebagai Kejahatan Lintas Batas Negara. *Jurnal Ilmu Hukum*, 2, 50.
- Oryza, M. D. (2016). Peran UN Women dalam Upaya Thailand Mengatasi Permasalahan Perdagangan Perempuan. *Jurnal Analisis Hubungan Internasional*, 5(2), 411.
- Rustam, I., Sabilla, K. R., Rizki, K., & Estriani, H. N. (2022). Kejahatan Lintas Negara Perdagangan Orang: Studi Kasus Pekerja Migran Asal Nusa Tenggara Barat. *Indonesian Perspective*, 7(1), 102–107. <https://doi.org/10.14710/ip.v7i1.48597>
- Silalahi, E. F., & Maharani, A. E. P. (2021). Serentak Guna Mewujudkan Penyelenggaraan. *Res Publica*, 5(2), 140–155.
- Sugiyono. (2021). *Metode penelitian kuantitatif, kualitatif, dan R&D* (cetakan ke). Alfabeta.