

**PERSEFEKTIF IN HUMAN TRAFFICKING CRIME LAW NUMBER 39 OF  
1999 ON HUMAN RIGHTS CASE AGAINST CHILD TRAFFICKING IN  
MEDAN**

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**Abstract**

Laws are the norms that govern all human actions that can be done and should not be carried out both written and unwritten and have sanctions, so that the entry into force of these rules can be forced or coercive and binding for all the people of Indonesia. The most obvious form of manifestation of legal sanctions appear in criminal law. In criminal law there are various forms of crimes and violations, one of the crimes listed in the criminal law, namely the crime of Human Trafficking is often perpetrated against women and children. Human Trafficking is any act of trafficking offenders that contains one or more acts, the recruitment, transportation between regions and countries, alienation, departure, reception. With the threat of the use of verbal and physical abuse, abduction, fraud, deception, abuse of a position of vulnerability, example when a person has no other choice, isolated, drug dependence, forest traps, and others, giving or receiving of payments or benefits women and children used for the purpose of prostitution and sexual exploitation. These crimes often involving women and children into slavery. Trafficking in persons is a modern form of human slavery and is one of the worst forms of violation of human dignity (Public Company Act No. 21 of 2007, on the Eradication of Trafficking in Persons). Crime human trafficking crime has been agreed by the international community as a form of human rights violation.

Keywords : Crime, Human Trafficking, Human Rights

**Preliminary**

Indonesia is a country of law as prescribed in article 1, paragraph (3) of the Constitution of the Republic of Indonesia Year 1945. In connection with the foregoing Indonesia apply various rules to regulate all human behavior either written or unwritten that must be adhered to all the citizen of Indonesia or commonly called the law. Specifically, the law is the norms that govern all human actions that can be done and should not be done either in writing or not writing has sanctioned so that the entry into force be forced or coercive conducted by regulatory agencies in the community that

bersangkutan. Tidak bisa diingkari jika aturan hukum di suatu negara tidak secara otomatis membuat negara tersebut aman, damai dan sejahtera. Seperti yang diketahui, saat ini banyak pelanggaran hukum terjadi di Indonesia sebagai akibat dari proliferasi praktik perdagangan manusia.

## **Results And Discussion**

### **Understanding and setting the Crime of Trafficking in Persons Act?**

Istilah "trafficking" pertama kali diperkenalkan pada tahun 2000, ketika Majelis Umum PBB menggunakan protokol untuk mencegah, menekan dan menghukum perdagangan manusia, khususnya perempuan dan anak-anak yang akhirnya dikenal sebagai "Protokol Palermo". Protokol Palermo yang ditetapkan pada 15 November 2000 dan mulai berlaku pada 25 Desember 2003, merupakan instrumen hukum yang mengikat atau perjanjian yang dibuat atau disetujui. Menurut Pasal 3 huruf a, Protokol Palermo, perdagangan manusia didefinisikan sebagai perekrutan, pengiriman ke suatu tempat, pemindahan, atau penerimaan melalui ancaman atau paksaan dengan kekerasan atau dengan cara lain, penculikan, penipuan, penyalahgunaan, penjualan atau sewaan untuk keuntungan tertentu atau pembayaran untuk tujuan eksploitasi. Eksploitasi yang dimaksud dalam Protokol Palermo setidaknya meliputi eksploitasi prostitusi, melalui bentuk-bentuk eksploitasi seksual melalui tenaga paksa atau tenaga kerja, melalui<sup>1</sup> perbudakan, melalui praktik-praktik yang mirip dengan perbudakan, melalui penghapusan organ.

Kejahatan Perdagangan Manusia (TPPO) menurut Pasal 1 ayat 2 UUPTPO, diartikan sebagai tindakan atau rangkaian tindakan yang memenuhi unsur-unsur kejahatan dalam UUPTPO. Secara lebih detail Pasal 2 (1) UUPTPO mendefinisikan TPPO sebagai berikut: "Setiap orang yang melakukan perekrutan, transportasi, penyimpanan, transportasi, transfer atau penerimaan orang-orang dengan ancaman kekerasan, penculikan, penahanan, pemalsuan, penipuan untuk tujuan mengeksploitasi orang tersebut di wilayah Republik Indonesia, akan dihukum dengan penjara paling sedikit 3 (tiga) tahun dan paling banyak 15 (lima belas) tahun dan denda paling sedikit Rp. 120.000.000,00 (seratus dua puluh juta rupiah) dan Rp. 600.000.000,00 (enam ratus juta rupiah).

Berdasarkan pemahaman TPPO yang terdapat dalam Pasal 2 (1) UUPTPO, maka terdapat empat unsur yang ada dalam TPPO, yaitu: Pertama, unsur AKTOR yang merupakan individu, korporasi, atau organisasi. Kedua, unsur Proses / Tindakan. Urutan tindakan atau peristiwa yang terjadi secara alami, atau direncanakan, meliputi: perekrutan, transportasi, penyimpanan, transportasi, transfer atau penerimaan orang-orang. Ketiga, unsur Metode / Cara.

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<sup>1</sup> Tindakan kriminal perdagangan manusia

Form of act / specific actions performed untutk ensure the process can be implemented which include: the threat of violence, use of force, abduction, confinement, forgery and fraud. Fourth, the Element Purpose / Effect. Something nantinnya will be achieved and will be realized as a result of the perpetrator's actions TPPO which includes the exploitation of people or lead to people being exploited as mandated in Article 1 paragraph 1, Article 2 paragraph (1) and Article 2 (2) UUPTPO. In this case as for the setting of sanctions ditentukan Ataupun stipulated in Article 2 (1) and Article 2 (2), UUPTPO also formulated several offenses categorized as TPPO especially against children in Article 5, which states "Every person doing adoptions by promising something or give something for the purpose of exploitation shall be punished drngan term of imprisonment of 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 Rp. 600,000,000 (six hundred million rupiah). And Article 17 which states "Every criminal act referred to in Article 2, Article 3 and Article 4 committed against children by threats pidanannya plus 1/3 (one third). Or in other words shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and fined at least Rp.160.000.000,00 (one hundred sixty million rupiahs) and Rp. 800.000.00,00 (eight hundred million rupiah).

### **How the application of the law against Child Trafficking cases in Medan?**

Children are the objects that are extremely vulnerable to trafficking, trafficking of children is done in the form of an organized crime network and disorganized, both in scope in the country and within the scope of a wider, between countries. After trading the independence of his life will be restrained even various acts arbitrarily done to him. Humans who have bought no less enslaved by pembelinya. Jika until it does, then there is no more respect for the rights of asasinya. Berbagai kinds of trickery, the perpetrators tried to deceive their victims, with promises, imingiming lucrative hypnotized victim to follow the wishes and plans of the evil of the perpetrators. This mode is the same as occurred in the trafficking of children,<sup>2</sup>the average child trafficking victims were deceived and hypnotized by the lure of the promised actors, coupled with limited employment opportunities continue growing economy needs. Trafficking in children can be with or without the use of coercion, violence or falsification because children are not able to give consent to the exploitation of the self mereka. Anak children trafficked for sexual exploitation, labor, transplant or

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<sup>2</sup> Law Journal, application of legal norms child trafficking in the country court judgment terrain

displacements of organs and illegal adoption, but all child victims of trafficking have been made highly vulnerable to sexual violence and exploitation because they are removed from the support structures already known as their families and communities.

State, Government, Local Government, Communities, Families and Parents are obliged to provide protection and ensure the fulfillment of Children's rights in accordance with the duties and responsibilities. Protection of Children conducted so far has not provided a guarantee for Children to get treatment and opportunity in accordance with the needs in many areas of life, so that in carrying out efforts to protect the Rights of the Child by the Government should be based on the principles of human rights, namely the respect, fulfillment and protection on the Rights of the Child. The Child Trafficking cases that occurred in the field, namely:

### **The chronology of the case**

NRH initials Terdawa jointly or acting on their own with initials Ijh (separate case file) on Thursday, November 13, 2008 approximately 22:45 pm, or at least at any other time in November 2008 at Jl. PTB Block A ME municipality of Medan, told to do, or participating in the recruitment, transportation, storage, transportation, transfer or receipt of persons by means of violence, abduction, confinement, fraud, deception, abuse of power or position of vulnerability, assignment of debt or provide payment, or benefits despite obtaining consent of a person having control over another person for the purpose of exploiting that person in the territory of the Republic of Indonesia. Victims are CB (13 years), Nh (15 years) and Si (19 years), by the way / excuse for employing people / daughter as an employee of the cafe and then raked into personal fortunes by having people / girls serve the sexual appetite for men masher. NRH promising jobs as waiters or waitresses cafe with a salary of Rp.5.000.000.- (five million rupiah), for 1 week, HB and his friends, tempted by the salaries. But it had promised job does not comply with the agreement, HB and his friends employed as a servant in exchange for sex with Rp.200.000.- (Two hundred thousand rupiah) for the first time serve male philanderer. On 10 November 2008, Initials Si came to see the accused requested that his sister called the CB and Nh and Si itself'm finding jobs, by the defendant (NRH and Ijh) (separate case file.<sup>3</sup>until there CB, Nh and SS handed over to Ijh, then taken to a barrack 3, room # 3 in the order of

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<sup>3</sup> Law Journal, application of legal norms child trafficking in the country court judgment terrain

room cashier managed by Ijh, Ijh also manages Cafe, Bar and some employees kamaruntuk there are four (4) respective JV each CB, Nh and SS are there to serve and entertain guests who come for drinks at the barracks 3, with sermons system that gratuities amounting 200.000, - (two hundred thousand) s / d Rp. 500.000, - (five hundred thousand rupiah) serve man once given the guests left to Ijh and Ijh pay each Rp.1.000.000, - (one million rupiah per month). And Ijah say if you want to get a lot of tips, if you were invited to sleep, to sexual intercourse. HB and friends have ever had sex get paid Rp.200.000.- (Two hundred thousand rupiah). That to live in the barracks wearing Rp. 150.000 (One hundred and fifty thousand rupiah) for the cost of eating in one week, and 20,000 .- (twenty thousand rupiah) for the cost of the room when used together with guest bed. During the work there, the witness was no permission from parents.

**A. indictment**

After a full dossier prepared by the investigator assigned to the Public Prosecutor NRH detained under a warrant / determination of detention:

- a. Investigators September 12, 2008 No.Pol.SP.Han / 21 / XII / 2008 / Directorate of Criminal Investigation, since December 12, 2008 s / d December 31, 2008.
- b. Extension of Public Prosecutions Date December 18, 2008 473 / Epp.2 / Mdn / 12/2008, since January 1, 2009 s / d 9th February 2009.
- c. Extension of the deputy chairman of the district court Medan on 02 February 2009, 23 / Pen.Pid / 2009 / PN Medan, since February 10, 2009 s / d March 11, 2009.
- d. Public prosecutor arrest warrant on February 25, 2009, No. Print - 399 / RT.3 / EP2 / Mdn / 02/2009, the date of 25 February 2009 s / d March 16, 2009.
- e. Determination detention District Court March 11, 2009 797 / Pid.B / 2009 / PN Mdn, since March 11, 2009 s / d April 9 2009.
- f. Determination of detention Deputy Chairman of the Medan District Court dated March 18, 2009 963 / Pen / Pid / 2009 / PN Medan.

Since April 10th 2009 s / d June 8, 2009. NRH was charged guilty of the crime of "doing the recruitment, transportation for the purpose of exploiting that person in the territory of the Republic of Indonesia. As was charged with violating Article 2 of Republic Act # 21 of 2007 on the Eradication of People, in conjunction with Article 55 (1) to 1 of the Criminal

Code on charges of first NRH with imprisonment for 6 (six) years in prison and a fine Rp.120.000.000. - (One hundred and twenty million rupiah) subsidiary 3 (three) months in prison and court fees Rp.1000.-

Legal fact is what causes a child committing an offense because of economic factors, persuasion from adults and the effect of HB neighborhood is not good for mental growth.

At the hearing to three after the examination and the witness HB, then read out the charges, after the judges read the verdict demands are at the core of Judge's decision together with the prosecutor demands imprisonment for 6 (six) years imprisonment and a fine Rp.120.000.000.- (One hundred and twenty fifty million rupiah) subsidiary 3 months in prison and court fees Rp.1.000.- (one thousand rupiah)

So it can be concluded for sanctions or application of the law to do in this case is based on As was charged with violating Article 2 of Republic Act # 21 of 2007 on the Eradication of People, in conjunction with Article 55 (1) to 1 of the Criminal Code on the criminal charges I NRH imprisonment for 6 (six) years in prison and a fine Rp.120.000.000.- (One hundred and twenty million rupiah) subsidiary 3 (three) months in prison and court fees Rp.1000.-

### **Conclusion**

Based on the foregoing, the author can provide the following conclusions:

- 1) Perdagangan caused by an entire people consisting of a variety of conditions and issues vary. Included in it is poverty, laziness, the economic crisis, early marriage, lack of education, poor law enforcement, and the lack of employment opportunities.
- 2) Trafficking in persons, especially in cases of Child Trafficking has been a lot going on with using children for profit and it is so contrary to human rights, because every child is entitled to receive protection from economic exploitation and any work that harm him, so that it can interfere with education , physical violence, moral, moral life, social life and mental spiritual

### **Suggestions**

- 1) Should have been issued a law regulating child trafficking are more specifically related to child protection.
- 2) Should government officials of (the officials) including Police hold extra coordination among all regional leaders to address the problem of child trafficking so much to prevention (protection against the nation) in order to avoid child trafficking.

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