

Juridical Analysis of Punishment for Perpetrators of the Crime of Human Trafficking (Case Study of Decision Number 1318 Pk/Pid.sus/2023)

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This study aims to examine the sentencing of human trafficking perpetrators based on the Supreme Court Decision No. 1318 PK/Pid.Sus/2023. Despite existing laws, human trafficking remains prevalent in Indonesia. The objective of this research is to understand how the Indonesian judicial system imposes criminal sanctions and to analyze the factors that influence the judges' decisions. This is normative legal research using statutory and case approaches. The case analyzed involves a defendant convicted under Article 2(1) in conjunction with Article 48 and Article 4 in conjunction with Article 48 of Law No. 21 of 2007 on the Eradication of Human Trafficking. The perpetrator was sentenced to seven years of imprisonment, a fine of IDR 120,000,000.00, and restitution of IDR 117,000,000.00 to the victim. The petition for judicial review was rejected by the Supreme Court due to the failure of the new evidence to qualify as novum. The findings show that although legal provisions are in place, obstacles persist in ensuring a deterrent effect. This study highlights the need to evaluate sentencing effectiveness and strengthen law enforcement in handling human trafficking cases.

1. Introduction

Criminal law is a crucial component of a country's legal system that provides guidelines on prohibited acts and the sanctions imposed on violators (Sinaga et al., 2024). Di Indonesia, hukum pidana diatur dalam KUHP yang mengklasifikasikan antara kejahatan dengan pelanggaran. In Indonesia, criminal law is regulated in the Criminal Code (KUHP), which classifies

between crimes and violations. According to the KUHP, a criminal act is any unlawful action that holds the perpetrator criminally liable (Narnilawati et al., 2023). Despite established regulations intended to ensure public security and order, various forms of violations still frequently occur (Sumarlin et al., 2019). A criminal offense occurs when an individual engages in conduct contrary to law, thus warranting punishment (Chaniago et al., 2023). One of the most serious crimes is human trafficking, which carries severe penalties due to its adverse impact on society and humanity. Human trafficking is a grave violation of human dignity and human rights (Mulyawan & Myharto, 2022). As a state based on Pancasila, Indonesia promotes and protects human rights in the 1945 Constitution of the Republic of Indonesia, particularly in Chapter XA, which includes Articles 28A through 28J. Therefore, firm action is needed from the government to eradicate human trafficking practices.

Human trafficking is a serious human rights violation with wide-ranging impacts not only on victims but also on society and the state (Arfika & Ilmih, 2024). This act often involves exploiting individuals through coercion, deception, or abuse of power. In Indonesia, the issue is a major concern for the government, law enforcement agencies, and NGOs. Despite efforts to combat it, human trafficking continues to occur, with increasingly sophisticated methods of operation.

Law No. 21 of 2007 on the Eradication of the Criminal Act of Human Trafficking (UU TPPO) is a critical legal instrument in combating human trafficking in Indonesia (Aminudin, 2024). This regulation governs various aspects of exploitation, mostly affecting women and adolescents. The phenomenon represents a form of modern slavery driven by various crises in Indonesia (Kusumaningrum & Wibawa, 2024). The prevalence of trafficking continues to rise in both numbers and methods. Each year, around two million people fall victim, with women and adolescents being the most vulnerable (Syafaat, 2003). According to the International Labour Organization's (2005) Global Report on Forced Labour, approximately 2.5 million people were exploited through human trafficking for labor purposes, with more than half located in the Asia-Pacific region and 40% being adolescents (Jannah & Roza, 2022). Since independence, Indonesia has banned human trafficking under Article 297 of the Criminal Code. However, due to the complexity and transnational nature of this crime, the government issued the UU TPPO to enable a more comprehensive response (Sinlacloc, 2017). Nevertheless, enforcement still faces challenges, such as difficulties in apprehending perpetrators and lenient sentencing by courts.

Decision No. 1318 PK/Pid.Sus/2023 serves as an example of how human trafficking cases are handled in Indonesia. The analysis of this decision reflects

the judicial system's effectiveness in enforcing justice, while also identifying its strengths and weaknesses. In this case, the convict was tried at the Ngabang District Court under charges of human trafficking pursuant to the UU TPPO. The convict was proven guilty of taking Indonesian citizens abroad for exploitation and was sentenced to seven years in prison, a fine of IDR 120,000,000.00, and restitution of IDR 117,000,000.00. The judicial review request was rejected by the Supreme Court as the new evidence did not qualify as *novum*. Law enforcement in trafficking cases not only focuses on penalizing perpetrators but also aims to protect victims and prevent similar crimes in the future. This decision becomes a reference point for evaluating the effectiveness of the existing law and identifying challenges in its implementation.

Given the above context, the authors chose to raise the issue of human trafficking in this paper. The focus lies in the legal aspects of sentencing human trafficking offenders and analyzing the factors considered in determining those sentences.

2. Method

This research uses a normative legal approach, which emphasizes library research based on legal norms contained in statutory regulations, legal principles, legal concepts, and doctrines developed by legal experts. This approach is used to examine law as a normative system that lives and develops within society. The primary aim of normative legal research is to justify a legal event, assess whether a particular action complies with prevailing positive law, and determine the appropriate legal mechanism to enforce justice (Soekanto & Mamudji, 1995).

This approach begins by identifying a specific legal event and then tracing relevant legal sources, including legislation, legal principles, legal concepts, and doctrinal writings of legal scholars. This process allows the researcher to construct relationships among the applicable legal norms to provide a more systematic and comprehensive understanding of a legal issue.

Furthermore, normative research is often combined with conceptual analysis and legal interpretation to examine how legal rules are applied in practice and how current legal provisions may be further developed. This approach not only provides insight into written legal texts but also their implementation in the dynamic legal reality.

This research is descriptive-analytical in nature, aiming to describe the research subject and object based on available data, and to analyze and interpret the data systematically to address the proposed legal problem

(Soekanto, 2010). The data or legal materials in this research consist of primary and secondary legal materials. Primary legal materials include statutory regulations, official documents, and court decisions that hold authoritative power. These are the main sources referred to in legal research. In this study, primary legal materials include the Criminal Code (KUHP), Law No. 21 of 2007 on the Eradication of Human Trafficking, Law No. 39 of 1999 on Human Rights, and Decision No. 1318 PK/Pid.Sus/2023 (Marzuki, 2005). Secondary legal materials include books, academic journals, legal articles, and other scientific documents that are relevant and support the legal analysis.

The data collection technique used is literature review, which involves accessing and examining various legal documents and literature relevant to the research focus. This includes reviewing applicable regulations and related court decisions, as well as expert doctrines used to support juridical arguments. The aim is to obtain a comprehensive understanding of the legal foundation, practical application of the rules, and the legal reasoning used by judges in delivering decisions.

All data collected were analyzed qualitatively using descriptive and interpretative methods. The analysis involves reviewing relevant legal norms, interpreting statutory provisions, and evaluating their consistency and application in judicial practice. This method allows the authors to present a holistic picture of the legal issues examined, producing conclusions that are comprehensive, logical, and aligned with the applicable legal context.

3. Results

3.1. Sentencing for Human Trafficking Offenders Under the Human Trafficking Law (UU TPPO)

Human trafficking is a violation of human rights and dignity (Darmayanti et al., 2022). This practice includes forced international marriages, exploitation of minors in labor, and illegal adoption (Tim Hukumonline, 2023). Victims often come from economically disadvantaged backgrounds and are lured into exploitation due to poverty, lack of education, and limited job opportunities (Purba & Harahap, 2023). Many are deceived by false promises of decent work, only to lose their freedom and rights.

The human trafficking market continues to thrive due to high demand for cheap labor and sexual exploitation (Daud & Sopoyono, 2019). Offenders exploit victims' suffering for profit, treating them as commodities. Victims are often forced to work without fair compensation, suffer abuse, and live

in inhumane conditions (Salasbi et al., 2022). Without serious efforts from both the government and society, this crime will persist and worsen its social impacts.

Trafficking, especially involving women and children, contradicts humanitarian values upheld in Pancasila and the 1945 Constitution. This practice not only violates human rights but also undermines individual dignity, which the state is obligated to protect. Article 20 of Law No. 39 of 1999 on Human Rights explicitly prohibits slavery and trafficking in any form. This prohibition aligns with international legal instruments, such as the Palermo Protocol, which emphasizes the eradication of trafficking. Therefore, the government is obligated to ensure that policies and law enforcement function effectively to protect victims and prevent such exploitation.

In the concept of criminal responsibility, perpetrators must be held accountable not only for their actions but also for the impact on victims and society (Sutatiek, 2013). The criminal justice system provides various sanctions ranging from imprisonment and fines to restitution as efforts to uphold justice and create a deterrent effect.

In Indonesia, human trafficking is classified as a serious crime regulated under the Criminal Code (KUHP) and specific legislation. Article 297 of the KUHP punishes those who exploit women and boys with a maximum of six years imprisonment. Article 324 increases penalties for slave traders to up to twelve years. Additional sanctions may also be applied, such as revoking parental rights or removing individuals from their professional posts if they misuse their positions in trafficking crimes.

Although the KUHP outlines penalties for traffickers, more comprehensive and specific regulation is found in the Human Trafficking Law (UU TPPO). This law serves as *lex specialis* by offering more detailed guidance on the crime's elements, victim protection mechanisms, and stricter sanctions for perpetrators involved in trafficking networks. Through this law, the government strives to uphold the rule of law and protect human rights from exploitative practices that undermine human values.

3.1.1. Sentencing Based on the Human Trafficking Law (UU TPPO)

Human trafficking in Indonesia is governed by the UU TPPO, which clearly defines and penalizes various forms of exploitation falling under human trafficking. Referring to Article 1 paragraph (1), this crime includes

all forms of exploitation involving threats, violence, fraud, or abuse of power – whether domestic or transnational. To enforce the law and deter offenders, Article 2 paragraph (1) provides for a minimum prison sentence of 3 years and a maximum of 15 years, along with fines ranging from IDR 120 million to IDR 600 million. Similar provisions apply to acts of bringing persons into Indonesia for exploitation (Article 3), adopting children for exploitative purposes (Article 4), and sending children abroad resulting in exploitation (Article 5).

The law also provides for harsher penalties if the crime causes serious injury, psychological distress, or pregnancy, in which case sentences may be increased by one-third (Article 7 paragraph 1). If the crime results in death, the penalty rises to 5 years up to life imprisonment, with fines up to IDR 5 billion (Article 7 paragraph 2). For corporate offenders, stricter sanctions apply, including triple fines, business license revocation, and asset confiscation (Article 15). In organized crimes, all participants are subject to increased penalties—one-third more than the base sentence (Article 16). If the victim is a minor, the sentence is further increased by one-third (Article 17).

Besides the UU TPPO, Articles 297 and 324 of the KUHP also provide a legal basis for prosecuting trafficking crimes, with penalties of up to six to twelve years of imprisonment and additional sanctions such as revocation of guardianship. These laws reflect the state's commitment to eradicating human trafficking through a comprehensive legal approach to ensure the protection of human rights and justice for victims.

3.1.2. Sanctions for Perpetrators in Decision No. 1318 PK/Pid.Sus/2023

The imposition of sanctions on perpetrators of human trafficking in Indonesian criminal law aims to create a deterrent effect and ensure victim protection (Sinaga et al., 2024). In criminal law, a sanction is defined as the intentional imposition of suffering on the violator of a norm, distinguishing it from other forms of law. Thus, every perpetrator must face legal consequences in the form of punishment (Rizki et al., 2024).

Article 10 of the Indonesian Criminal Code (KUHP) categorizes criminal penalties into two main groups: principal and additional. Principal penalties include capital punishment, imprisonment, confinement, fines, and supervision. Meanwhile, additional penalties consist of the revocation of certain rights, confiscation of items, and publication of court rulings. This classification serves as a guideline for the judiciary to ensure proportional punishment (Sormin et al., 2023).

The UU TPPO imposes strict sanctions on perpetrators as part of the effort to protect victims. The law outlines detailed classifications of violations and their corresponding penalties. For example, Article 2 stipulates that anyone who illegally recruits or transfers individuals for exploitative purposes may face 3 to 15 years of imprisonment along with substantial fines.

Offenders may include labor recruitment agents (both legal and illegal), brokers who source workers from rural areas, employers who exploit labor, government officials involved in document forgery or dereliction of duty, and brothel owners who employ underage individuals. The variety of perpetrators reflects the complexity of human trafficking, which requires firm legal action. The role of material criminal law in this context is to determine punishable actions, ensure legal certainty, and provide legal protection (Aziiz et al., 2023). With clear and firm regulations, the public can feel safe and protected, and understand the boundaries of acceptable behavior. Strict enforcement of the law against trafficking perpetrators aims to create a deterrent effect, reduce future cases, and ensure maximum protection for victims.

Substantive criminal law outlines the acts subject to criminal punishment, individuals who may be held accountable, and the consequences faced by those who violate the law. In the case against the defendant "WAN WAN," the prosecutor thoroughly explained the relevant provisions of the UU TPPO and related articles in the KUHP. This indictment served as the basis for the judge to assess various possible penalties, grounded in the facts revealed during the trial. In Decision No. 65/Pid.Sus/2021 of the Ngabang District Court, two conflicting indictments were presented, but the stronger one was based on the criminal threat under Article 4 in conjunction with Article 48 of the UU TPPO and Article 55 paragraph (1) of the KUHP. This shows that sentencing in human trafficking cases not only acts as punishment but also as a form of societal and victim protection.

The Pontianak High Court ruling revealed that WAN WAN was actively involved in recruiting, transporting, and exploiting the victim. Strong evidence and testimonies supported the judge's decision to reject the judicial review. This underlines the importance of fair and firm law enforcement in addressing trafficking crimes. The judge emphasized that justice must be upheld and that sentences must reflect applicable laws to ensure public safety.

3.2. Judicial Consideration in Sentencing the Perpetrator in Decision No. 1318 PK/Pid.Sus/2023

The criminal law approach in law enforcement aims not only to punish but also to deter and prevent similar crimes. Effective law enforcement is a key instrument in fostering order, security, and protection of individual rights. Consistent application of the law enhances public confidence in the justice system (Ronaldo et al., 2022). The UU TPPO serves as the legal foundation in eradicating trafficking by imposing strict sanctions. Judges' considerations in ruling cases must reflect justice, legal certainty, impartiality, and adherence to prevailing regulations.

In the following discussion, the authors outline the chronology of the case, the reasons behind the defendant's appeal, and the judge's consideration in Decision No. 1318 PK/Pid.Sus/2023, as described below :

1) Case Background

According to the indictment, in January 2018, the accused WAN WAN asked witness Susanti Aling to find a woman from Landak Regency to marry a Chinese national in exchange for IDR 2,000,000. Susanti then offered Monika Jailan, who initially hesitated due to concerns about leaving her child. WAN WAN assured Monika of a better life in China. After the engagement, Monika was not allowed to return home and stayed at Susanti's in-laws' house for one month. In May 2018, she and witness Ukul traveled to Singkawang to process their passports and visas, then departed for China in July 2018. However, the marriage did not take place, and Monika suffered abuse at the hands of Luo Qidong. After 16 months in China, Monika returned to Indonesia in January 2020. She applied for compensation from LPSK and received IDR 27,686,804.00. Under Indonesian law, marriages must adhere to legal procedures to be recognized.

2) Appeal Grounds

The defendant filed an appeal due to dissatisfaction with the district court's ruling, which they believed was unfair and did not reflect the facts or evidence presented at the trial. They argued that certain facts or evidence were not properly considered by the judge, leading to an unjust decision. They also suspected procedural errors that disadvantaged them, prompting them to seek a more objective reassessment through appeal.

3) Judicial Consideration

The Supreme Court rejected the judicial review request in Decision No. 1318 PK/Pid.Sus/2023, affirming the previous ruling that had been legally binding since November 28, 2022. The petitioner submitted *novum* (new evidence) in the form of witness photos and a peace agreement letter, but the court ruled that this evidence did not meet the criteria for *novum* capable of overturning the criminal liability. The judge emphasized that there was no error in the previous ruling, as the facts had been carefully evaluated. The defendant was found guilty of recruiting Indonesian women to marry foreign nationals from China, which led to exploitation. Based on the Indonesian Criminal Procedure Code (KUHP), the review request was denied, and the defendant was ordered to pay a court fee. The Public Prosecutor charged the defendant with exploitation involving threats, violence, and fraud. The evidence presented was deemed sufficient, and the judge considered aggravating factors, such as the social and psychological impact on the victim. Although there were mitigating factors, such as the defendant's polite behavior and admission of guilt, the judge upheld the sentence to maintain deterrence. The verdict also imposed a case fee of IDR 2,500.00.

4) Analisa Penulis

The District Court ruling in Decision No. 1318 PK/Pid.Sus/2023 was based on Law No. 21 of 2007 on the Eradication of Human Trafficking, the Criminal Code (KUHP), and Law No. 35 of 2014 on Child Protection. As a *lex specialis*, Law No. 21 of 2007 provides more specific legal grounds for handling trafficking cases (Ritonga et al., 2024). The judge considered the defendant's role and the need to protect the victim before making a decision. Even though the defendant behaved respectfully, admitted guilt, and expressed remorse, these factors did not lessen the severity of the offense. The judge emphasized that the exploitation committed had negative implications for both the victim and the nation's future, and thus punishment was warranted. The ruling rejected both the appeal and the prosecution's request, affirming the initial decision and imposing case fees. The Supreme Court's rejection of the review highlighted that no *novum* had been submitted that could change the earlier verdict. Trial evidence showed that the defendant violated Article 12 of Law No. 21 of 2007, Article 55(1) of the KUHP, and Article 83 of Law No. 35 of 2014. This consistency in judicial rulings demonstrates the justice system's firm stance against trafficking crimes.

Based on this analysis, the authors agree with the decision in Case No. 1318 PK/Pid.Sus/2023. Strict law enforcement against human trafficking is essential, and the judge's reliance on the appropriate regulations shows a commitment to justice and victim protection. While the defendant showed remorse, the offense was serious and detrimental to youth and society at large. The rejection of the appeal reinforces that the judiciary does not tolerate such crimes and sends a clear signal that traffickers will face severe legal consequences. The authors believe the ruling reflects efforts to ensure justice and legal certainty, as well as a necessary deterrent effect. Going forward, efforts should focus on prevention and legal education so that younger generations become more aware of the importance of protecting themselves and others from such harmful crime.

4. Conclusion

The legal provisions regarding perpetrators of human trafficking in Indonesia are specifically regulated under Law No. 21 of 2007 on the Eradication of Human Trafficking. This law forms a vital foundation for victim protection and strict prosecution of perpetrators, especially in cases involving violence, threats, fraud, kidnapping, or other forms of exploitation. Based on the analysis of Supreme Court Decision No. 1318 PK/Pid.Sus/2023, the court rejected the judicial review because the submitted evidence failed to meet the criteria for *novum* and was insufficient to overturn the previous ruling. This demonstrates the judiciary's commitment to upholding justice and providing maximum legal protection for victims. To strengthen prevention and countermeasures, the authors recommend stricter sentencing policies to create a stronger deterrent effect. Additionally, raising public awareness is key to preventing trafficking, especially against misleading job recruitment schemes. Legal education and proper information verification are crucial so that the public is not easily trapped in human trafficking crimes that cause both physical and psychological harm.

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