

# HUMAN TRAFFICKING, CAUSES, IMPACTS ARISING AND THE SOLUTION

Oleh: **Bibit Santoso**

Lemhanas Republik Indonesia, JL.DR Abd. Rahman Saleh No 23 Senen  
Jakarta Pusat 65412, DKI Jakarta, Indonesia.

Email: bibit.santoso17@gmail.com

## ABSTRACT

Trafficking is the act of recruitment, transportation, harbor, 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, so as to obtain the approval of a person having control over another person, whether committed within the country or between countries, for the purpose of exploitation or cause people to be exploited.

Human trafficking is all buying and selling transactions on humans. According to the Palermo Protocol in paragraph three definitions of transaction activity include: the recruitment, transportation, alienation, harboring or receipt of persons, carried out by the threat or use of force or other forms of coercion of others, such as: abduction, deception or deceit, abuse of power, abuse prone position, using the giving or receiving of payments (profits) in order to obtain approval consciously (consent) of a person having control over another person for the purpose of exploitation. Exploitation includes at least; prostitution (exploitation of prostitution) of others

or other such forced labor or services.slavery or practices similar to slavery, servitude or the removal of organs. In the case of child trafficking child in question is any person less than 18 years old.

Trafficking in persons is a modern form of human slavery. Trafficking in persons is also one of the worst forms of violation of human dignity. Increased proliferation of trafficking in persons in various countries, including Indonesia and the countries that are developing, it has become a concern of Indonesia as a nation, the international community, and members of international organizations, particularly the United Nations (UN). [3]

KEY WORDS: *Trafficking,persos,transaction,exploitation.slavery*

## 1. INTRODUCTION

Based on empirical evidence, women and children are the most likely group to be victims of human trafficking crime. Victims trafficked not only for the purpose of prostitution or other forms of sexual exploitation, but also includes

other forms of exploitation, such as forced labor or forced services, slavery or practices similar to slavery. Perpetrators of the crime of human trafficking the recruitment, transportation, transfer, harboring, or receipt of persons for the purpose of trapping, plunges, or take advantage of the person in the practice of exploitation in all its forms with the threat of violence, use of force, abduction, fraud, deception, abuse of power or position vulnerability, or giving payments or benefits to achieve the consent of a person having control over another person.

The importance of discussing the issue of trafficking in persons in Indonesia is because Indonesia is a country that is a country of origin of trafficking in persons abroad with the aim of Malaysia, Singapore, Brunei, Taiwan, Japan, Hong Kong and the Middle East. Not only that, Indonesia is also a destination country of trafficking in persons originating from China, Thailand, Hong Kong, Uzbekistan, the Netherlands, Poland, Venezuela, Spain and Ukraine with the purpose of sexual exploitation.

In the annual report of the US State Department Trafficking in Persons in 2011, Indonesia entered the second tier to meet the standard of protection of victims of trafficking in persons (TPPO). Indonesia assessed including the main source of trafficking of women, children and men, both as sex slaves and victims of force working. According to Indonesian government data, as cited in the report, about six million citizens of Indonesia as migrant workers abroad, including 2,6 million workers in Malaysia and 1.8 million in the Middle East. Of the total migrant workers, 4.3 million are undocumented authorized and 1.7 million were classified as undocumented workers. Approximately 69 percent of Indonesian migrant workers are women. [4]

The Women's Ministry estimates that 20 percent of Indonesian workers (TKI) who work

abroad are victims of human trafficking. Currently there are an estimated 6.5 million to 9 million migrant workers working abroad. Based on data from the international organization of migration (IOM), 70 percent of human trafficking in Indonesia mode begins shipments of illegal Indonesian workers abroad. In the period from 2010 to 2012, the IOM noted that there are 1,180 victims who have been repatriated and assisted. [5]

The region is expected to become a recruitment center of Java, Bali, Kalimantan and Sulawesi, with the goal of countries in Asia, the Middle East and Europe. UNICEF estimates that there are about 100,000 women and children in Indonesia are trafficked annually for commercial sexual exploitation in Indonesia and abroad. There are 30 percent female prostitutes in Indonesia are under the age of 18 years, and 40,000-70,000 Indonesian children are victims Exploitation Agency.

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. The forms of exploitation include forced labor or services by force, slavery and practices similar to slavery, forced labor or services forced by conditions of work that arise through the way, plan, or pattern intended for a person convinced that if he did not do a particular job, then he or dependents will suffer both physically and psychologically

Based on the understanding of the various definitions above, people trafficking is understood to contain 3 (three) elements that became the basis of criminal acts of trafficking, namely:

- 1) Elements PROCESS including recruitment, transportation, harboring, transportation, transfer, or receipt of persons.
- 2) Elements the way ensure the process can be implemented, which includes threats, violence,

use of force, abduction, confinement, fraud, deception, abuse of power or vulnerability, debt bondage or giving payments or benefits to achieve the consent of a person having control over another person the other.

- 3) Elements PURPOSE which includes the exploitation of people or cause people exploited in ways as mentioned in Article 1 paragraph 1 and Article 2 (1) UUPTPO)

If in this case the victim is an adult (aged  $\geq$  18 years), the elements of trafficking that must be considered is the PROCESS (Movement), HOW, and AIMS (Exploitation). Meanwhile, if the victim is Children (aged  $\leq$  18 years), the elements of trafficking that must be considered is the PROCESS (Movement) and GOAL (Exploitation) without having to pay attention to HOW trafficking.

Explanation of the elements of trafficking in question is whether there PROCESS (movement) a person becomes a victim of an act of trafficking in persons through recruited, transported, transferred, stored, or are received at the destination, YES or NO, so that a person becomes a victim of trafficking. While elements HOW whether someone is experiencing the action being threatened, forced by other means, kidnapped, become victims of counterfeiting, deception and become victims of abuse of power, YES or NO, so that a person becomes a victim of trafficking. Then viewed from the elements GOAL (Exploitation) whether the victim is exploited as in prostitution, other forms of sexual exploitation, forced labor, slavery, other practices of slavery (eg military task force), or the removal of organs, YES or NO, if you meet all these elements then one certainly be a victim of human trafficking.

Perpetrators of trafficking in persons is defined as a person who committed or is involved and approve the activities of recruitment, transportation, trade, shipping, receiving or harboring or one from one place to another for

the purpose of gaining profit. Trafficked people (victims of trafficking) is someone who is the director, taken, bought, sold, transferred, received or hidden, as mentioned in the definition of trafficking in human beings, including children, whether they are allowed or not.

## **2. DISCUSION**

### **2.1. Legal Aspects of Trafficking in Persons in Indonesia**

Trafficking in persons is a modern form of slavery, occurs both in the national and international levels. With the development of information technology, communications and transformation, then the mode of human trafficking is becoming more sophisticated. Trafficking in persons is not a common crime (extraordinary), organized (organized), and cross country (transnational), so that it can be categorized as transnational organized crime. Similarly, the sophistication of the workings of human trafficking to be followed by legal devices that can catch the perpetrator. Specific legal instruments necessary to protect the victim.

Each victim of trafficking in persons, are entitled to legal assistance under the provisions of the legislation in force. Right to victims of trafficking in persons include obtaining both physical and psychological rehabilitation as a result of trade, and reserves the right to integrate or be returned to the family, community, and educational institutions for are still a school. Crime of Trafficking in Persons perceived as a threat to the community, state and nation, as well as the norms of life that is based on respect for human rights.

During the handling of criminal cases are oriented to the suspect or the accused while the rights of victims often overlooked. Therefore, we need to realize the need for legal protection for victims, especially victims of human trafficking,

the issuance of Law No. 21 of 2007 on the Eradication of Trafficking in Persons has the spirit of protection of the victim. This book is expected to provide enlightenment ideas to the world of academics in particular and society in general and the information can complement the reference to the legal protection of victims of trafficking.

Proof in the context of the crime of trafficking in persons

In law enforcement-related crime of trafficking in persons, is absolutely necessary proof. Theoretically, known as 4 (four) kinds of authentication system in criminal cases, including the crime of trafficking in persons, namely: First, Conviction in time, is a verification system that is guided by the belief the judge sich in giving its decision on proven or not proven fault which the accused defendant. Second, in Raisonee Conviction, is a verification system that is guided by the belief the judge in giving a decision on proven or not proven fault which the accused defendant. Factor judge's conviction in this verification system should be based on logical reasons (reasonable). This is what distinguishes the first authentication system. Third, Positief wetelijk stelsel or better known as posiitf verification system, is a system of proof based on the evidence that has been determined by the law in giving its decision on proven or not proven fault which the accused defendant. Fourth, Negatief wetelijk stelselatau better known as negative verification system, is a system of proof based on the evidence that has been determined by law and the judge's conviction in giving its decision on proven or not proven fault which the accused defendant. (Sudikno Mertokusumo, 2006: 141)

In the Indonesian context, the system of Evidence set forth in the Code of Criminal Procedure (Criminal Procedure Code) set forth in Article 183 the formulation as follows: "The judge must not convict someone unless at least

two valid evidence, he gained confidence that a crime actually occurred and that the accused are guilty of doing it."from the formulation of Article 183 criminal Procedure Code, it is seen that the evidence must be based on at least two valid evidence, coupled with the judge's conviction obtained from the evidence. That is, the availability of a minimum of two items of evidence alone, is not enough to convict the defendant. In contrast, although the judge was convinced of the guilt of the accused, then if there is not a minimum of two items of evidence, the judge also has not been able to convict the accused. In this case criminal punishment against an accused person must meet two absolute requirements, ie sufficient evidence and the judge's conviction. The authentication system, known as the negative wettelijk system.

To support the proof in a criminal act, it must be done Investigation / Investigation, which is a series of measures to find and collect evidence with evidence that shed light on the crime / human trafficking crime that happened. In the work of the Investigation / Investigations, investigator / investigator must collect information with respect to certain facts or certain events, namely: First, the facts about the occurrence of something evil. Second, the identity of the sikorban. Third, the definite place where the crimes were committed. Fourth, how the crime was committed. Fifth, the timing of kejahatan. Keenam, What are the motives, goals and intentions. Seventh, the identity of the perpetrators of crimes.

In conducting the investigation / Investigation, for a criminal offense of trafficking in persons, the parameters that should be used is the parameter legitimate evidence in accordance with Article 184 Criminal Procedure Code and Article 29 UUPTPO associated with the triangle of proof / evidence triangle to meet the legality and legitimacy aspects. Triangles of proof / evidence triangle is a triangle formed by the



mutual relations (interrelation) between: First, VICTIM is someone who suffered a psychological, mental, physical, sexual, economic and / or social, which caused the crime of trafficking in persons. (Article 1 point 3 UUPTPO). Second, ACTORS are Everyone in UUPTPO understood as an individual or corporation who committed the crime of trafficking in persons. (Article 1 paragraph 4 UUPTPO). Third, TOOLS BUKT Everything that has to do with an act, where the evidence / evidence, it can be used as material evidence in order to judge the correctness of verifying the existence of a crime that has been done Actors / defendant.

The relationship of the third angle in the triangle of proof / evidence of this triangle should contact each other at the time of the criminal act. In the center of the triangle there is a place Genesis Case (TKP), which also has a third interrelation with the evidence. (See Figure 1).

Perpetrators and sanctions in the act of trafficking in persons

According to Article 1 paragraph 4 UUPTPO, ACTORS are Everyone in UUPTPO understood as an individual or corporation who committed the crime of trafficking in persons. In chapter 2 to 18, UUPTPO explicitly formulate sanctions against traffickers. Based on those chapters, can be categorized several actors TPPO, namely: First, the recruitment agency Manpower (legal or illegal) that: paying agents / brokers (individuals) to look for workers in the villages, manage the shelter, taking care of identities and documents pejalanan , provide training and medical examination as well as putting workers in his work in the destination country. While not all, but some registered PJTK engage in such activities. Second, agents / brokers (perhaps strangers) who came to a village, neighbors, friends, even village heads, community leaders, traditional leaders, and religious figures. Agents can work concurrently to PJTK listed and unlisted, to be paid for each worker

who direkrutnya. Ketiga, employers are forcing workers to work in exploitative conditions, do not pay salaries, confining workers in the workplace, sexual or physical violence against workers , Fourth, the government, which is involved in the falsification of documents, ignoring violations in the employment or facilitate border crossing illegally (including inaction by the police / immigration officers. Fifth, Owner / pengeloa brothel forcing women to work outside the will and ability, not pay salaries or recruit and employ children who are under 18 years old.

Against these actors, UUPTPO provide criminal sanctions cumulatively, such as between 3-15 years in prison and a fine of between Rp. 120 million to 600 million, and if it resulted in the victim suffered serious injuries, severe mental disorders, other infectious diseases that endanger his life, pregnancy, or impaired or loss of reproductive function, then the criminal threat of 1/3 (one third) of the criminal threats above. If it resulted in the death of people, then threatened with imprisonment between five-year lifetime and a fine of between Rp. 200.000.000-Rp. 5,000,000,000. In addition, article 9 UUPTPO also provides sanctions for any person trying to mobilize others to commit criminal acts of trafficking, and criminal offenses that did not happen, shall be punished with imprisonment for 1-6 years of imprisonment and a fine of between Rp. 40 million-Rp. 240,000,000.

In law enforcement trafficking cases, the description of the perpetrators as contained in Article 9 UUPTPO should not ignore the categorization of the perpetrators as contained in Article 55 and Article 56 of the Criminal Code, namely:

### **1). Maker or dader**

Maker or dader stipulated in Article 55 of the Criminal Code. Understanding dader it comes

from daad which in Dutch means as it did, or as an act (P.A.F. Lamintang, 1990: 585). In the science of criminal law, it is not uncommon people say that a perpetrator had been made a criminal offense or that of a maker that has made a criminal offense, but the common saying is that a perpetrator has committed a crime. Dader maker or as defined in Article 55 of the Criminal Code, which consists of:

- a) Actors (pleger). According Hazewinkel Suringa is a Plegera dalah everyone who alone has met all of the elements of the offense as defined in the formulation of the offense in question, also in the absence of criminal provisions governing deelneming it, people can still be punished. (P.A.F. Lamintang, 1990: 599).
- b) The order did (doenpleger). Regarding doenplagen or told to do in the science of criminal law usually referred to as a middelijjke dader or a tater mittelbare which means an indirect actors. He called indirect actors because he did not directly commit the crime itself, but through another person. Thus there are two parties, namely the manufacturer directly or manus ministra / auctorphysicus), and the author does not directly or manus domina / auctor intellectualis (P.A.F. Lamintang, 1990: 610-611). For the existence of a doenplagen as meant in Article 55 paragraph (1) Criminal Code, then the people who were told to do it must meet certain conditions. Simons in P.A.F. Lamintang (1990: 610-611) menegasakan that these requirements are: First, If the person who committed a crime were told it was someone who ontoerekeningsvatbaar as listed in Article 44 KUHP. Kedua, When people are asked to commit a criminal offense has a misunderstanding about one of the elements of the criminal offense in question (dwaling). Thirdly, If the people who were told to commit

a crime that did not have Schuld, either dolus or culpa or if the person does not meet the elements of opzet as has been required by law for such offenses. Fourth, If people are told to commit a criminal act that does not meet the elements of oogmerk when these elements are not required in the formulation of legislation on crime. Fifth, If people are told to commit a crime it has done so under the influence of a coercion or under the influence of an emergency situation, and the force which the person is not able to provide a resistance. Sixth, When people are asked to commit a criminal act in good faith has been executing a command when the command post of the job given by a supervisor who is not authorized to give such an order. Seventh, When people are asked to do a criminal it does not have a hoedanigheid or a particular trait as has been required by law, namely as a trait that should be owned by the culprit himself.

- c) Attendees included (medepleger). According MVT is a person who knowingly participate or contribute work doing something to happen. Therefore, the quality of each of the participants is the same criminal offense. d) Advocates (uitlokker) are people who mobilize others to commit a criminal act by using means specified by law in a limited manner, which gives or promises, abuse of power or dignity, violence, threat, or deception, with provide opportunity, means, or information (PAF Lamintang, 1990: 610-611).

2) Maid or medeplichtige As mentioned in Article 56 of the Criminal Code, co- 2 (two) types, namely:

Assistance at the time the crime was committed. The way how pembantuannya not mentioned in the Criminal Code. Assistance at the time the crime was committed is similar to

participate (medeplegen), but the difference lies in: First, In-administration actions merely help or support, while at participating an act of execution. Second, In-administration, the maid just inadvertently provide assistance without the implied need to work together and do not aim or interest itself, whereas in participating, those who participated intentionally committing a crime, by working together and has its own purpose. Third, Assistance in the offense is not punished (Article 60 of the Criminal Code), while participating in a possible violation shall be punished. Fourth, the maximum punishment is the maximum criminal helpers, reduced by 1/3 (one third), while the same participated convicted.

Assistance before the crime was committed, which is done by giving the opportunity, means or information. Assistance in this formulation similar to advocacy (uitlokking). The difference is in the intent or the will, the evil will of the co- existing materiel maker from the beginning or not caused by a maid, while in advocacy, will commit a crime on the material maker posed by the advocates. Unlike the makers of accountability, all of which shall be punished the same as the offender, convicted maid lighter than the creator, which is a third less than the maximum threat had been committed (Article 57 paragraph (1) Criminal Code). If a crime punishable by death or life imprisonment, aide sentenced to a maximum of 15 years. However there are some exceptions notes: First, Vice convicted equal weight with the manufacturer, which in the case of criminal offenses: (a). Help seize independence (Article 333 paragraph (4) Criminal Code) by giving a place for deprivation of liberty.

(B). Helping defraud or letter by officials (Article 415 Penal Code). (C) .. Elimination of important papers (Article 417 Penal Code). Secondly, Vice convicted heavier than the maker, which in the case of a criminal act: (a). Help hide

the consignment judges (Article 231 paragraph (3) Criminal Code). (B). The doctor who helped an abortion (Article 349 Penal Code).

Evidence in the act of trafficking in persons. According to Article 184 Paragraph (1) Criminal Procedure Code, the legal evidence are: First, the witnesses' testimony. According to Article 1, point 27, Code of Criminal Procedure, the witness testimony is one type of evidence in a criminal case in the form of witness testimony about a criminal and he heard him, he sees himself, and he experienced himself by calling on the grounds of his knowledge. Second, the description of experts. According to Article 1, point 28, Code of Criminal Procedure, the expert testimony was the information given by a person who has special expertise in the necessary things to make light of a criminal case for the purpose of examination in the case and in the manner stipulated in the legislation. Third, Surat. According to Article 187 of the Criminal Procedure Code, the Letter as referred to in Article 184 paragraph (1) letter c, made on oath or affirmed by the oath, namely: (1) the minutes and other papers in the official form created by the competent public authority or created in front of him, which contains information about the events or circumstances that heard, seen or personally experienced, along with the reasons clear and firm about that statement; (2) letters made under the terms of legislation or a letter made by officials familiar with the things included in the management of its responsibility and that is destined for proving something or something state. (3) a certificate from an expert that contains an opinion based on his expertise about something or something formally requested state and him; (4) other documents which can only be valid if it has something to do with the contents of another evidentiary tool. Fifth, the Directive. According to the Code of Criminal Procedure Article 188 paragraph (1), the Directive is actions, events or

circumstances, which is due to correspondence, both between one another, as well as the criminal act itself, indicating that a crime has occurred and who was responsible. Sixth, the description of the accused. what the defendant stated at the hearing of the act he was doing or who he knows himself or experienced themselves (Article 189 paragraph (1) Criminal Code). Such information can not be interpreted narrowly, which is associated with recognition alone, but including all of the description (recognition and denial) given by the defendant even included information given both inside and outside the court. In addition to the evidence as defined in the Criminal Code, article 29 UUPTPO recognize a number of other documents, namely: First, information uttered, sent, received or stored electronically by means of an optical or similar to it. Second, data, records, or information that can be seen, read and / or heard, which can be issued with or without the help of a facility, either on paper, physical object anything other than paper or electronically, including not limited to: (1). writing, sound or images; (2). Maps, plans, photographs, or the like ;, or (3). letters, signs, numbers, symbols, or perforations that have meaning or can be understood by people who are able to read or understand.

## 2. DISCUSION

Human Trafficking with the Forced Labour in the World and in Indonesia

Human trafficking cases (Human Trafficking) is an international problem. The case is a human rights violation da nearly every country in the world. Solving for the sake of solving sought by the international community seeks to minimize these cases but there is no bright spots that indicate a decrease in cases or victims of human trafficking. Human trafficking has become a common phenomenon that occurs in many developing countries.

Human trafficking differs from smuggling. In smuggling, the smuggled generally require payment of smugglers, whereas in the case of human trafficking, fraud generally occurs so that the victim does not get any reciprocity. In smuggling, smuggled people were not given any obligation, in the sense that they come to the place of interest for free. While the victims of trafficking into slavery were hurt when they reached their destination. Trafficking victims are generally people who are easily seduced by the false promises of traffickers. Some traffickers use manipulation tactics to trick victims including by intimidation, seduction, isolation, threats, penyalakan and use of illegal drugs.

People are sold generally come from poorer areas where opportunities to earn income is very limited. They can also come from the refugee victims or people who do not have a place to stay. Most of them go to other countries were taken by traffickers across the border. Due to the lack of control on the border of this, they can freely escape to the country.

Whereas child trafficking is usually done by parents who are really poor. The reason they are selling their children to pay debts or to earn money. There also are selling their children because not yet ready to take care of these children so that they are sold in the hope of obtaining a better future. In West Africa, the sale of children often occurs due to the death of one or both parents due to HIV Aids.

According to the data of Human Trafficking in Indonesia since 1993-2013 indicate that trafficking by promising mode a lot of work going on and this is experienced by the women and children. The impact experienced by victims of human trafficking vary, generally fall into the abyss of prostitution (PSK), labor exploitation and so on. In terms of Performers generally performed by employment agency with the promise of

giving work mode and either passively (by job advertisements) or actively (direct to people's homes) recruit those who are expecting a job. Labor exploitation have plunged the workers on the wage labor system without clear, without any working conditions, without the protection of labor and forced labor as appropriate.

### **3. CONCLUSION**

#### **a. Human Trafficking Cases In Indonesia Largest 2**

Human trafficking or trafficking in Indonesia is very alarming. This condition is very big happens in big cities like Jakarta and Surabaya. These crimes can be experienced by neighbors, relatives or even children. Human trafficking fall into the category of prostitution involving children come into objects of sexual exploitation. According to the UN, Indonesia itself into the 2nd place as the country's most prevalent human trafficking. Indonesia branded as shippers, container and at the same time producing the criminal action. Because the rise of this condition because of the economic crush increasingly urgent. Because getting the lure of money, they are willing to accompany a smooth operator who then ended in sexually transmitted diseases. "But more important is to address the victim's condition after the violence and sexual exploitation, namely support for survival or support to victims not to give up and continue to survive. This is because usually after knowing the conditions, the victims were depressed, like hurting yourself by not eating, not sleeping up to suicide," said Riza. According to him, not only the victims, we also need to focus on families that could potentially provide an immediate impact for the victim, for example, excluded and others. "Moreover, the Indonesian people most easily affected by labeling (labeling or imaging) is actually categorized as victims. Based on experiences during the period of 9 years

in the treatment of victims of violence against children and women, he said that the victims tend to be closed, even lied while giving a report to the counselor. Not to mention the problem of honor, since cases of sexual exploitation in economic circles above, these cases tend to be sealed. Overcoming this phenomenon, all parties should actively disseminate through the school, college or haunts teenagers. Better still if socialization also fostered empathy or minimize the negative stigma on the victims of sexual exploitation.

#### **b. Based on data from UNODC (United Nations Office on Drugs and Crime (UNODC)**

in 2012 already 2.4 billion people, mainly children and women in 127 countries become victims. In addition, based on data from the Indonesian Child Protection Commission, there 40,000 to 70,000 children are trafficked every year. they are sold to Singapore and Malaysia then they work hard, even killed under the name of money. Indonesia itself into the 2nd place as the country's most prevalent human trafficking. Indonesia labeled as shippers, container and at the same time producing the criminal action. because the rise of this condition because of economic pressure is increasingly urgent. None of them is a special cause the occurrence of trafficking for a variety of conditions and issues vary. According to the International Development Law Organization (IDLO) trafficking can occur for several factors, the first being a lack of awareness when looking for a job with not knowing the dangers of human trafficking and ways used to cheat or trick korban. yang both poverty has forced many people to look for work anywhere, regardless of the risks of the job. The third culture, which puts the weak position of women and the position of children who have to obey the will of the parents as well as early marriage, is believed to be one of the triggers

of trafficking. Usually the victims are forced to go looking for jobs to foreign countries or to other regions, because of the demands of family or parent. The fourth weakness of registration / documentation of the child's birth or population so it is very easy to falsify identity data. And the last weak elements of law enforcement officers and related parties in conducting escorts for indications of human trafficking cases.

### **c. Number of Victims of Human Trafficking**

The study by the International Labour Organization (ILO) shows that in the world about 12.3 million people trapped in forced labor. Of that number, about 9.5 million forced laborers are in Asia as the region of greatest worker. The rest are spread as much as 1.3 million in Latin America and the Caribbean, 660 thousand people in sub-Saharan Africa, 260 thousand people in the Middle East and North Africa, 360 thousand in the industrialized countries, and 210 people in transition countries. Of victims of forced labor that 40-50 percent are children under the age of 18 years.

Unexpectedly Indonesia ranks second in the world regarding human trafficking crimes involving violence and sexual exploitation of children in 2012. According to the UN, Indonesia is known as Sending, as well Producing Area Transit for human trafficking. Ironically, the main cause of this case is due to economic pressure.

Data from ECPAT (End Child Prostitution, Child Pornography and Trafficking of children for sexual Purpose) explain that 40,000-70,000 children in Java are victims Per-Man merchandise. 21,000 of whom were trafficking for sexual purposes. These data prove that every year the Human Trafficking Cases continue to rise in the world, the highest goal of human trafficking in developing countries than in developed countries. The cause

of trafficking in because developing countries are not jobs available to accommodate residents who need jobs, low education level, low level of security, a sense of caring government less likely to cause these opportunities were taken by elements which are not responsible for the only for profit only for himself. But strangely big boss never caught human trafficking in Indonesia and abroad, whereas many victims - victims of human trafficking in developing countries and in developed countries.

One why Trafficking increasingly prevalent due to the benefits culprit is enormous, even according to the UN human trafficking is a criminal enterprise level of the world's third largest producing around 9.5 million USD in annual tax, in addition to human trafficking is also one company criminal most profitable and highly relevant to money laundering (money laundering), drug trafficking, document forgery and smuggling.

According to the ILO study the benefits of women, men and children are trafficked is estimated to reach 32 billion US dollars annually taken advantage of forced laborers trafficked each of whom approximately 13 dollars. Thus, in one year, the benefits could reach 32 billion US dollars.

Victims-victims of Human Trafficking Most of them are women. They are sold as commercial sex workers. Opportunities to escape generally, the women accepted the invitation of the traffickers with the aim to improve the economy of the family. They were promised a decent job or education is free. This type of work offered is generally a job in catering and hotel, in the bar and club, the contract as a model, and a part-time job. Traffickers are usually persuaded with promises to marry the victim, or the force and kidnap victims. And finally the casualties will be deployed on the business of prostitution.

Human trafficking also occurs in men. Men are generally less educated workers are victimized

for being rough with very low wages. Some of them also were made victims of forced marriage or prostitution. The US State Department guessed there were about 600000-820000 men, women and children are sold to countries in the world every year. And 80% among that number are women. The data also mentioned that most of the victims of trafficking are sold for commercial sexual exploitation.

### **c. Incidence Causes Human Trafficking in Indonesia Rooted In The Economic Problem**

In our country, many were surprised by the diversity of existing crime cases. One of them nan there are cases of child trafficking. Cases of child trafficking in Indonesia has reached a level of concern nang.

All human beings have understood that the child feels is one of the gifts of God nan deserve thanks. The presence of a child in a family is believed will further add to the harmony between husband and wife. Aesthetics nan brought a child, in fact, does not always impartial with happiness nan obtained by the child.

But sometimes there are some circumstances that make parents feel do not like when the children will be given gifts by God Almighty. On the other hand, there are some couples who so crave the birth of a child in the middle of their lives.

Child, when his presence is not expected, then there will be some way from the old to eliminate its existence. It can be started from the child is a fetus in the mother's abdomen, or even when the child is just dilahirkan. Kita know how many cases of abortion or abortion of the fetus nan revealed. Or cases of baby dumping. Even babies nan still red or have just been born many of us encounter. It sometimes immoral this feeling angered and infuriated many parts of our society.

Child Trafficking in Indonesia. The kids do not actually used sporadically in the global commodity trade. Trafficking in children in Indonesia to get the value of a "good enough" in the eyes of the world. Since 2001, Indonesia has been "crowned" as a country that values human trafficking or selling high enough. Definition of trafficking itself according to social science experts is freely nan human convoy containing various negative connotations, such as coercion, deception and exploitation of human beings illegally.

Various issues regarding human trafficking has been discussed thoroughly by the international global, because this issue concerns the freedom of every human being created to feel free. Child trafficking in Indonesia very closely linked to the welfare of the population. Countries Indonesia nan is still not fully completed the people out of poverty once again become the scapegoat in this matter.

Most children who are trafficked are those who did come from economically disadvantaged families. Which makes them more sad, is none other traffickers are the parents themselves. Trafficking of children is of course different in terms of adopting a child. Adoption of children is based regulation is valid and enforceable. While the trafficking of children, it will only bring misery long for the child. The perpetrators of the sale of children, there are also hiding behind the term adoption of the child. They argue, do it all for the welfare of their children in the future.

The reason is quite reasonable, but do they know that behind it all there is nothing more terrible than poverty. Such as slavery, exploitation of children from various fields, such as sex, and power. Those parents who do that must "be of steel".

The reason they think the humane enough, in fact, immediately countered with their sale and purchase transaction between them. They

“redeem” unborn children who have been for nine months and gave birth to the world to gamble with the lives of only a few bills.

State, in this case the government, in fact, have provided some “ammunition” for protecting the rights of the successor generation of the nation’s children. Countries Indonesia fairly concerned with the problems ini.Terbukti with four kinds of laws that have crucial points with regard to children’s rights issues. Among these, the Child Welfare Law, the Law on Human Rights, the Law of Conservation of the Child, as well as the Criminal Law Act. The application of legal provisions contained in the legislation is in fact got a lot of obstacles. This is in conflict with the social system and cultural roots of Indonesia are mostly still discriminate against children and women.

Of the terms of trade or commerce, in fact we can already understand very well be the purpose of the activity or the activity. Trade is an economic activity that makes an item can be transferred from the first hand of the seller to hand the second is the buyer. In the application of this activity, it allows the transfer of money as well as a locker or in exchange of goods received by both parties. Including in this case child trafficking. Judging from the first term that means that children are trafficked child is considered as the goods are sold from a seller to the buyer, accompanied by a reward for it. These benefits are of course in the form of real money. And that implements selected primary goal of this trading activity. The seller can profit materially from the goods he sold. Likewise, child trafficking is that it’s goal is to make money by selling this child.

Trafficking in children can indeed be done by close relatives such as parents or other relatives. But may be, trafficked children is the result of child abduction or deception. Everything is allowed as long as the objectives can be achieved.

Furthermore, children will look for a buyer. Usually the buyer comes from people who have the intention of create employ or service of the child. For example as cheap labor or even to work in the business protistusi. Trafficking of children is indeed is of mutual advantage for both parties nan do. And all equally have a clear motive is economic motives.

It was clear that the purpose of a person who acts as the seller in terms of doing this is to create a trade-profit or cash. It is clear; that every seller wants to be money. Included in the terms of trade this child. Sellers also want to earn money by selling or trafficking children.

Many reasons or excuses for this seller. For those parents who do this, they often argue that they are in kesemppitan economy so that there is no other way but to sell their children that they can still eat and make a living. Whether it is always appropriate or not. However, if indeed it is right, but it still can not be justified. The Son is God Almighty entrusted to parents. After all the circumstances of parents, they must keep and care for the child. No it was instead traded to the hands of the nan is still unclear.

Or any other person for the kidnappers call it a success or a swindler who have children create dipergadangkan. They still only make economic pretext as an excuse. They need money to survive. They considered that there was nothing else to do but with this child trafficking. They do not have the expertise or ability to create work. While effort was made to get a job is not always an easy thing to make do.

On the other hand, buyers were also want to profit materially from its activities to buy a child. Buyers had to spend some money that can be considered as capital when buying a child. Later when it was using child labor and services of the capital or the money that has been issued can be replaced. In fact, many are expecting that not only



capital back but the buyer can make a profit even more from the child either material or immaterial. The buyer is also still impersonate the pretext of economy. Want to get cheap labor for spending far. Want to get a great return from labor and child services nan has been sold to them.

So it was in the child's trading applications are mutually beneficial interaction between the two sides. And everything is once again based on the motif ekonomi. Tak regardless case of child trafficking in Indonesia are also always base what the relevant parties on economic grounds. They think that there is a lot of profit from the trade in children. That nan became the basis of this rampant cases of child trafficking.

Indonesia, a major destination and transit - with a much lower level - for women, children and men who are victims of sex trafficking and forced labor. Every province in Indonesia, which has 34 provinces, a source and destination of such trade, with West Java, Central Java, East Java, Nusa Tenggara Barat and Banten is a province that became the largest source. Many Indonesian migrant workers in significant numbers experiencing conditions of forced labor and debts in a number of developed countries in Asia and the Middle East, particularly Saudi Arabia, Malaysia, Singapore, Taiwan, and Hong Kong (indonesian.jakarta.usembassy.gov).

Really creepy facts are revealed, considering the problem of trafficking like an iceberg phenomenon that we have not been able to calculate the data for certain until kedasarnya. But the important question of all is why did this happen? Why then arises of trade grounds of sex, debt bondage, and forced labor?

Does not this prove that the policy in the country and abroad, especially in countries that enter into the problem of trafficking, are not able to resolve the problems of this classic with completely down to the roots. Coupled economic

reasons it is clear that the main reason is born of the understanding of capitalism that makes human beings idolize material and the pleasure of living in the world.

## **1. The impact caused by the Human Trafficking**

Victims of Human Trafficking experienced many terrible things. Physical and psychological injuries, including disease and stunted growth, often leaving permanent effect of alienating the victims from their families and communities. Victims of trafficking are often lose their important opportunity to experience the social, moral, and spiritual. In many cases of exploitation of the victims of human trafficking continues to increase: a child trafficked from a forced labor can continue to be treated cruelly elsewhere. In Nepal, girls recruited to work in carpet factories, hotels, and restaurants then forced to work in the sex industry in India. In the Philippines and many other countries, children who initially immigrated or were recruited for the hotel and tourism industry, often ending with trapped in houses of prostitution. A cruel reality of the modern slave trade victims are often transported and sold.

The victims were forced into sex slavery are often sedated with drugs and suffered extraordinary violence. The victims who are trafficked for sexual exploitation suffer physical and emotional injury as a result of premature sexual activity, treated harshly, and suffer from diseases that are transmitted through sexual intercourse, including HIV / AIDS. Some victims suffer permanent injury to the reproductive organs. In addition, the victims are usually traded in a location whose language they do not understand, which adds to the psychological injury as a result of isolation and domination. Ironically, the human ability to endure very poor and deprivation of rights they have enabled many victims were trapped continue

working while hoping eventually to get freedom.

## 2. The shape and modus operandi of human trafficking

In Indonesia, the United Nations Protocol on Trafficking adopted the National Action Plan (NAP) for the Elimination of Trafficking in Women and Children. RAN strengthened in the form of Presidential Decree No. 88 of 2002, mentioned Trafficking in Women and Children are all acts of perpetrators of trafficking that contain one or more of the actions of recruitment among regions and between countries, the alienation, departure, reception and temporary shelter or a place of interest, women and children, By means of threat, use of power verbal and physical, abduction, fraud, deception, abuse of a position of vulnerability (for example when a person has no other choice), insulated, drug addiction, debt trap, giving or receiving of payments or benefits, where women and children are used for the purpose of prostitution and sexual exploitation (including phaedophilia), migrant workers, legal and illegal, adoption, formal employment, mail-order brides, domestic work, begging, pornography industry, illegal drug dealings, the sale of organs, as well as other forms of exploitation. Thus, people can trade the form of:

- 1) The women and children are trafficked for prostitution and other sexual exploitation, including phaedophilia;
- 2) Migrant workers;
- 3) begging children;
- 4) Mail Order;
- 5) The domestic worker;
- 6) The porn industry;
- 7) Distribution of drugs and the sale of organs;
- 8) As well as other forms of exploitation such as:
  - a. prostitution (in the street, brothels, massage parlors, saunas, services of a call

girl)

- b. forced labor (Plantation, catering services, factories etc.)
- c. domestic servitude etc.

Various means are used in the process of trafficking in persons, among others:

- 1) using the means of deception, seduction, lure, coercion, violence and intimidation, even going confinement and rape to the entire process or a part of the process;
- 2) advertising gradually and continuously;
- 3) kidnapping;
- 4) network personal contract;
- 5) "sale" by parents, family-relatives, friends, neighbors, acquaintances, husband,
- 6) debt bondage etc.

Prolegnas Pro Women's Network notes that trafficking including organized crime and the perpetrators are often the people closest to the victim. [7]

Victims of trafficking are often in a difficult situation to get out of the situation that they twisted and control of the trafficking offenders. This is because:

- a) The perpetrator ensure that victims will continue to work as instructed and did not try to escape, by means of strict supervision;
- b) The perpetrator continuously exploit victims, including the system of debt bondage;
- c) The perpetrator seized, seized / eliminate travel documents belonging to the victim;
- d) Scare victims by creating a bad perception of the authorities;
- e) social isolation and language;
- f) creating a negative stigma about the victim so that the victim feels embarrassed;
- g) threats / violence / intimidation / torture of the victim;
- h) The threat of retaliation against the families of the victims, especially those who loved the victim.

This condition will answer the question why they did not report, do not escape and so on.

### **3. Human Trafficking and Modern Slavery in Southeast Asia**

Teams from three countries are investigating the case of modern slavery in the fishing industry in Indonesia. DW interviewing Annette Lyth, the UN coordinator for human trafficking. A week after the Associated Press (AP) published a story about slavery in the fishing industry, delegates from Thailand and Indonesia came to Benjina in archipelagic Aru and freed about 300 fishermen who were deceived leave their country and forced to work for consumers around the world. The case of modern slavery is still a major problem in some Southeast Asian countries. Thailand, for example, last year by the US State Department placed in the ranking of the worst regarding human trafficking, along with Iran, Cuba, Zimbabwe and North Korea.

Here are excerpts of an interview with DW Annette Lyth, Regional Project Manager at the United Nations Action for Cooperation against Trafficking in Persons (UN-ACT). UN agencies have tried to end the practice of human trafficking.

DW: An AP report recently revealed cases of slavery in the fishing industry in Indonesia, with hundreds of foreign fishermen accommodated in remote islands. How they could end up as a slave in Indonesia? Annette Lyth: These people are forced to work on fishing vessels in Indonesian waters: They mainly come with a fishing boat from the port in Thailand. Many have come from Myanmar and Cambodia and seek work in Thailand. Then they were deceived, and finally forced to work on the ship. There are also those who simply want to be looking for work and the crew (ABK), but then found the conditions are not as they had hoped. But they were forced to work and have already been at sea for years. The boats come to Indonesia because there are still abundant fish resources,

which is no longer in the Gulf of Thailand. Once brought here, people have to be supervised and held on remote islands.

#### **a. How widespread is the problem of slavery in Southeast Asia?**

Human trafficking and forced labor is an acute problem in the fishing industry, but also in other industries in Southeast Asia. Industries such as agriculture, manufacturing, construction and domestic work are frequently subjected to human trafficking and forced labor. Labour migration is an important factor in the economy in this region. Therefore, migrant workers are especially vulnerable stuck in this condition. Moreover, because they usually are reluctant or difficult to report their situation to the authorities. International Labor Organization, ILO, in 2012 estimated that there were approximately 20.9 million people worldwide who are in conditions of forced labor. An ILO study in 2014 showed that profit can be scooped in the sector stood at \$ 150 billion. This means that human trafficking is one of the world's largest criminal industry. In the Asia-Pacific region there are about 11.7 million people are victims of human trafficking, the highest figure for a sub-region. Its territory includes Cambodia, China, Laos, Myanmar, Thailand and Vietnam.

#### **b. What is the condition of the slaves when it was discovered in Benjina?**

The condition of those who live and work on board fishing vessels very depressing. It is also one of the reasons why more and more difficult for employers to find workers willing to work in these conditions. The level of violence and exploitation is quite high, varies and depends on the captain of the ship. There are many reports of physical violence and use of weapons. In addition, there is no medical treatment facilities for those who fall ill. Long hours, with little time to sleep in between

work hours. The work itself is quite heavy and dangerous, with equipment that could injure or cause death, especially for workers who exhausted and did not have a sufficient rest period.

**c. From where the fishermen come from?**

Most of Myanmar, Cambodia and Thailand. Some reports said there are also those who came from Laos. Those recruited often those looking for work and trying to migrate, but only a little experience. They are easily duped by the dealer. They are recruited from their hometown, in border areas or places other transit, and at ports.

**d. Why Indonesia and several other countries in the region failed to solve the problem?**

Human trafficking from boat to boat has become a major problem in this area during the last few years. This is due to the depletion of fish stocks in some areas, forcing the fishermen to go further in the sea to find fish. Those who escaped from slavery usually will not be a source of information for the police. Industry is also likely to argue there is a case of slavery. In Indonesia, the number of small islands and very remote locations make it difficult for the competent authority to supervise. In Thailand, the government also had difficulty monitoring, for various reasons. Moreover, the lack of political will also be a barrier. So, this is a very positive development that there is now a more assertive response from several countries.

**4. What steps can the President of Indonesia Joko Widodo to prevent exploitation of this kind?**

Almost all patterns of illegal trade and slavery requires bilateral and multilateral responses, that is, must involve multiple countries with different jurisdictions. Therefore, it needs the

cooperation and joint regulations, for example on the repatriation of victims and criminal justice. Later, the ASEAN Convention against Trafficking in human beings can be an important instrument to combat trafficking more effectively. But it all depends on implementation later.

What Indonesia needs support from international organizations to tackle this illegal practice?

International organizations can support in various areas in terms of capacity building and policy development, data collection and analysis. It also includes trading patterns, the identification and protection of victims, and the criminal justice system.

Suggestions to tackle human trafficking is as follows:

- a. At Community Level
  1. Provide intensive training to the community - a community that does not have the ability to increase the community's economy.
  2. Provide the knowledge of Human Trafficking to the community - the community
  3. Improve community relations so that no mutually utilize for its own sake
  4. Introduce to the community - the community of mode - the mode used the perpetrators of trafficking
- b. At the National Level
  1. Enforcing Law No. 21 of 2007 on the Eradication of Trafficking in Persons
  2. Improving the security of the country to the border guard, both land and sea
  3. Improving security at immigration (permission to leave the country)
  4. Promoting employment
  5. Improving education
  6. Close the discotheques and cafes sexual exploitation
  7. Provide training to prostitutes arrested so

- that they do not come back into the world of the dark
8. Give the death penalty to the perpetrators of human trafficking
  9. Improving the economy of the people - the little people
  10. Conducting two children a better program
  11. It should be done if a national seminar or RTD / FGD that presents the officials in this regard in order to reduce human trafficking syndicate ratings are currently at position no two worlds.
- c. At the Level of Foreign Affairs
1. Enhancing cooperation relations among countries to combat trafficking measures
  2. Hold a joint operation to combat trafficking measures
  3. Establish an organization to combat trafficking in persons.

4. It should be done whether or RTD International seminar / FGD that presents the officials in this regard in order to reduce human trafficking syndicate ratings are currently at position no two worlds.

In Islam, the state in this case is the government, were responsible for the economic needs of the people as the guardian of the women no longer exists or when a family is not able to meet their needs. In addition, the state is able to be the guardians of the faith and the faith of the people where it will be set forth in the rules of the state. So that there may be people who do not want to be sold or practice human trafficking since it is clearly contrary to Islamic law. As well as the Lord Rasul SAW, "and the leader is the custodian of the benefit of society, and he is responsible for them." (HR. Bukhari, Muslim, and Ahmad)