

Prevention of Employment-Based Human Trafficking: A Comparative Review Between Indonesia and South Korea

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Abstract

One of the biggest exporters of migrant laborers from Asia is Indonesia. It is common for migrant workers to be exploited in a number of ways, both legal and illicit. In 2020, women were the majority of the detected victims, with a percentage of 58% compared to the percentage of men at 18%. Based on Global Organized Crime Index data on Ranking by Human Trafficking, the Republic of Korea is ranked 129th out of 193 nations worldwide and 35th out of 46 countries in Asia. This paper will examine the regulation of prevention of persons and the comparison of prevention of persons regulations in Indonesia and the Republic of Korea. The methodology of this research is used Normative-Empirical and uses prescriptive analysis. The approach used is the statute approach. The prevention of human trafficking in Indonesia is a violation of human rights that arises as a result of

exploitation and human trafficking. In the comparison of human trafficking regulations between Indonesia, namely Law Number 21 of 2007 with the Republic of Korea (Act on Prevention of Human Trafficking and Protection of Victims) there are numerous regulations that have not been regulated in Indonesia

Keywords

Trafficking in persons, migrant workers, prevention

Introduction

Human trafficking occurs in one of the Southeast Asian countries, Indonesia, which is an area where human trafficking indirectly has a number of relationships related to human trafficking, namely as a country of origin, intermediary, and destination. If trafficking used to mean moving women by coercion across national borders, trafficking means moving someone by force, especially women and children with or without their knowledge, either in the context of labor exploitation, prostitution, or in the event of an unequal marriage.¹

One of the biggest exporters of migrant laborers from Asia is Indonesia. It is common for migrant workers to be exploited in a number of ways, both legal and illicit. Illicit transportation has historically been related to "slavery" as a crime of human trafficking. The phenomenon and reality of "slavery" also referred to as "modern slavery" worry the government greatly which is a form of human trafficking crime, especially for women and children. Compared to men, women and children are susceptible to violence, particularly when it comes to human trafficking, which is a metaphor for modern slavery.²

Regarding the eradication of trafficking in persons in 2000, where the United Nations has formulated a protocol with the aim of preventing, handling and punishing traffickers, especially victims who are women and children in the "United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and

¹ Fadillah, A. N., Muammar, & Antio, S. la. (2022). Perdagangan Orang (Human Trafficking): Aspek Kekerasan terhadap Perempuan di Indonesia. *SANISA: Jurnal Kreativitas Mahasiswa Hukum*, 2(2), 81–91

² Alhakim, A., Situmeang, A., & Mashita, J. A. N. (2023). Peran Imigrasi Dalam Pencegahan Dan Pengawasan Tindak Pidana Perdagangan Orang Menurut Perspektif Imigrasi Kota Batam. *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 9(3), 322–338

Children” The Palermo Protocol was formulated in order to strengthen and improve optimal cooperation between countries in various parts of the world in order to protect and overcome cases of human trafficking, and also in terms of publicizing related protection and assistance for victims. In addition to dealing with and penalizing traffickers, the Palermo Protocol also has the task of taking accurate action in producing legislation in combating problems related to human trafficking. After the UN formulated the Palermo Protocol, the Indonesian government produced a law related to the Eradication of Trafficking in Persons, Law No. 21/2007 on Trafficking in Persons on April 19, 2007, which provides legal protection, both directly and indirectly, for victims and potential victims. The 2000 Palermo Protocol formulated by the United Nations indicates that human trafficking is a crime against humanity that must be eradicated.³

In 2020, the majority of woman victims in East Asia and the Pacific were 58% of them, compared to 18% of men. In contrast, fewer children were detected as trafficking victims with girls at 21% and boys at 3%. In East Asia and the Pacific in 2020, forced labor was the most prevalent form of exploitation that was discovered. The percentage of tracked victims of forced labor grew by nearly twice as much as other detected exploitation in East Asia, rising from 29% to 54% between 2018 and 2020. According to case studies provided by national authorities, victims of sexual exploitation in East Asia and the Pacific are more likely to be exploited in public, easily accessible places like bars, massage parlors, saunas, and hotels. Merely 50% of the victims found in the area were trafficked in their own nation. Within the immediate region, a third more were found to have crossed borders to neighboring countries. The majority of foreign victims of trafficking who have been found in East Asia, the Pacific, and other regions are most likely from South Asia.⁴

The importance of preventing human trafficking is reflected in the realization that this phenomenon not only harms individual victims,

³ Pratama, N., Kurniawati, & Kamisah, N. (2022). Tinjauan Yuridis antara Hukum Nasional dan Hukum Internasional terhadap Pelaku Tindak Pidana Perdagangan Orang. *Aufklarung: Jurnal Pendidikan, Sosial Dan Humaniora*, 2(4), 377–386

⁴ United Nation Office on Drug and Crime. (2022). *Global Report on Trafficking in Persons* 2022. https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf

but also damages social balance and threatens national security. Therefore, Law 21/2007 emphasizes the need for cross-sectoral cooperation between the government, non-governmental organizations, and the community in addressing this issue. Various preventive measures have been taken, such as increasing public understanding of the signs of human trafficking, increasing border surveillance, and developing in-depth education programs to prevent victims from becoming easy targets for traffickers. The prevention and handling of human trafficking under Law 21/2007 reflects Indonesia's commitment to protecting human rights and creating a safe environment from exploitation. It is hoped that by involving multiple stakeholders, such as the government, community, and non-governmental organizations, these efforts can significantly improve the situation regarding the eradication of human trafficking and the protection of vulnerable victims.⁵

The Indonesian government was crucial to the fight against human trafficking because it is a type of international crime that violates people's human rights and contradicts humanity's dignity. Additionally, it is imperative that all relevant parties—including the government, society, business community, media, and other stakeholders—take appropriate, comprehensive action. This method is then also used as a basic instrument that can guarantee the various developments that have been achieved, including the various challenges and problems faced in the implementation of the Law. Systematic preventive efforts of human trafficking between the Central, Provincial, District/City Task Forces. Thus, the function of the National Action Plan or Regional Action Plan is to help formulate policies, programs and activities.⁶

Prevention of human trafficking crimes is more important than eradication because it is extremely difficult to identify the perpetrators of human trafficking crimes, let alone arrest and prove the crime. Therefore, eradicating the crime of human trafficking requires cooperation with other law enforcement organizations, including the

⁵ Seftiniara, I. N., Bima, M. C., & Setiawan, D. (2024). Upaya Pencegahan Dan Penangan Tindak Pidana Perdagangan Orang Berdasarkan UU 21 Tahun 2007 Tentang Perdagangan Orang. *Jaksa: Jurnal Kajian Ilmu Hukum Dan Politik*, 2(2), 196–203

⁶ Widani, D. K. (2022). Peran Gugus Tugas Pencegahan Dan Penanganan Dalam Menangani Perdagangan Orang Di Indonesia Tahun 2015-2019. *UII*

prosecutor's office, the courts, and the community. Everybody in the community was advised not to panic and to notify the authorities right away if they became aware of any alliances or groups involved in human trafficking cases. The police hope this cooperation will contribute to eradicating human trafficking crimes.⁷

However, there are obstacles in eradicating the crime of trafficking in persons that are quite often encountered by the Police in handling the crime of trafficking in persons, namely most victims, namely women and children, choose not to report cases of trafficking in persons to authorized law enforcement officials. The incident is because the victim feels embarrassed and afraid, as a result the Police have difficulty in obtaining information related to the crime. Victims feel ashamed if they report to the police because the community will find out that they are victims of human trafficking which results in their name being tarnished in their neighborhood. The victim's fear in reporting the crime was due to threats from the perpetrator in the form of violence.⁸

Based on Global Organized Crime Index data on Ranking by Human Trafficking, the Republic of Korea is ranked 129th out of 193 nations worldwide and 35th out of 46 countries in Asia. Indonesia is ranked 20th out of 193 countries in the world and 8th out of 46 countries in Asia. From the country's strict containment score, the Republic of Korea is ranked 5th out of 193 nations worldwide and is ranked 1st out of 46 countries in Asia. Meanwhile, Indonesia is ranked 123rd out of 193 countries in the world and 23rd out of 46 countries in Asia.⁹

Journal related to the title “Prevention of Employment-Based Trafficking: A Comparative Review between Indonesia and South Korea” has never been written. However, there are related to the comparison of regulations written previously in 2022 by Heni Susanti,

⁷ Jafar, E., Mutthu, Z. Z., Monoarfa, N., & Kleden, K. L. (2023). Tantangan dan Strategi Penanganan Tindak Pidana Perdagangan Orang. *Seminar Nasional-Hukum Dan Pancasila*, 2, 2–23

⁸ Zakiri, Z., & Mahfud, M. (2017). Tindak Pidana Perdagangan Orang (Suatu Penelitian Di Wilayah Hukum Pengadilan Negeri Jantho Aceh Besar). *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana*, 1(1), 190–198

⁹ Global Organized Crime Index. (2023). *Comparison of Criminality Between Republic of Korea and Indonesia*. https://ocindex.net/country/korea_rep/indonesia

Syafrinaldi, and Wira Atma Hajri on “Comparison of Legal Rules on the Crime of Trafficking in Persons in Indonesia and Malaysia”. The writing discusses the elements of the Crime of Trafficking in Persons according to Law No.21 of 2007 concerning TPPO and Act 670 of the Malaysian Act on Anti-trafficking in Persons and Anti-Migrant Smuggling 2007 and the legal rules of the Crime of Trafficking in Persons in Malaysia. In the paper, there are a number of advantages in the regulation of the Crime of Trafficking in Persons regarding the imposition of witnesses which are more stringent when compared to the Act 670 of the Anti-Trafficking in Persons Act. There are a number of basic punishments in the Trafficking in Persons Act, namely imprisonment, confinement and fines. Adding up, the Act is like a legal mouthpiece for the crime of trafficking in persons. In Indonesia, there are 5 additional punishments related to corporations as contained in Article 15 paragraph (2). Whereas in the Malaysian Anti-Trafficking in Persons Act there are only 2 types of main punishment, namely imprisonment and fines, besides that there are no additional punishments in the Malaysian Anti-Trafficking in Persons Act.¹⁰

Based on the introduction that has been described, there are 2 problem formulations. First, how is the Regulation on Prevention of Human Trafficking in Persons? Second, how is the Trafficking of Persons Regulation Compared between Indonesia and South Korea?

Methods

The type of research used is the Normative-Empirical type (applied law research), namely a study that examines the application and implementation of positive law or legislation factually on a number of certain legal events that occur in society in order to achieve predetermined goals. Then this research uses prescriptive analysis. Prescriptive analysis is an analysis with the aim of providing explanations or formulating problems in accordance with existing situations and conditions. The approach used is a statute approach

¹⁰ Susanti, H., Syafrinaldi, & Hajri, W. A. (2022). Perbandingan Aturan Hukum tentang Tindak Pidana Perdagangan Orang di Indonesia dan Malaysia. *Kodifikasi*, 4(1), 91–108

which examines all laws and regulations which relate to the legal issues being addressed.¹¹

Result, Discussion and Analysis

1. The Regulation on Prevention of Human Trafficking

Various consequential efforts in overcoming, handling and overcoming and protecting the occurrence of crime are not only by penal means (criminal law), but can apply non-penal means. Examples of non-penal means are accommodating social education in terms of increasing responsibility as a citizen, managing public mental health with guidance on ethics, religion and so on, increasing security efforts for children and adolescents, patrol activities and other inspections that are regularly carried out by both the police and other security agencies. These efforts can cover a very broad aspect of the state's field of activity. Criminal law provides two main purposes: first, to prevent crime; second, to verify that the government has fulfilled its legal responsibilities and obligations when combating crime. Criminal law is a component of criminal politics in the duty to combat crime, in addition to non-penal measures that do not apply criminal law in terms of crime prevention. In this case, the presence of criminal law must be consistent with non-penal measures to prevent crime. Especially in its position as the *ultimum remedium*, the application of criminal regulations must prioritize non-penal means unless these efforts can no longer be used.¹²

In criminal law, there are 2 theories of prevention, namely general prevention theory (*algemene preventif theorieen*), which is intended to be obtained solely to provide a deterrent effect to everyone so as not to commit a criminal offense and special prevention theory (*bijzondere preventie theorieen*), which is intended to be obtained in this case in addition to providing a deterrent effect, can fix and cause the perpetrator of the crime not to repeat the mistake in the future. Grolman's view as a supporter of the theory of special prevention states that the purpose of punishment is to protect and safeguard the

¹¹ Marzuki, P. M. (2017). *Penelitian Hukum: Edisi Revisi* (14th ed.). Kencana

¹² Maroni. (2017). *Pengantar Politik Hukum Pidana*. Aura

community by making the perpetrators of criminal acts not rioting and providing a deterrent effect to the perpetrators of criminal acts. Criminal law has the aim to protect society, expecting a sense of welfare, order, and balance. Welfare for the entire community means having a sense of freedom from all fears of the probability of a criminal offense. Regularity that exists in a situation where there is a relationship between one individual and another that is harmonious and sustainable in accordance with what should or should not be.¹³

Policies to prevent and tackle crime by including the community and by working together at the regional, national and international levels are explicitly reflected as key elements in reducing crime. If these methods are successful and run smoothly, the number of victims of crime will be reduced and crimes can be overcome. One of the advantages of crime prevention efforts outside the criminal law is that it can be used in dealing with cases of trafficking in persons. The statement in the UN Congress on “the Prevention of Crime and the Treatment of Offenders” expressed the opinion that social, economic, and cultural conditions as well as the structure of society are considered to have a role and responsibility in the emergence of a crime.¹⁴

The urgency of preventing human trafficking is evident in the problem of human trafficking in Indonesia, where it was found that there were human rights violations resulting from cases of exploitation and human trafficking, such as violations of the right to freedom as well as personal independence. Victims of human trafficking cases are often tortured and kept in illegal ways. Violation of the right to dignity or inadequate treatment: victims of human trafficking frequently receive inhumane treatment, such as physical violence, sexual harassment, discriminatory treatment, and inadequate housing. Violation of the right to comfort and safety where victims of human trafficking live in unhealthy and

¹³ Saraswati, P. S. (2015). Fungsi Pidana Dalam Menanggulangi Kejahatan. *Jurnal Advokasi*, 5(2), 139–154

¹⁴ Syaputra, R. H. (2023). Upaya Penanggulangan Perdagangan Orang (Human Trafficking) di Kota Bandar Lampung. *Repository Unila*

unsafe conditions. Violation of children's rights, where child victims are forced to do dangerous work, sexual trafficking, or forced labor. Violation of women's rights where women are victims of sexual trafficking, forced marriage, or exploitation. Migrant rights violations where migrant workers seeking work abroad often experience labor exploitation, unfair work contracts, abuse, and poor working environments. Human rights violations found in human trafficking cases in Indonesia destroy lives and human values. Therefore, the government, law enforcement officials, and the community must unite in eradicating human trafficking, strengthening the protection of human rights, as well as enforcing the law so that such exploitation does not happen again.¹⁵

Crime prevention can start with prevention and end with legal action, which are elements of formal criminal law. In turn, both formal and material criminal law are covered by crime prevention. Forms and types of material criminal offenses include those that fall under the categories of special offenses governed by laws other than the Criminal Code and general criminal offenses as defined by the Criminal Code. One of these is the offense of human trafficking, which is defined by Law No. 21 of 2007. There are aspects of human trafficking that are detrimental to the safety, upkeep, and well-being of society. Legal policy on the mode of trafficking in persons related to security, protection and public welfare must be applied in cases of trafficking in persons, so that the regulations on trafficking in persons can be implemented properly. Economic hardship, a lack of education, marital discord or divorce, natural disasters, and gender bias are all contributing factors to human trafficking. Furthermore, Indonesia's geographic location is significant. The nation's financial situation, legal protections, laws pertaining to human rights, lack of moral interpretation, and low religious values can all have an impact on the desire of victims of human trafficking to seek employment abroad, where high salaries are offered and

¹⁵ Restanto, A. D., & Pangestika, E. Q. (2023). Perdagangan Manusia di Indonesia: Pelanggaran HAM dan Urgensi Penegakan Hukum. *Jurnal Pendidikan Tambusai*, 7(2), 14856–14864

no specialized skills are required. This is due to the fact that victims of human trafficking seldom have the chance to work domestically and that working overseas is encouraged by both the victim's local community and society as a whole.¹⁶

The role of law is crucial in tackling human trafficking in Indonesia. Success in tackling human trafficking depends on cross-sector and cross-country cooperation. The law as the main instrument must be supported by strong collaboration between the government, non-governmental organizations, and the private sector. Information exchange mechanisms, cooperation in investigations, and joint law enforcement between countries are key to effective counter-trafficking efforts. In addition, prevention efforts are also an important focus of the law's role in tackling human trafficking. The law must play a proactive role in detecting and preventing human trafficking practices before they occur. This involves strengthening border controls, strictly regulating related industries such as the hospitality and tourism industries, and public education and awareness on the signs of human trafficking. In addition, the role of law enforcement agencies is also important in tackling human trafficking. Capacity building, training, and coaching of law enforcement officers to have adequate knowledge and skills in handling human trafficking cases in a professional and victim-sensitive manner is needed. In addition, the role of monitoring and evaluation systems is also very important in assessing the effectiveness of relevant articles in Indonesian law. Through an effective monitoring system, the government can identify obstacles in law enforcement and take necessary steps to improve its effectiveness. By strengthening the implementation of articles, encouraging the active participation of various stakeholders, and adopting a human rights-based approach in countering human trafficking, it is hoped that Indonesia can more effectively address the challenge of human trafficking. Taken together, these efforts will provide a solid

¹⁶ Waworuntu, H. B. (2022). Tinjauan Yuridis Human Trafficking Sebagai Kejahatan Transnasional Menurut Hukum Nasional Dan Hukum Internasional. *Lex Privatum*, 10(2)

foundation for tackling human trafficking and protecting human rights at large in Indonesia.¹⁷

In order to prevent transnational crimes, organizations such as ASEANAPOL, AMMTC, ACMW, AICHR were established. ASEANAPOL (ASEAN Chiefs of Police Organization) is responsible for facilitating law enforcement cooperation between police forces of ASEAN member states to cooperate in sharing intelligence, conducting joint training, and coordinating law enforcement actions to prevent transnational crimes by exchanging criminal data, integrated databases, and fast communication channels. Effective information exchange helps in detecting, preventing, and dealing with transnational crimes more efficiently. AMMTC (ASEAN Ministerial Meeting on Transnational Crime) is a ministerial forum responsible for policy coordination and cooperation in addressing transnational crime by discussing and coordinating crime prevention policies and strategies. The ASEAN Committee on Migrant Workers (ACMW) is an institution established to promote and protect the rights of migrant workers in the ASEAN region in strengthening legal protection, improving decent working conditions, and facilitating the exchange of information related to labor migration among member states. The ASEAN Intergovernmental Commission on Human Rights, or AICHR, is an organization entrusted with advancing and defending human rights throughout the ASEAN area to guarantee the protection of migrant workers' rights. This includes developing and overseeing pertinent mechanisms in order to fortify collaboration with regional and global organizations and institutions in order to improve the protection of human rights in the context of migration.¹⁸

2. Trafficking of Persons Regulation Compared between Indonesia and South Korea

¹⁷ Silaban, D. S. (2024). Peran Hukum dalam Menanggulangi Perdagangan Manusia di Indonesia. *Tugas Mahasiswa Fakultas Hukum*, 1(2), 1–11

¹⁸ Karunia, F. S., Rahmat, R. C., & Qolby, A. A. (2023). Kebijakan ASEAN dalam Merespon Fenomena Migrasi dan Pencegahan Kejahatan Transnasional Melalui Lembaga Sektor ASEAN. *Journal of Law and Border Protection*, 5(1), 71–82

Indonesia (UU Nomor 21 Tahun 2007)	Republic of Korea (Act on Prevention of Human Trafficking and Protection of Victims)
<p>Article 58</p> <p>(1) To implement the eradication of criminal acts of trafficking in persons, the Government and Regional Governments are obliged to make efforts to prevent and handle criminal acts of trafficking in persons.</p> <p>(4) The task force as referred to in paragraph (2) and paragraph (3) is a coordinative institution in charge of</p> <ol style="list-style-type: none"> a) coordinate efforts to prevent and handle criminal acts of trafficking in persons b) implementing advocacy, socialization, training, and cooperation; c) monitoring the progress of the implementation of victim protection including rehabilitation, repatriation, and social reintegration; d) monitoring the progress of law enforcement implementation; and e) carry out reporting and evaluation. 	<p>Article 8 (Formulation of Comprehensive Plans for Prevention of Human Trafficking)</p> <p>(2) A comprehensive plan shall include the following:</p> <ol style="list-style-type: none"> 1. Basic direction-setting for policies to prevent human trafficking, etc. and to protect and support victims; 2. Domestic and international policy trends in human trafficking, etc.; 3. Analysis of the current status of a crime of human trafficking, etc. and victims; 4. Matters regarding preventing human trafficking, etc.; 5. Matters regarding identifying, protecting, and supporting victims; 6. Matters regarding improving systems related to preventing human trafficking, etc. and protecting victims; 7. Plans to raise and manage funds for implementing policies for preventing human trafficking, etc. and protecting and supporting victims; 8. Matters regarding the sharing of roles among central administrative agencies related to policies for preventing human trafficking, etc. and protecting and supporting victims; 9. Other matters prescribed by Presidential Decree, which are necessary for preventing human trafficking, etc. and protecting and supporting victims.
<p>Article 57 (1) The Government, local governments, communities, and families shall prevent the crime of trafficking in persons.</p> <p>Explanation of Article 57 Paragraph (1) What is meant by "Government" in this provision is the agency that carries out affairs in the fields of, among others, education, women's empowerment, and labor, law and human rights, communication and information. "Regional Government" in this provision includes provinces and regencies/municipalities.</p>	<p>Article 9 (Council for Policy Coordination on Prevention of Human Trafficking)</p> <p>(2) The Policy Council shall be composed of up to 15 members, including the chairperson; the Minister of Education concurrently serving as the Deputy Prime Minister shall serve as the chairperson; the Minister of Gender Equality and Family as the vice chairperson; and the following persons as its members:</p> <ol style="list-style-type: none"> 1. The Minister of Justice; 2. The Minister of Culture, Sports and Tourism; 3. The Minister of Health and Welfare; 4. The Minister of Employment and Labor; 5. The Minister of Oceans and Fisheries;

	<p>6. The Commissioner General of the Korean National Policy Agency;</p> <p>7. The Commissioner General of the Korea Coast Guard;</p> <p>8. The heads of relevant central administrative agencies prescribed by Presidential Decree;</p> <p>9. A person commissioned by the chairperson from among those with extensive knowledge of and experience in preventing human trafficking, etc. and protecting supporting victims.</p>
<p>Article 61, For the purpose of preventing and handling victims of trafficking in persons, the Government is obliged to open the widest possible access to community participation, both national and international in accordance with the provisions of applicable laws, laws and international <u>customs.</u></p>	<p>Article 12 (Raising Awareness of Prevention of Human Trafficking)</p> <p>The State and a local government shall conduct publicity campaigns through various media, such as broadcasting, newspapers, and the Internet, to prevent human trafficking, etc. and protect and support victims.</p>
	<p>Article 11 (Education)</p> <p>(1) The State and a local government shall provide education on identification of victims of human trafficking, etc. and other matters to any of the following persons in order to prevent human trafficking, etc. and protect and support victims, and shall submit the results of such education to the Minister of Gender Equality and Family:</p> <ol style="list-style-type: none"> 1. A person who has the duty to file a report under Article 21 (2); 2. A person who works for a dedicated medical institution under Article 29; 3. A person who works for a facility for supporting victims of human trafficking, etc. under Article 33; 4. An immigration control official in charge of the duties prescribed in Articles 25-2 and 46-2 of the Immigration Act; 5. A labor inspector under Article 101 (1) of the Labor Standards Act; 6. A seafarers' labor supervisor under Article 125 (1) of the Seafarers' Act; 7. A person who works for a <u>State</u> agency related to investigations into and trials on crimes of human trafficking, etc.; 8. Other persons who work for institutions prescribed by Presidential Decree.
	<p>Article 14 (Issuance of Victim Certificates)</p>

	<p>(1) A person who suffers damage from human trafficking, etc. or a person who has the duty to file a report under Article 21 (2) may request the Minister of Gender Equality and Family to issue a certificate.</p> <p>(4) The Minister of Gender Equality and Family may delegate the issuance of certificates to the Central Agency for Protection of Rights and Interests of Victims of Human Trafficking, etc. established under Article 15.</p>
	<p>Article 22 (Duty to Take Emergency Measures)</p> <p>(1) Upon receipt of a report on damage from human trafficking, etc., an employee of an agency for protection of rights and interests of victims or a judicial police officer shall go to the scene of human trafficking, etc. without delay. In such cases, the head of an agency for protection of rights and interests of victims or the head of an investigative agency may request each other to have an employee or judicial police officer accompany the other party, and upon receipt of such request, they shall instruct an employee or a judicial police office to do so unless there is good reason.</p> <p>(2) A person who goes to the scene of human trafficking, etc. under paragraph (1) shall separate a victim from a person who commits human trafficking, etc., or shall transfer the victim to an agency for protection of rights and interests of victims or a medical institution if medical treatment is deemed necessary.</p> <p>(3) A person who goes to the scene of human trafficking, etc. under paragraph (1) may access the scene and investigate or question a reporting person, etc., a relevant person, and any other person to protect a victim. In such cases, an employee of an agency for protection of rights and interests of victims may conduct an investigation or ask a question only to the extent necessary for protecting the victim.</p> <p>(4) A person who accesses the scene of human trafficking, etc. and conducts an investigation or asks a question under paragraph (3) shall carry identification indicating his or her authority and present it to a reporting person, etc., a relevant person, and any other person.</p>

	<p>(5) A person who conducts an investigation or asks a question under paragraph (3) shall take necessary measures, such as separating a reporting person, etc., a relevant person, and any other person from a person who commits human trafficking, etc. for investigation, so that they can make a statement freely.</p> <p>(6) No person shall refuse on-site investigations conducted by a person who is at the scene of human trafficking, etc., or obstruct his or her duties.</p>
	<p>Article 26 (Support for Employment of Victims)</p> <p>(1) The State and a local government may provide support for employment of a victim, etc., such as vocational training and job matching.</p> <p>(2) Matters necessary for the scope of persons eligible for support for employment and supporting employment shall be prescribed by Presidential Decree.</p>
	<p>Article 30 (Assistance with Livelihood Recovery)</p> <p>(1) Where there occurs any unavoidable reason that makes it impracticable to protect victims, etc. through a facility for supporting victims of human trafficking, etc. established under Article 33, such as that the facility is at full capacity, the State and a local government may provide victims, etc. with goods, money and valuables, etc., that are essential to their daily lives, within the budget, fully considering their living conditions, abilities to maintain livelihood, and other matters, so that they maintain the minimum livelihood.</p> <p>(2) Matters necessary for the scope of and procedures for assistance with livelihood recovery under paragraph (1) and other matters shall be prescribed by Presidential Decree.</p>
	<p>Article 33 (Establishment and Operation of Support Facilities)</p> <p>(3) Types of support facilities shall be as follows:</p> <ol style="list-style-type: none"> 1. A general support facility: A facility that provides victims, etc. with accommodation and food and supports their self-reliance; 2. A support facility for persons with disabilities: A facility that provides victims, etc. who are persons with disabilities with accommodation and food and supports their self-reliance; 3. A support facility for children and youth: A facility that provides victims, etc. who are children

	<p>or youth with accommodation and food and supports their self-reliance by helping them enter school, offering education, and using other means;</p> <p>4. A support facility for foreigners: A facility that provides victims, etc. who are foreigners with accommodation and food and supports them in returning to their home countries;</p> <p>5. A community facility for supporting self-reliance: A facility that provides persons who leaves a support facility prescribed in subparagraphs 1 through 4 with accommodation and other forms of convenience and supports their self-reliance.</p>
	<p>Article 36 (Revocation of Designation of Support Facilities)</p> <p>(1) Where a support facility designated under Article 33 (2) falls under any of the following cases, a Mayor/Do Governor or the head of a Si/Gun/Gu may revoke such designation or order the support facility to suspend its business operations: Provided, <u>That</u> in cases falling under subparagraph 1, the designation shall be revoked:</p> <ol style="list-style-type: none"> 1. Where it is designated by fraud or other improper means; 2. Where it fails to meet the standards for designation under Article 33 (6); 3. Where it is operated for profits in violation of Article 39; 4. Where it fails to comply with a corrective order issued under Article 45 (3); 5. Other cases where there exist any grounds prescribed by Presidential Decree.
	<p>Article 48 (Penalty Provisions)</p> <p>(1) Any of the following persons shall be punished by imprisonment with labor for up to three years or by a fine not exceeding 30 million won:</p> <ol style="list-style-type: none"> 1. A person who violates Article 38 (2) of the Act on Special Cases concerning the Punishment of Sexual Crimes which is applied mutatis mutandis under Article 18; 2. A person who takes any of the following disadvantageous measures against a person who files a report on damage from human trafficking, etc., in violation of Article 21 (3): <ol style="list-style-type: none"> (a) Dismissal, release from office, discharge, or other disadvantageous measures equivalent to the loss of status;

	<p>(b) Disciplinary actions, suspension from office, reduction of wages, demotion, restrictions on promotion, or other unjust personnel measures;</p> <p>(c) Change of positions, transfer, non-assignment of duties, re-assignment of duties, or other personnel measures against a person's will;</p> <p>(d) Discrimination in performance evaluations, peer reviews, etc., or differential payment of wages, bonuses, etc. based thereon;</p> <p>(e) Restricting opportunities for education and training aimed to develop and improve vocational capabilities; limiting or removing available resources, such as budgets or human resources; suspending the use of security information or confidential information or revoking authority to handle such information; or discriminating or taking measures against a person that adversely affect his or her working conditions, etc.;</p> <p>(f) Preparing a list of persons subject to surveillance or disclosing such list, or committing any act that causes physical or mental harm, such as group bullying, assault, and verbal abuse;</p> <p>(g) Conducting an unjust audit or investigation of duties, or disclosing the results thereof;</p>
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Indonesia operates as a source, transit, and destination country for victims of human trafficking. Traffickers in Asia and the Middle East use coercion, including violence and debt, to take advantage of Indonesians. Every year, labor recruitment agencies send women and children abroad to be exploited. These women and their children are also forced to engage in the drug trade in addition to being employed as domestic workers. Working-class Indonesians are now more vulnerable as a result of the pandemic, particularly women and children, who have lost their savings and are more likely to be exploited. In fact, it is anticipated that the scope of human trafficking in the nation will rise. In order to combat organized crime, which includes drug abuse, forced labor, and human trafficking, Indonesia has developed a preventive strategy. To tackle these issues, the government has distributed awareness materials and formed a number of task forces. NGOs, however, expressed doubts about the government's ability to stop forced labor trafficking despite its ban on Indonesian fishermen working aboard foreign vessels. Additionally, the government does not

have standard operating procedures for proactively identifying victims and referring them to services for rehabilitation.¹⁹

In order to combat organized crime, which includes drug cartels, human trafficking, financial crimes utilizing cyber technology, and people smuggling, the Republic of Korea participated in international cooperation. The nation collaborates closely with agencies like INTERPOL and Europol to exchange information and plan operations, and it is a signatory to a number of conventions and protocols. In general, the Republic of Korea's proactive initiatives to advance understanding of international police cooperation and mutual aid against transnational crime show promise for a positive present and future in the fight against organized crime's underlying causes. An effective response to organized crime is made possible by the Republic of Korea's stringent legal framework, which is designed to prevent and combat a variety of criminal activities. Additionally, membership in or formation of criminal organizations is sanctioned. The nation continuously modifies its legal system to deal with new and dangerous types of criminal activity.

Based on the comparison of human trafficking regulations between Indonesia and the Republic of Korea, the arrangements that Indonesia should make are related to education on indications of human trafficking to people working for medical institutions, people working in facilities supporting victims of human trafficking, immigration supervisory officials, labor inspectors, and labor inspectors working for State institutions. In addition, it is related to the issuance of a victim's certificate, the obligation to take emergency measures after receiving a report on human trafficking, providing support for the victim's employment, livelihood restoration, and the provision of support facilities such as accommodation and food, as well as the revocation of support facilities if there is fraud or for profit

Conclusion

Policies to prevent and deal with human trafficking by including the community as well as through cooperation at the local, national and international levels are explicitly reflected as key elements in the reduction of crime. In preventing human trafficking in the context of

¹⁹ Global Organitazion Crime Index. (2023). *Indonesia*. <https://ocindex.net/country/indonesia>

human trafficking in Indonesia, there are human rights violations that occur as a result of exploitation and human trafficking. In the comparison of human trafficking regulations between Indonesia, namely Law Number 21 of 2007 and the Republic of Korea (Act on Prevention of Human Trafficking and Protection of Victims), there are numerous regulations that have not been regulated in Indonesia, namely regulations regarding education on the identification of victims of human trafficking, issuance of victim certificates, obligation to take emergency measures, assistance for victim employment, livelihood restoration assistance, establishment and operation of supporting facilities, revocation of supporting facilities, and legal provisions.

References

- Alhakim, A., Situmeang, A., & Mashita, J. A. N. (2023). Peran Imigrasi Dalam Pencegahan Dan Pengawasan Tindak Pidana Perdagangan Orang Menurut Perspektif Imigrasi Kota Batam. *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 9(3), 322–338.
- Fadillah, A. N., Muammar, & Antio, S. Ia. (2022). Perdagangan Orang (Human Trafficking) : Aspek Kekerasan terhadap Perempuan di Indonesia. *SANISA: Jurnal Kreativitas Mahasiswa Hukum*, 2(2), 81–91.
- Global Organitazion Crime Index. (2023). *Indonesia*. <https://ocindex.net/country/indonesia>
- Global Organized Crime Index. (2023). *Comparison of Criminality Between Republic of Korea and Indonesia*. https://ocindex.net/country/korea_rep/indonesia
- Jafar, E., Mutthu, Z. Z., Monoarfa, N., & Kleden, K. L. (2023). Tantangan dan Strategi Penanganan Tindak Pidana Perdagangan Orang. *Seminar Nasional-Hukum Dan Pancasila*, 2, 2–23.

- Kadarudin. (2021). *Penelitian Di Bidang Ilmu Hukum (Sebuah Pemahaman Awal)*. Formaci.
- Karunia, F. S., Rahmat, R. C., & Qolby, A. A. (2023). Kebijakan ASEAN dalam Merespon Fenomena Migrasi dan Pencegahan Kejahatan Transnasional Melalui Lembaga Sektoral ASEAN. *Journal of Law and Border Protection* , 5(1), 71–82.
- Maroni. (2017). *Pengantar Politik Hukum Pidana*. Aura.
- Marzuki, P. M. (2017). *Penelitian Hukum: Edisi Revisi* (14th ed.). Kencana.
- Pratama, N., Kurniawati, & Kamisah, N. (2022). Tinjauan Yuridis antara Hukum Nasional dan Hukum Internasional terhadap Pelaku Tindak Pidana Perdagangan Orang. *Aufklarung: Jurnal Pendidikan, Sosial Dan Humaniora* , 2(4), 377–386.
- Restanto, A. D., & Pangestika, E. Q. (2023). Perdagangan Manusia di Indonesia: Pelanggaran HAM dan Urgensi Penegakan Hukum. *Jurnal Pendidikan Tambusai* , 7(2), 14856–14864.
- Saraswati, P. S. (2015). Fungsi Pidana Dalam Menanggulangi Kejahatan. *Jurnal Advokasi* , 5(2), 139–154.
- Seftiniara, I. N., Bima, M. C., & Setiawan, D. (2024). Upaya Pencegahan Dan Penangan Tindak Pidana Perdagangan Orang Berdasarkan UU 21 Tahun 2007 Tentang Perdagangan Orang. *Jaksa: Jurnal Kajian Ilmu Hukum Dan Politik*, 2(2), 196–203.
- Silaban, D. S. (2024). Peran Hukum dalam Menanggulangi Perdagangan Manusia di Indonesia. *Tugas Mahasiswa Fakultas Hukum* , 1(2), 1–11.

- Susanti, H., Syafrinaldi, & Hajri, W. A. (2022). Perbandingan Aturan Hukum tentang Tindak Pidana Perdagangan Orang di Indonesia dan Malaysia. *Kodifikasi* , 4(1), 91–108.
- Suyanto. (2023). *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris dan Gabungan*. Unigres Press.
- Syaputra, R. H. (2023). Upaya Penanggulangan Perdagangan Orang (Human Trafficking) di Kota Bandar Lampung. *Repository Unila*.
- United Nation Office on Drug and Crime. (2022). *Global Report on Trafficking in Persons 2022*.
https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf
- Waworuntu, H. B. (2022). Tinjauan Yuridis Human Trafficking Sebagai Kejahatan Transnasional Menurut Hukum Nasional Dan Hukum Internasional. *Lex Privatum* , 10(2).
- Widani, D. K. (2022). Peran Gugus Tugas Pencegahan Dan Penanganan Dalam Menangani Perdagangan Orang Di Indonesia Tahun 2015-2019. *UII*.
- Zakiri, Z., & Mahfud, M. (2017). Tindak Pidana Perdagangan Orang (Suatu Penelitian Di Wilayah Hukum Pengadilan Negeri Jantho Aceh Besar). *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana* , 1(1), 190–198