

Justice Connectivity in the Criminal Prosecution of Human Trafficking

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Abstract

Introduction: The involvement of members of the army of the Republic of Indonesia and The Police of the Republic of Indonesia became a special obstacle in the handling of human trafficking cases. The difficulties are due to the existence of special regulations governing the courts applicable to members of the Indonesian army who commit criminal acts.

Purposes of the Research: The case may be dealt with in conjunction with a criminal offense of trafficking in persons, given that the offense has fulfilled the element of involvement (also, *deelneming*) or jointly (*mede dader*) between a civilian and a person with military status in the criminal offense of trafficking.

Methods of the Research: The research used normative jurisprudence, focusing on primary legal material such as Act No. 21 of 2007 on Punishment of Trafficking in Persons, Law No. 31 of 1997 on Military Justice, and Law No. 2 of 2002 on the State Police of the Republic of Indonesia. The research was descriptive-analytical, interpreting the law according to its context and analyzing its results in a qualitative, descriptive manner. Secondary legal material included publications on human rights protection, particularly those relating to women and children. The fact approach was used to study human trafficking facts and provide critical analysis. Library documents, books, and journals were also analyzed. Data analysis involved document study techniques and qualitative analysis, with the results and author's analysis of relevant theories.

Results of the Research: The article addresses the Indonesian Army and Police's involvement in human trafficking offenses, emphasizing the intricacies and problems of prosecuting such instances. The author believes that the judicial system must promote justice and openness in such circumstances. The Indonesian legal system recognizes both military and civilian jurisdiction over crimes committed by military personnel, but implementation gaps cause uncertainty and delays in judicial processes. Handling crimes involving several institutions necessitates close teamwork, particularly among the Indonesian army and police. The mechanism to facilitate collaborative processing of human trafficking cases is connectedness justice, which decides which court has the authority to punish members of the Indonesian army for human trafficking.

Keywords: Connection Court; Human Trafficking; Law Enforcement.

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INTRODUCTION

Women and children are the most vulnerable to trafficking in human beings, and women and children who are victims of trafficking usually come from the region of Indonesia and try to change their fate to find jobs outside the city and end up being illegal migrant workers abroad. During 2020–2023, the State Police of the Republic of Indonesia has arrested about 500 suspects of trafficking in human beings as migrant workers.¹ While the Public Relations

¹ Fraksi Partai Keadilan Sejahtera, "Kasus Perdagangan Orang Masih Terus Berlanjut, PKS: Pemerintah Harus Segera Bertindak!"

Division of the Indonesian Police said that during the month of July 2023, it was possible to rescue 2186 victims of human trafficking through the Human Trafficking Criminal Task Force. The modes used in recruiting the victims consisted of illegal immigrant workers, housekeepers, crew, commercial sex workers, and child exploitation.² Data from the Child Protection Online Information System indicates that in 2022, there were 1,418 cases and 1,581 victims of human trafficking.³ Children and women are frequently coerced into working in restaurants, where they then follow customers as commercial sex workers.

Human trafficking is illegal and constitutes a grave violation of human rights. Forced labor, sexual exploitation and labor, cruel treatment of victims, debt bindings, fictitious marriages, prostitution, enslavement for big financial gain, etc. are all prevalent human rights violations in human trafficking.⁴ Inappropriate treatment, intimidation, even violence, and threats make the victim helpless. The latest mode used by traffickers today is through cultural exchange programs, scholarships, and internships. Delivery destination countries are Malaysia, Singapore, Brunei Darussalam, Taiwan, Japan, Hong Kong, and the Middle East. The U.S. Embassy and Consulate in Indonesia said that by 2022, the Indonesian government will still be in tier two. This is due to the fact that the Indonesian government, despite its efforts to make legislative regulations on the handling of trafficking in persons, still does not meet the minimum standards for committing criminal acts against trafficked persons.⁵ Indonesia's placement in Tier 2 is due to the lack of robust and systematic procedures, hindering the identification of victims and even finding apparatus involvement in human trafficking crimes.⁶ The protection services provided by the government are still inadequate because they do not specifically meet the needs of victims of human trafficking.

An issue about labor exploitation is driven by various structural factors such as income inequalities, corporate power, extortionate recruitment practices, and governance structures favoring businesses over workers rights, resulting in growing inequalities.⁷ Migrant workers have become part of the phenomenon of human trafficking in Indonesia. The Indonesian government has a huge problem solving the problem of ensuring the safety of people at work. The human trafficking that is happening today is becoming increasingly uncontrollable due to the presence of social media. Fitri Hasdianti⁸ described the challenges faced by Indonesian migrant workers in implementing legal protection and coping strategies. These include the lack of an established placement system, bureaucratic and administrative problems, lack of coordination between institutions, weak human resources, licensing issues with a legal private company to provide services for the placement of Indonesian migrant workers abroad, levies outside the system, high age requirements for migrant workers, insurance obligations borne by Indonesian migrant workers, and criminalization of administrative violations.

Governmental obstacles include differences in legal systems between countries, Indonesian migrant workers facing legal consequences for violations in host countries, the absence of Memorandums of Understanding (MoUs) with placement countries regarding

² Divisi Humas Polri, "Selama 51 Hari, Polri Selamatkan 2.186 Korban TPPO."

³ Sistem Informasi Online Perlindungan Perempuan dan Anak, "Data Kekerasan Terhadap Perempuan Dan Anak."

⁴ Hidayati, "Upaya Pemberantasan Dan Pencegahan Perdagangan Orang Melalui Hukum Internasional Dan Hukum Positif Indonesia."

⁵ Kedutaan Besar dan Konsulat Amerika Serikat, "Laporan Tahunan Perdagangan Orang 2022."

⁶ Nirmala Maulana Achmad, "Kepala BP2MI: Ada Oknum Polri Dan TNI Terlibat Dalam Kasus TPPO, Bahkan Di BP2MI."

⁷ Kiss and Zimmerman, "Human Trafficking and Labor Exploitation: Toward Identifying, Implementing, and Evaluating Effective Responses."

⁸ Hasdianti and Imelda, "The Role of Coping Strategy and Legal Protection on Migrant Workers: A Literature Review."

protection in the informal sector, and a lack of supervision by labor inspectors. Indonesian migrant workers face challenges due to low legal awareness, weak law enforcement by irresponsible brokers and sponsors, and non-procedural departures, making them vulnerable to exploitation and legal issues. To address these challenges and maximize legal protection for Indonesian migrant workers, cooperation from all parties is crucial. The government should evaluate regulations and policies, establish clear coordination lines, and ensure cooperation among relevant agencies. The private sector can support efforts by providing clear information about Indonesian migrant workers rights and responsibilities.

The threat of human trafficking reaches all vulnerable groups without being supervised. Surveillance on these sites is not responsible for human trafficking crimes, especially if such crimes have entered the private sphere through the use of social media accounts. This article criticizes some of the reports of trafficking in persons, including the involvement of the apparatus, which resulted in Indonesia being in a Tier 2 position. Critical analysis was carried out against the participation of eight members of the National Army of the Republic of Indonesia and one member of the Police of Indonesia. The difficulties in resolving cases of trafficking in persons in Indonesia are due to the involvement of both the national army of the Republic of Indonesia and the police. The process of settling the number of soldiers involved in a criminal act must first be given to the leadership under the law of military criminal justice. This article focuses on the attempt to sanction the suspected army of the Republic of Indonesia through the criminal justice system's connectivity prior to the enforcement of military criminal justice laws.

METHODS OF THE RESEARCH

The type of research used is normative jurisprudence, with the primary legal material including the Act No. 21 of 2007 on Punishment of Trafficking in Persons, the Law No. 31 of 1997 on Military Justice, and the Law No. 2 of 2002 on the State Police of the Republic of Indonesia. This research is descriptive-analytical, with a juridic approach that is normative in the form of statutes, both legislative and regulatory. In the form of a legal basis search, interpretation of the law according to its context. The analysis of the results of the research was conducted in a qualitative, descriptive manner. Secondary legal material covers all publications dealing with the protection of human rights, especially those relating to the protection of women and children. This writing uses the fact approach, which involves studying the facts about human trafficking and providing critical analysis related to the problems arising from those facts. The researchers also conducted research into the library's documents, books, journal and other library materials. Legal material search techniques use document study techniques as well as study analysis using qualitative analysis. The results of the data collection and the author's analysis of the theories relevant to this research.

RESULTS AND DISCUSSION

A. Facts Related To The Involvement of Members of The Army of The Republic of Indonesia and The Police of The Republic of Indonesia

Trafficking in human beings is a modern form of slavery and is not only happening in Indonesia but is happening all over the world. It is an extreme crime and a violation of human rights. Women and children are vulnerable groups that are often victims of and trapped in the cycle of human trafficking. In 2022, The District Head of Langkat's shrimp house was found inactive, and the suspected member of Indonesian army and Indonesian police were involved. The number of victims in the shrimp house was about 56, two of whom

were high school students.⁹ Other reports indicate that inside the casket were found hot iron, a hammer, firearms, and some other supporting instruments for violent acts. The Human Rights Commission also mentions that violence, torture, and slavery have been practiced in the shrimp house. The practice has been ongoing since 2010, is known to state institutions, and has been extended over the years.¹⁰ Non-active The District Head of Langkat is a local player in the palm coconut business that employs a lot of people. The victims of human trafficking committed in Langkat are clear proof that the way to justice is becoming more difficult because the perpetrator is someone who has a position in the government. Justice should be achieved by law enforcement through the regulations of the laws in force in order to provide justice for the victims of human interference.

The law's function is to establish order, peace, and harmony in social life. Its purpose is to achieve justice by enforcing a set of rules and ensuring that all people are aware of its purpose and obey it. This ensures that justice can be enforced for all social beings. People are involved in law enforcement, so an understanding of rights and duties is essential in implementing the law itself. Andi Hamzah mentions that law enforcement is associated with force, so in criminal law, it is considered a form of law enforcement.¹¹ While Muladi mentions that law enforcement develops concepts such as: 1) there is an understanding that law enforcement is an integral part of social policy, welfare policy, and social security. 2) The discretion of the law-enforcement pathway is often inevitable given the limitations of the law, the quality of law enforcement, and the participation of the public. Law enforcement issues in Indonesia that have been outlined. The above can be concluded as follows: The positive legal paradigm creates values in society. Hit and ignore. Second, misinterpretation. The law is expressed in written articles. The third, less stringent, is a law that contains provisions that open a gap for possible deviations by the actors.¹²

The involvement of members of the Indonesian army and police in the criminal act of trafficking in persons has resulted in public distrust of the law enforcement system. Alongside the crisis in law enforcement, there is also a tendency to neglect the law, disrespect it, and lack public confidence in it. A number of perceptions of public mistrust of the law are the existence of legal instruments, both legislative and executive products, that are considered not to reflect social justice; judicial institutions that are not independent and impartial; law enforcement that is still inconsistent and discriminatory; and legal protection of societies that have not reached a satisfactory point.¹³ The intricacy of the problems involving law enforcement and protection human rights demand diverse parties correct each other due to numerous circumstances. Influence law enforcement. Meanwhile, the objective of law enforcement is to provide peace in society. If the purpose is met, law enforcement is considered functional.¹⁴ Law enforcement officers in human trafficking cases have an important role to play in identifying and responding to cases that occur on the ground and are actually involved in such cases. The victim of the crime of trafficking in human beings has been deprived of his right to equality and freedom.

⁹ Luxiana, "Komnas HAM Ungkap Keterlibatan Oknum TNI-Polri Di Kerangkeng Bupati Langkat."

¹⁰ Dedi Hermawan, "Kerangkeng Manusia Di Rumah Bupati Langkat: Komnas HAM Temukan 'Besi Panas' Palu', Alat Dalam 26 Bentuk Kekerasan Dan Keterlibatan Anggota TNI-Polri."

¹¹ Andi Hamzah, *Penegakan Hukum Lingkungan*.

¹² Al Arif, "Penegakan Hukum Dalam Perspektif Hukum Progresif."

¹³ Sumirat, "Penegakan Hukum Dan Keadilan Dalam Bingkai Moralitas Hukum."

¹⁴ Binsar Jon Vic S, "Challenges Facing Soes and Soe Subsidiaries Toward Business Transformation Law Enforcement and Human Rights Protection (Post Constitutional Court Decision Number 01/PHPU-PRES/XVII/2019)."

The Migrant Workers Protection Agency mentioned in the disclosure of the human trafficking case in July 2023 that the trade union involved several the army of the Republic of Indonesia, the police members, ministries/agencies. It was reported by some Indonesian mass media that a number of law enforcement officials were involved in human trafficking. Suspected members the army of Republic of Indonesia, on behalf of M-ranked Head of Corps., is currently handled at Regional Police Station of Bintan Island. The suspect is suspected of smuggling Indonesian Labour Force to Malaysia.¹⁵ Witness S, who stated that M's contract included housing for the applicants, Indonesian Labour Force, corroborated M's involvement in the case of human trafficking. The Commander of the army at the time mentioned that there were two such suspected members from army Maritime, ranked Copral One BK and the army Air Force Sergeant Chief S. Both of these suspected members are serving in Bintan Island.¹⁶

In addition to members of the army, there are also a number of the police members who are involved in the case of human trafficking. The investigation was carried out on the basis of Judgment No. 22/Pid.Sus/2015/PN.Atb. Rinanda criticized the judge's judgment that gave a criminal sentence to the accused, Demas Saan Fuahtan Davidson Anin Unknown Rangkap, who was sentenced to three (3) months in prison. In his analysis, Rinanda describes there were disparities in the implementation of criminal sanctions.¹⁷ In the verdict, there is also an inconsistency between the prosecution's lawsuit and the judge's judgment, which is far from the lawsuits and threats. In the verdict, the judge mentioned the excuses given to the accused, Demas Saan Fuahtan and Davidson Anin. The exoneration grounds are not the excuse grounds regulated in the Indonesian Criminal Law, and therefore the judgment No. 2470-K/Pid.sus/2015 must be adjusted to the exonerative grounds as regulated by the Indonesian Criminal Code because the lightening things in the judge's consideration used as one of the judges' considerations in settling the case cannot be used to relieve the accused from the threat of his sentence, which should be three years of imprisonment.

The involvement of both the army of the Republic of Indonesia and The Police of the Republic of Indonesia members becomes a barrier in the handling of human trafficking cases. Trafficking in persons is difficult to detect, so it is a barrier for the government to deal with the trafficking of persons. ¹⁸ The involvement of the suspected Indonesian national army and police in the crime of trafficking in human beings has resulted in law enforcement not going well. The profession that should provide security to every citizen is doing dangerous things. The integrity of the law enforcement system in his work is questioned because the ethics and morals of the officer in carrying out his profession show poor quality.

B. Judicial authority for members of the Indonesian National Army and members of the police of the Republic of Indonesia

From the perspective of the Indonesian criminal justice system, every member of the Indonesian National Army has the same status as civil society. There is no distinction in the eyes of the law if it turns out that there are members of the Indonesian National Army who

¹⁵ Giri, "Oknum TNI, Polri, Bahkan Di Internal BP2MI Terlibat Dalam Kasus Perdagangan Orang Yang Masih Marak Artikel Ini Telah Tayang Di TribunJabar.Id Dengan Judul Oknum TNI, Polri, Bahkan Di Internal BP2MI Terlibat Dalam Kasus Perdagangan Orang Yang Masih Marak."

¹⁶ Santi Dewi, "Jenderal Andika Akui 2 Anggota TNI Terlibat Kirim PMI Ilegal."

¹⁷ Rinanda and Helvis, "Analisis Hukum Peran Pembantu Dalam Tindak Pidana Perdagangan Orang Terhadap Terdakwa Yang Merupakan Anggota Polri."

¹⁸ Dwirivanda, "Kebijakan Indonesia Terhadap Korban Kejahatan Perdagangan Orang Di Malaysia (2012-2017)."

have committed a breach of the law or a crime. A member of the Indonesian National army who commits a violation shall be subject to the rules of law generally applicable and special rules applicable to military members.

Article 3 paragraph (4a) of the provisions of Legislative branch in Indonesia's political system number: VII/MPR/2000 and Article 65 of Law No. 34 of 2004 on the National Army of Indonesia states that "The Primate of the Indonesian Army is subject to the jurisdiction of the military judiciary in the case of violations of military law and is submitted to the ordinary court in the event of general criminal law violations. In terms of the authority to conduct investigations or to prosecute (jurisdiction) in the environment of military justice in connection with criminal matters, it is limited only to the military members who have committed a violation of military criminal law.

The introduction of special regulations for military members is subject to a number of considerations, namely, firstly, the special duty assigned to each member and inherent in military life; the two international worlds incorporate military criminal law as part of the law of the conflicting state; and the three military criminal laws are special criminal law and recognized in the field of Indonesian criminal law.¹⁹ The problem of human trafficking in Indonesia is very complex because its forms are often out of sight, such as the delivery of cultural missions, the granting of scholarships, the ordering of brides, or the shipping of migrant labor without official documents. Another problem of human trafficking is the involvement of irresponsible people in carrying out their functions and duties. In an effort to eradicate human trafficking, law enforcement plays an important and critical role, as it is the first agency to receive reports and then identify and process reports of cases of human trafficking. Victims and traffickers are in direct contact with law enforcement. In addition, law enforcement serves as a liaison point for victims to be referred to social service providers to deal with the trauma experienced. Law enforcement is the hope of the victims to resolve the case of trafficking. Nevertheless, the victims often have to bite their fingers because the law enforcement officers are in the circle of trafficking themselves.

The announcement mentions the involvement of some police members in a criminal act of human trafficking. Law enforcement should be the protectors of the community instead of being involved in the case. How are the sanctions given to the number of members of the Indonesian National Army and members of the police of the Republic of Indonesia?. The main functions of the army and police are to maintain national security and law enforcement. If in the performance of such functions and duties there is a villain who is involved in the criminal act of trafficking in persons, then it must be done in accordance with the provisions of the applicable law. Article 18 of Law No. 48 of 2009 on the Power of the Judiciary states that the power of the judiciary is exercised by the Supreme Court and its subordinate judicial bodies in the Common Court, Religious Justice, Military Court, State Business Court, and Constitutional Court. Military justice, as an institution of justice, is a means of law enforcement, a place of legal protection for citizens, and the state apparatus involved in a legal dispute. While the Indonesian police members who have problems with the law under Article 29 of the Police Act are subject to the powers of the general criminal justice system, they are also subject to the disciplinary rules and the Code of Ethics of the Profession.

¹⁹ S.R. Sianturi, *Hukum Pidana Militer*.

Article 65 (2) of Act No. 34 of 2004 states that all military members committing general criminal offenses are subject to the jurisdiction of the General Court and that the military who commits a criminal offense is subject to a Military Court. In other words, the courts of law of the military committing criminal offenses are assigned to two separate jurisdictions, the Military Tribunal and the General Tribunal. However, the general court of law has not yet been able to implement it in the practice of the court, as stipulated by Article 3(4) letter a of The Legislative branch in Indonesia's political system No. VII/MPR/2000 and Article 65(2) of Law No. 34, 2004. In other words, judicial jurisdiction over military perpetrators of general crimes is still exercised by the Military Court. This is due to the transitional provisions contained in Article 74 of Act No. 34 of 2004. Article 74(1) of Law No. 34 of 2004 reaffirms that "the provisions referred to in Article 65 shall apply at the time of the newly enacted law on the Military Court". Article 74(2) states that "as long as the new military court law has not been formed, it shall remain subject to the provisions of Act No. 31 of 1997 on the military court.

In the telegram of the Commander of the Indonesian army Number ST/1221/2021, it was also mentioned about the procedure of calling soldiers of the Indonesian army by the law enforcement agency that any of its members who came to commit a violation then committed: 1) Calls made to Indonesian army soldiers by Indonesian Police, Corruption Eradication Commission, and other law enforcement agencies in order to give evidence related to legal events must be through the commander or head of unit; 2) Calling against the army soldiers who do not comply with the procedures for the Commander/Chief of Unit to coordinate with the law enforcement apparatus concerned; 3) An army soldier who gives a statement related to a legal event to the law enforcement agency can do so in his unit with the accompaniment of a law officer or unit officer; 4) An army soldier who gives a statement concerning a legal event to the law enforcement agency may be made at the office of the law-enforcing agency that calls him with the accompaniment of the law officer. According to the provisions of the Military Criminal Justice Act, the military judiciary becomes the executive of the jurisdiction in the Armed Forces. This is done to enforce law and justice, taking into account the interests of national security.

C. Seeking Justice And Connectivity In Human Trafficking Criminal Proceedings

It is a reflection of a consensus that the public recognizes the behavior or action that is perceived by the public as the most important thing. Therefore, it cannot be allowed if it is found that the law enforcement is actually involved in a criminal act. Law enforcement efforts through the Military Justice Act or the Police Act of the Republic of Indonesia and other supporting regulations must also take into account the fact that the problem arising from legal events in such a society constitutes a particular form of criminal offence of the existence of an extraordinary crime in the criminal act of trafficking in persons. The rule of law applied to members of the Indonesian army through the process of investigation based on the provisions of the Military Court Act gives the impression that the involvement of members of the army in the criminal act of trafficking in persons is an act that cannot be punished or can be said to have immunity from the law. This view is wildly developed and supported by the view that the participation of members and Polri in the trafficking of persons into strong persons that protect a form of serious crime against civilians cannot be subject to the law stipulated in the Code of Criminal Law but specified in military penalties.

Patricia D. Breen²⁰ describes the discretionary character and cultural context of military discipline decisions; the convening authority determines whether to modify the first sentence. The study is based on civilian court studies and a little earlier work on military discipline, emphasizing the significance of understanding the military community's perspective.

Rizqi Afandi²¹ describes The Criminal Procedure Code in Indonesia was established by a joint decision between the Minister of Justice, Minister of Defense and Security, and Attorney General, establishing a policy of joint examination of criminal acts by individuals from the judiciary and military. This policy is based on Article 22 of the Law of the Republic of Indonesia Number 14 of 1970 concerning the Basic Provisions of Judicial Power. Connectivity checks in the Criminal Procedure Code are regulated in Chapter XI on Connectivity in Articles 89 to 94. In practice, connectivity cases are resolved separately, with general civilians being examined and tried by the general district court and military/armed forces by the military court. This is due to bureaucratic issues and the adoption of a fast and fair judicial system in the Criminal Procedure Code. Article 22 of Law No. 14 of 1970 on the Provisions of the Trees of the Judiciary states that "Criminal acts committed jointly by those belonging to the general court and the military court are examined and tried by the courts in the common court, unless, according to the decision of the Minister of Defense and Security with the consent of the minister of justice, the matter must be investigated and trialed by the court in the military tribunal."

A case-connection procedure is a judicial system applied to a criminal offense in which a suspect or a defendant is involved (along with *deelneming*) or jointly (*medie dader*) between a civilian and a person with military status. The provision does not even at all open the possibility of examining separately or divided in matters of connectivity. Thus, it can be assured that connectivity justice can be carried out in cases of trafficking in persons where involvement is concerned, given the criminal acts committed by civilians together with military personnel.

Article 89 of the Code of Criminal Law states that: (1) A criminal act committed jointly by those who belong to the general court and the military court shall be examined and tried by a court in the common court unless, in accordance with the decision of the Minister of Defense and Security with the approval of the minister of justice, the matter must be investigated and tried in a court of military court. (2) Criminal investigations as referred to in paragraph (1) shall be carried out by a Standing Team consisting of investigators as provided for in Article 6 and the police. (2) The criminal investigation as mentioned in paragraph (2) shall be conducted by a standing team composed of investigators as provided in article 6, the military police of the Armed Forces of the Republic of Indonesia, and the Military Auditor or the High Military Auditor in accordance with their respective authorities under the law applicable to the criminal investigations. (3) The team, as specified in the second paragraph, shall be constituted by a joint decision of the Minister of Defense and Security and the Minister for Justice.

The Criminal Code contains details of acts that include crimes, perpetrators of crimes that can be punished, and the kinds of punishment imposed on violations of the law. In other words, the law must be fair, with no distinction of who is the perpetrator of the law, from

²⁰ Breen and Johnson, "Military Justice: Case Processing and Sentencing Decisions in America's 'Other' Criminal Courts."

²¹ Afandi, Sudewo, and Hamzani, "Implementation Of Judge's Decisions On Decisions In Connection Cases Criminal Justice System."

the top to the bottom, from civil society and the State apparatus, and from the well-being of the people. Therefore, whoever commits a crime shall be punished and punished according to the laws in force. Given the existence of special regulations established regarding the involvement of members of Indonesian army in criminal acts of trafficking in persons, it is advisable to deal with such cases through the courts of connectivity.

If the word same-equal in the wording of the article can be interpreted as: - Participation (same as) is deelneeming as described above; - mede dader means Article 55, paragraph (1). If the meaning "participation" then includes articles 55 and 56 of the Code, but if the meaning of the mede dater, then the meaning is only article 55 (1) paragraph 1 that means. (not inculed criminal act 56). The element of involvement in the criminal act of trafficking in persons in which the perpetrator is a member of Indonesian army has basically fulfilled the elements of Article 4 of the Criminal Procedure of Trafficking. The elements referred to in the article include the preparation of shelter houses, the management of medical checkups, assisting in the making of passports, taking care of departure, even carrying out detention, and committing acts of violence against the victims. Such acts have met the elements of assisting the trafficking of persons.

Articles 198–203 of Law No. 31 of 1997 on Military Courts Article 198 paragraph (1) reads: (1) Criminal acts committed jointly by those belonging to the military courts and the courts of ordinary jurisdiction shall be examined and tried by a court in a general court district unless, according to the decision of the Minister with the consent of the Ministry of Justice, the matter must be investigated and tried in a tribunal in a common court district, except when, in accordance with a decision by the Minister, with the agreement of the Secretary of Justice, the matter should be examined and trialed by a tribunal within the military court districts.

Legal events as well as legal norms that have been violated in the case of the trafficking of such persons will affect the form of liability of the member of the Indonesian army who has committed a serious crime committed against the public. If a case involving a member of the Indonesian army and civilians is handled through a connectivity court, it will make it easier to coordinate and expedite the prosecution of the case. Because if the investigation and prosecution process is carried out by the connectivity team, there will be no "reversal" of matters between investigators and prosecutors. The process of handling cases of human trafficking handled by law enforcement agencies can be more transparent and accountable through connectivity courts than by the Indonesian army. In articles 324 to 327 of the Covenant on Criminal Procedures, trafficking in persons is the principal rule governing positive criminal affairs in Indonesia. It is also a foundation for criminal law enforcement to be able to prosecute criminal matters in order to protect public interests and public order. Soerjono Soekanto mentions that law enforcement is the activity of reinforcing the relationship between the values expressed in the established principles and attitudes as a set of values of the final stage of creating, maintaining, and maintaining peace of life.²² If any law enforcement officer is involved in a human trafficking case, it is unlikely that the law can be enforced. This will result in people not trusting law enforcement.

To ensure that incidents of trafficking involving numerous Indonesian army members are handled transparently and in accordance with the clear legal guidelines in Act No. 21 of 2007, Suppression of Trafficking in Persons, justice for the victims is expected. The

²² Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*.

imposition of disciplinary measures under the Indonesian army rules will be complimentary to the removal of the criminal penalty itself if proof through the connectivity court has been upheld. While a comprehensive analysis of contextual variance in military penalties is beyond the scope of this paper, early data suggests multilevel models show considerable variance among military locations in everything but the clemency result. More study is needed to understand the social, political, and organizational factors that influence different military punishment practices.

The factors to consider while processing military people in general courts are: 1) Crimes Committed: It is critical to evaluate the kinds of crimes committed by military personnel. If such offenses entail violations of civil law or crimes unrelated to their military duty, prosecution in regular courts may be more appropriate; 2) Legal jurisdiction: Some nations have regulations governing whether military members can or should be prosecuted in ordinary courts; 3) Justice and Openness: There are occasional concerns about prejudice or conflicts of interest in military justice, particularly when cases include senior military officers in the chain of command. Processing them in regular courts might provide a higher level of fairness and transparency; 4) Civil Surveillance: In some instances: Justice has become a key element in the process of dealing with the crime of trafficking in persons committed by the Indonesian national army and the police of the Republic of Indonesia. Hans Kelsen²³ mentioned that justice is legal. It is said that it is fair to apply a law in one case, and it is unfair to apply it differently in the same case. Therefore, the author argues that it is preferable in the handling of criminal cases of trafficking in persons committed by suspected members of the army of the Republic of Indonesia or the police of the Republic of Indonesia to use connectivity courts. Criminal justice is carried out in accordance with the provisions of the law against criminal acts of trafficking in persons by justice connectivity.

CONCLUSION

Discusses the involvement of suspected members of the Indonesian Army and the Indonesian Police in human trafficking crimes, highlighting the complexities and challenges associated with prosecuting such cases. It provides specific examples of cases where members of these forces were implicated in trafficking activities. The involvement of high-ranking officials from these institutions complicates the pursuit of justice, particularly when they abuse their positions for criminal activities. The author suggests that the legal system must ensure fairness and transparency in prosecuting such cases. The Indonesian legal system provides for both military and civilian jurisdiction over crimes committed by members of the military. However, there are discrepancies in the implementation of these regulations, leading to confusion and delays in legal proceedings. Handling cases of human trafficking involving many institutions must be done through strong collaboration. Multisectoral collaboration between law enforcement agencies is very important, especially if it involves members of the Indonesian army and Indonesian police. The tool to support collaborative handling of human trafficking cases is connectivity justice. Therefore, ignorance or confusion determines which court is competent to prosecute members of the Indonesian army for trafficking in human beings through connectivity courts as the solution and form of law enforcement

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