

The Urgency of Tackling Human Trafficking Crimes Due to Weak Supervision of Kampus Merdeka Policies in Indonesia



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ABSTRACT: Human trafficking has often occurred in Indonesia and recorded in the history of trafficking in a country that has sovereignty is certainly caused by the weak supervision of the relevant parties who have the authority, the mode carried out by the perpetrators of human trafficking has varied and resulted in the academic community becoming victims of human trafficking. The problems studied in this study are how efforts to eradicate the criminal act of trafficking in persons against students who are victims and how the legal arrangements should be in the independent campus policy in Indonesia in the independent internship programme to learn an independent campus. This research was conducted using normative juridical and empirical juridical methods. The normative juridical method of research approach uses legislation. Meanwhile, empirical juridical uses a research approach by interviewing competent parties. The data sources used in this research are primary data sources and secondary data which are then analysed qualitatively. The results obtained from this study are that the world of education is the target of criminals with the mode of sending student internships abroad which indirectly confirms the weaknesses in the supervision of independent campus policies. This study concludes that the weaknesses in the supervision of the independent campus policy have caused serious implications.

KEYWORDS: eradication of criminal offences, trafficking in persons, independent campus policy.

I. INTRODUCTION

In the current era of Globalization when countries are increasingly open and connect themselves to each other, it makes the progress of civilization so massive than previous eras. Various aspects of life such as technological, economic, political, social and cultural aspects have also experienced significant changes due to the interaction of cultures from each country or region that meet and cause an unstoppable assimilation process.

Apart from the various positive sides of increasing global connectivity, of course there are negative sides that have also emerged, one of which is that it makes it easier for criminals to commit a criminal act as will be discussed in this writing Trafficking in Persons, according to the Law on the eradication of trafficking in persons chapter I article I, Trafficking in Persons is the act of recruitment, transportation, shelter, Trafficking in Persons is the act of recruiting, transporting, harboring, transferring, or receiving a person by threat of violence, use of force, abduction, harboring, falsification, deception, abuse of power or vulnerable position, debt bondage or providing payments or benefits, so as to obtain the consent of the person who has control over the other person, whether carried out within the country or between countries, for the purpose of exploitation or resulting in exploitation. Trafficking in persons is now an increasingly complex problem, because it is not only a domestic concern, but trafficking in persons has also become a universal issue involving other countries.¹

Human Trafficking was emphasized in the agenda of the Global Alliance Against Trafficking Women (GAATW) in Thailand in 1994, namely:²

"All attempts or acts relating to the recruitment, transportation within or across borders, purchase, sale, transfer, delivery or receipt of a person by means of deception or duress including the use or threatened use of force or abuse of force or debt bondage with the purpose of placing or detaining that person, whether or not paid for unwanted labor (domestic, sexual or productive) in forced or bonded labor or in slavery-like conditions in an environment other than that in which that person resides at the time of the deception, duress or debt bondage."

¹ Mona Lasisca Sugiyanto, 2022, *Pemenuhan Hak Restitusi Korban Tindak Pidana Perdagangan Orang*, Fakultas Hukum Universitas Hasanudin, hlm 1.

² Rahmad Syafaat, 2003, *Perdagangan Manusia* cet.1, Jakarta : Lappera Pustaka Utama, hlm. 12.

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According to Michelle O.P. Dunbar, she identifies trafficking in a narrower context, namely in relation to trafficking in women. According to her, the concept of trafficking in women is not limited to forced prostitution. To understand the general concept of trafficking in women, it is important to recognize that prostitution is not only associated with trafficking in women. Not all victims of trafficking are prostitutes because not all prostitutes are the object of trafficking. Women who voluntarily migrate for the purpose of sex work or who migrate for other purposes that turn out to be in industrial work that is not done by force, fraud, or other coercion, should not be interpreted as part of trafficking in women.³

Furthermore, based on data submitted by the Deputy for Coordination of the Improvement of Children, Women and Youth of the Coordinating Ministry for Human Development and Culture (Kemenko PMK), Woro Srihastuti Sulistyaningrum, said that in 2023 the number of TPPO victims handled reached 1,359 people, and in 2024 until July 3 there were 728 people. Most victims in 2024 came from NTB (171 people), East Java (139 people), and Aceh (68 people). Lisa said that the problem of TPPO is still rampant with various modes. Many people are tempted to work abroad because of the lure of high salaries, even educated people become victims of TPPO.⁴

When referring to TPPO data in the vulnerable period of 2023 to the present as mentioned above, Indonesia is one of the countries that has a high number of victims of Human Trafficking. When referring to SBMI and SP Case Handling Data during 2019-2024, more than 1,800 Indonesian migrant workers were strongly indicated as victims of TPPO. Solidaritas Perempuan's case findings show an increase in the trend of non-procedural migration in the informal sector by 87%. In 2024, Indonesia moved up to tier 2 on the US State Department's TPPO report, having previously been on the tier 2 watchlist. This reflects improvements in the protection, prevention, and prosecution of TPPO cases, although there are still 14 priority recommendations, such as revising Law No. 21/2007 to remove the requirement for demonstration of violence, fraud, or coercion in child sex trafficking, and increasing efforts to investigate and prosecute human trafficking crimes. BP2MI data also shows that 88.4% of trafficking victims are women, with 91% of them adults, the majority of whom experience forced labor exploitation (95%) and sexual exploitation (5%). According to SBMI Case Data 2023, there were 344 cases of human trafficking, with 76% male victims and 24% female.⁵ Although the crime of trafficking in persons has been regulated by law, such acts and actions still occur frequently in Indonesia.⁶

Human trafficking is a crime that falls into the transnational crime category because it involves cross-border crimes. Transnational crime has several definitions, transnational crime was first proposed at the United Nations Convention Against Transnational Crime in 2000 in Palermo, Italy. The term transnational is closely related to the jurisdictions of each country in fighting crime, both mandatory and non-mandatory. Mandatory jurisdiction focuses more on the legality of crimes that occur within the territory of a country, then non-mandatory jurisdiction is more inclined to crimes against victims of the citizens of the country concerned. There are 2 (two) outlines of the definition of transnational crime, namely an act as a crime and its locus or location across countries. From this outline, it can be understood that transnational crime is defined as a transnational crime in the category of an act said to be a crime if there is a rule of law that is violated. There may be something that is systematically planned, organized, and carried out within a country but the act is not a crime, but it is different if there is an indication of an act that is formulated, prepared to commit a violation of the law that disturbs the sovereignty of a country and enters the jurisdiction of the country until the preparation is cross-border, then the act can be categorized as a transnational crime.⁷

The international world through the United Nations (UN) has made regulations in the United Nations Convention Against Transnational Organized Crime (UNCATOC) or also known as the Palermo Convention of 2000. The 2000 Palermo Convention discusses international legal instruments that lead to the prevention of trafficking in persons. The Palermo Convention consists of 3 (three) Protocols as follows:⁸

1. Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime.

³ Michelle.O.P.Dunbar, 2000 , “*The Past, Present, and Future of Internasional Trafficking in Women for Prostitution, Buffalo Women's Law Journal*, Vol 8, No. 2 hlm, 105.

⁴ Kementerian Koordinator Bidang Pembangunan Manusia dan Kebudayaan Republik Indonesia, “*Penanganan Tindak Pidana Perdagangan Orang (TPPO)*”, <https://www.kemenkopmk.go.id/deputi-lisa-sampaikan-isu-terkini-pembangunan-anak-perempuan-dan-pemuda> diakses pada 10 Agustus 2024, pukul 10.00 WIB.

⁵ Solidaritas Perempuan, “*Peringatan Hari Perdagangan Orang Sedunia 2024*”, <https://www.solidaritasperempuan.org/peringatan-hari-perdagangan-orang-sedunia-2024-potret-buruk-penanganan-kasus-perdagangan-orang-terhadap-buruh-migran/> diakses pada 10 Agustus 2024, pukul 10.30 WIB.

⁶ Henny Nuraeny, 2016, *Perdagangan Orang Dalam Prespektif Hak Asasi Manusia*, Depok ; Rajawali Pers, hlm 67.

⁷ Dewa Krisna Persada, et al, 2023, *Human Trafficking*, Kejahatan Transnasional Dalam Prespektif Prinsip Nasional Aktif Di Indonesia, *Jurnal Fundamental* Vol. 12 No. 1, Hlm. 248.

⁸ Mohammad Fadil, 2013, *Pengaturan Hukum Internasional Tentang Larangan Perdagangan Perempuan Serta Implementasinya di Indonesia*, *Jurnal Hukum Legal Opinion*, Edsis 5, Vol. 1, hlm. 6.

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2. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementing the United Nations Convention against Transnational Organized Crime.
3. Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing United Nations against Transnational Organized Crime.

The international conventions on human trafficking that have been ratified by the Indonesian government include Law No. 7 of 1984 (ratification of the Convention on the Elimination of All Forms of Discrimination against Women), Law No. 20 of 1999 (ratification of the International Labor Organization Convention No. 38 on the Minimum Age for Employment), Law No. 1 of 2000 (ratification of the ILO Convention No. 182 on the Worst Forms of Child Labor), Presidential Decree No. 36 of 1990 (ratification of the Convention on the Rights of the Child), Presidential Decree No. 88 of 2002 (ratification of the “Protocol to Prevent Suppress and Punish Trafficking in Person Especially Women and Children Supplementing the United Nations Convention on the Rights of the Child”), 36 of 1990 (ratification of the Convention on the Rights of the Child), Presidential Decree No. 88 of 2002 (ratification of the “Protocol to Prevent Suppress and Punish Trafficking in Person Especially Women and Children Supplementing the United Nations Convention Against Transnational Organized Crime” of 2005, Law of the Republic of Indonesia No. 5 of 2009 on the Ratification of the United Nations Convention Against Transnational Organized Crime (UNCATOC) or also known as the Palermo Convention of 2000.⁹

The latest regulation in Indonesia that regulates the prohibition of trafficking in persons is Law No. 21/2007 on the Eradication of the Crime of Trafficking in Persons, the birth of this law is a form of legal protection for victims of trafficking in Indonesia in particular so that they can be protected. However, this law so far has not been able to ensure that the crime of trafficking in persons is reduced because the eradication of TPPO requires a high commitment not only to the availability of material regulations but also to the enforcement of these material laws which must also have integrity in order to create a balance in the eradication of TPPO.

Victims of human trafficking are not only for the purpose of prostitution or other forms of sexual exploitation, but also include other forms of exploitation, such as forced labor or forced service, slavery, or slavery-like practices. In the case of human trafficking, the position of women and children is completely helpless and weak, both physically and mentally, and even seem to surrender when they are used improperly.¹⁰

The occurrence of human trafficking in a country that has sovereignty is certainly caused by the weak supervision of related parties who have the authority, then the rest because it is facilitated by several things such as difficult economic conditions, low education levels and ignorance of the dangers of Human Trafficking make some people easy to lure and eventually get caught in the trafficking trap. Exploitation efforts that use human beings as commodities use various modus operandi that continue to evolve for the purpose of gaining control over others and personal gain. Along with the times that not only affect science and technology but also participate in the development of crime and the various modus operandi used by perpetrators to carry out crimes.

The developments that occur will certainly result in the impact of crime on society so that the need for qualified legal arrangements must also be balanced with coordination in the field and innovation to be able to overcome this problem. Developments not only in crime but also in modus operandi are increasingly varied. The modus operandi ranges from promising large salaries by working abroad and falsifying the victim's documents in order to work abroad.¹¹

It is different in the case of human trafficking in this paper where the researcher raises the issue of students who are a layer of society with a category of education that is not low to become victims of criminal acts of trafficking in persons, students who are in the University environment notabennya academics can become victims of criminal acts of trafficking in persons. A crime is an unlawful act that has been committed intentionally or unintentionally by someone who can be held responsible for his actions and which the law has declared as a punishable act.¹²

In the case of trafficking in persons against Indonesian students began to occur, due to the socialization of private companies, namely PT Cvgen and PT Sinar Harapan Bangsa (SHB) which held socialization to students from 33 universities in Indonesia by conveying modes that had been arranged in such a way as to offer that the company held an internship program and / or part-time

⁹ Sulistyowati Irianto, 2005, *Perdagangan Mansia dan Pertanggung Jawaban Hukum*, Yayasan Obor Indonesia, Jakarta, Pusat Kajian Wanita UI, USAID, ACILS, ICMC, hlm. 88.

¹⁰ Sandy Galih Putra, 2023, *Analisis Pertanggungjawaban Pidana Pelaku Tindak Pidana Perdagangan Orang Untuk Tujuan Eksploitasi*, Fakultas Hukum Universitas Lampung, Hlm 17

¹¹ Slamet Tri Wahyudi, 2023, *Uang Sirih Pinang Sebagai Modus Operandi Perdagangan Orang Terhadap Anak*, Jurnal Ius Constituendum, Volume 8 Nomor 3, hlm 6.

¹² Wahyu Mardhalina, 2021, *Kajian Juridis Tindak Pidana Perdagangan Manusia (Human Trafficking)* di Kota Jambi, Fakultas Hukum Universitas Batanghari Jambi, hlm 17.

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work (ferienjob), where there were 1,047 students who were affected by the offer and the students were employed non-procedurally, resulting in students being exploited.¹³

The case of human trafficking against the students mentioned above also harms students in economic terms, students are charged a bailout of Rp.30 million to Rp.50 million, where the funds will automatically be deducted from their wages from work every month. Not only that, the private company also claims that the program offered is included in the Merdeka Learning Campus Merdeka (MBKM) program from the Ministry of Education, Culture, Research and Technology (Kemendikbudristek) which promises to be converted into 20 credits.¹⁴

The then Coordinating Minister for Political, Legal and Security Affairs Hadi Tjahjanto formed a special team and said he would form a team consisting of the Ministry of Foreign Affairs (Kemenlu) and the Directorate General of Higher Education (Dikti). Then the Director of General Crimes of the Criminal Investigation Unit of the National Police Brigadier General Djuhandhani Rahardjo Puro in a written statement also said that "The disclosure of the international TPPO network with the mode of sending student interns to Germany through the ferienjob program will be handled because it violates legal provisions."¹⁵

A human trafficking case involving students as victims of exploitation has now been handled by the authorities. The organizer of an illegal internship program that does not have an official permit has been detained by the Police Criminal Investigation Unit, after a series of investigations. The suspect with the initials A.R. was found guilty of committing human trafficking practices with the mode of organizing an internship program abroad which was claimed to be converted into a Semester Credit System (SKS) in the Merdeka Campus policy. Based on the evidence found, the perpetrator was charged with Article 2 paragraph (1) of Law Number 21 of 2007 concerning Eradication of Trafficking in Persons (TPPO), which reads: "Every person who recruits, transports, harbors, sends, transfers, or receives a person by threat of violence, use of violence, abduction, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or giving payments or benefits, so as to obtain the consent of the person who has control over the other person, both within the country and between countries, for the purpose of exploitation or resulting in exploitation, shall be punished with imprisonment of not less than 3 (three) years and not more than 15 (fifteen) years and a fine of not less than IDR120. 000,000.00 (one hundred twenty million rupiah) and a maximum of Rp600,000,000.00 (six hundred million rupiah)."

In addition, the perpetrator is also charged with Article 81 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which stipulates that:

"Any person who places Indonesian Migrant Workers without fulfilling the requirements as referred to in Article 69 shall be punished with a maximum imprisonment of 10 (ten) years and a maximum fine of Rp15,000,000,000.00 (fifteen billion rupiah)."

This case is a serious warning to the government and educational institutions, especially in tightening supervision of the internship program in the Merdeka Belajar Kampus Merdeka (MBKM) policy. So that similar cases do not recur, a strict verification mechanism is needed for the institution that organizes internships, as well as the application of strict legal sanctions against the parties involved, including universities that provide access to this illegal program.

The law that regulates the crime of trafficking in persons is Law No. 21/2007. The law is also a follow-up to the Palermo Protocol, which Indonesia has signed and agreed to, which contains the main obligations of the state, among others:¹⁶

1. Treating trafficking as a crime;
2. The country of origin shall support and accept without undue delay the return of nationals who are victims of trafficking;
3. The destination country guarantees return for the safety of the victim;
4. Cooperate through information to identify perpetrators or victims of human trafficking, as well as the ways and means used by perpetrators;
5. Provide/strengthen training for law enforcement officers, migration officers and other relevant officers aimed at preventing trafficking and prosecuting traffickers as well as for the legal protection of victims;

¹³ Kompas Cyber Media, "Kasus Magang di Jerman, Tuntutan Pendidikan Tinggi Dianggap Turut Andil ", <https://nasional.kompas.com/read/2024/04/03/03340051/kasus-magang-di-jerman-tuntutan-pendidikan-tinggi-dianggap-turut-andil>, diakses pada 11 Agustus 2024, Pukul 13.00 WIB.

¹⁴ Komisi Nasional Hak Asasi Manusia Republik Indonesia, "Keterangan Pers Nomor: 15/HM.00/III/2024 Terkait Komnas HAM Desak Aparat Penegak Hukum TindakTegas Perusahaan Dan Seluruh Pihak TerkaitPelaku TPPO I.047 Mahasiswa Ke Jerman," 2024, [https://www.komnasham.go.id/files/20240325-keterangan-pers-nomor-15-hm-00-\\$QWSLB.pdf](https://www.komnasham.go.id/files/20240325-keterangan-pers-nomor-15-hm-00-$QWSLB.pdf), diakses pada 11 Agustus 2024 Pukul 14.25 WIB.

¹⁵ Detik.com, Menko Polhukam, 1.900 Mahasiswa Teridentifikasi Jadi Korban TPPO di Jerman, <https://news.detik.com/berita/d-7267018/menko-polhukam-1-900-mahasiswa-teridentifikasi-jadi-korban-tpo-di-jerman>, diakses pada 11 Agustus 2024, pukul 13.30 WIB.

¹⁶ Bambang Waluyo, 2011, *Viktimologi Perlindungan Korban dan Saks*, Jakarta : Sinar Grafika, hlm 118-119.

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6. Establish policies, programs and other measures aimed at preventing trafficking and protecting trafficked persons from further victimization;
7. Tighten border control to detect and prevent human trafficking;
8. Undertake other measures such as information campaigns and social and economic initiatives to prevent human trafficking.

In addition, efforts can be made in cooperation with NGOs, certain organizations and other elements of civil society.

The case of TPPO with the mode of sending student interns to Germany with a large enough amount indirectly emphasizes that there are weaknesses in the rule of law on independent campus policies, weaknesses in the rule of law cause serious implications such as the case that the researcher raised. Given that the rule of law that is compiled comprehensively can provide broad legal protection, preventive legal protection efforts are very important to implement in order to prevent crime.

Efforts to eradicate the crime of trafficking in persons against students who are victims in the internship program in Germany should be made through the preventive legal protection mentioned above, which through this legal protection should be done both before the case occurs or after a crime occurs. Preventive legal protection is a form of legal protection provided by the government to its citizens, in this theory explains that the government has freedom of action and thus the relevant government agency in this case is the Ministry of Education, Culture and Research. It is hoped that it can create rules in such a way as not to provide a legal vacuum for the perpetrators of this crime, which the relevant ministry can do in the form of creating regulations on licensing procedures and organizing overseas internship programs.

Furthermore, this eradication effort can also be improved from the legal arrangements, the law appears as a result of phenomena or events that arise and develop in society. The law was also born as an ability to regulate society and in the theory of the legal system it is explained that the legal system must be unified law involving three elements, namely the legal structure, legal substance and legal culture in the application should be. It needs to be seen in the case that the researchers raised the criminal act of trafficking in persons against students in the German internship program certainly reflects the existence of a legal vacuum from one of the legal elements contained in the legal system. Which should be if the legal system is created and realized as well as possible and does not provide a legal vacuum gap there are no cases of criminal acts against students in this internship program in Germany.

The high number of human trafficking cases in Indonesia is a cause for concern. Various cases of human trafficking that have occurred to date based on news in the print and electronic media as well as several research results show how human trafficking cases are heinous acts that are still being defended in an era where human rights should be upheld. Therefore, the discussion on the eradication and legal regulation of the crime of human trafficking must always be consistently discussed in the academic space so that the process of evaluating supervision and handling continues and can lead to new formulations in order to stop the crime of human trafficking which is a transnational crime. We all know that the principle of equality before the law is one of the characteristics of the rule of law. Therefore, investigating and creating something big for the eradication of similar cases is an extraordinary thing. This is also aimed at the progress of Indonesia, which is free from criminals for human trafficking cases.¹⁷

Based on these general problems, the author in his current scientific research will raise the topic of research specifically regarding the Crime of Trafficking in Persons that occurred in the University environment involving thousands of students who were victims of human exploitation, with the formulation of the problem How Should Legal Arrangements in the Independent Campus Policy in Indonesia in the Independent Internship Program Learning Independent Campus? The purpose of the problem formulation is to analyze the legal arrangements that should be in the Independent Campus Policy in Indonesia in the Independent Campus Learning Independent Internship Program.

II. RESEARCH METHODS

The types of research used in this study are normative juridical and empirical juridical methods. The normative juridical method is qualitative in nature, which is research that refers to legal norms contained in laws and regulations, court decisions and norms that live and develop in society. While empirical juridical is using a research approach by interviewing competent parties.¹⁸

Based on the research background of this thesis, in the case of human trafficking, the target is no longer the general public, but students become victims of human trafficking with the mode of internship abroad, in this case it is clear that there is weak supervision of the independent campus policy so that there is still a vacuum of norms in the Ministry of Education and other related government agencies. So the research approach carried out in this study is to use a case approach, conceptual approach. By using a case approach, conceptual approach and statutory approach, the author can examine the discrepancy (gap) between *das sollen* (should) and *das sein* (reality) regarding the implementation of Law Number 21 of 2007 concerning Eradication of Trafficking in Persons.

¹⁷ Bambang Waluyo, 2017, *Penegakan Hukum Di Indonesia*, Jakarta, Sinar Grafika, hlm 20

¹⁸ Ibid

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III. RESULTS AND DISCUSSION

Indonesia is currently undergoing development in all fields, including and inseparable from the development of a good rule of law. According to Mochtar Kusumaatmadja, law functions as a means of community renewal. Therefore, order and regularity are requirements in the development and renewal of national law. In implementing national legal reform, it must be oriented towards a balance between social defense and social welfare, so that the community with universal values and as well as the development of criminal law carried out through the process of formulation / legislation (law making / law reform) and law enforcement, namely the process of application / adjudication (application) and execution (application). On that basis, criminal law enforcement is part of the enforcement of the national legal system which must be guided by the basic values contained in Pancasila and the 1945 Constitution which is the basic constitution of Indonesia, while the process of making legal regulations refers to Law Number 10 of 2004 concerning the Formation of Legislation.¹⁹

In Article 1 Paragraph 3 of the Constitution of the Republic of Indonesia, Indonesia is a state of law. Therefore, in national and international life, Indonesia is formed and established by law, not by the ruling power. In addition, talking about law will never think about its origins. Laws emerge as a result of phenomena or events that arise and develop in society. Policy makers then analyze the phenomenon or event and make the law. So, the law that was born is expected to have the ability to regulate and regulate activities in society.²⁰

Legal development and reform is a change or revolution that must be carried out sooner or later, depending on the wishes of the community or the policies of the government, therefore it can cause various impacts that can be desired or unwanted. Therefore, the means to control it is through the legal system, one of which can be realized in legislation. Legislation in the legal system is one of the sub-systems, which is the result of formulation carried out by the body authorized to make it.²¹

Legal arrangements that should be in the Eradication of Human Trafficking Crime. It is very necessary to discuss because every person is protected by law based on the Ideology and Constitution of the Indonesian Nation in 1945. Therefore, human trafficking is an act that is contrary to human dignity and violates human rights, so it must be eradicated. Eradication of Trafficking in Persons also needs attention because trafficking in persons has reached the form of organized and unorganized crime networks, both inter-state and domestic, so that it becomes a threat to society, nation, and state, as well as to the norms of life based on respect for human rights, so that the desire to prevent and overcome trafficking in persons is based on noble values, national and international commitments to make early prevention efforts, prosecution of perpetrators, protection of victims, and increased cooperation.²²

Human trafficking in Indonesia has been occurring for a long time. But due to the lack of a good legal system and also with the lack of sensitivity of government officials as well as public awareness, this crime continues to remain as a major issue and challenge that arises before the government and society.

The crime of trafficking in persons is already regulated by several national laws and even provisions on trafficking in persons are contained in the Criminal Code. However, as the existing regulations prior to 2007 were inadequate, a special regulation was needed to regulate the content and legal basis that could address trafficking in persons for which Indonesia passed Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, This law includes a strong and clear definition of trafficking in persons, as well as various exploitative methods, acts and purposes, such as trafficking practices (for example, prohibiting people to be trafficked domestically or abroad).

Thus, this law is expected to be made to stop and prevent the crime of trafficking in persons, but even existing legislation when each institution and or each person cannot implement these regulations properly and cannot implement a legal system that can protect its citizens from a crime committed by criminals there will still be a legal vacuum so that cases of trafficking in persons still continue to occur.

In addition to Law No. 21/2007, there are legal regulations in Indonesia that regulate trafficking in persons:

No	Law and/or Regulation	Description
1.	Law No. 21/2007 on the Eradication of the Crime of Trafficking in Persons	This law is the main legal umbrella that regulates the crime of human trafficking in Indonesia. It details the definition, forms of trafficking, and sanctions for traffickers. It also covers legal protection for victims and international cooperation.
2.	Law Number 13 Year 2003 on Manpower	The law also regulates the protection of migrant workers who are vulnerable to exploitation and trafficking, as well as the mechanisms that must be met by employment agencies.

¹⁹ Henny Nuraeny, Op.cit, hlm 99.

²⁰ Daud Rismana, Loc.Cit, hlm 34

²¹ Henny Nuraeny, Op.cit, hlm 100.

²² Muhammad Taufik Makarao, 2019, *Pemberantasan Tindak Pidana Perdagangan Orang*, Jurnal Veritas, Vol 5 No 1. Hlm 1.

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3.	Law No. 11/2012 on the Juvenile Justice System	This law provides protection to children who are victims of and or involved in human trafficking. The law emphasizes the protection of children's rights and special treatment for children involved in trafficking cases.
4.	Law No. 29/2004 on the Placement and Protection of Indonesian Workers Abroad	This law regulates the placement of Indonesian workers abroad and their protection from potential exploitation or trafficking.
5.	The Criminal Code (KUHP)	While this Penal Code does not specifically address trafficking in persons, several provisions such as coercion, slavery and people smuggling in this Penal Code are applicable in the context of trafficking in persons.

Based on the table above, it explains that the legal regulations regarding trafficking in persons have been designed in order to protect Indonesian citizens who are victims of trafficking in persons, for this reason, in the case that the researchers raised the independent campus policy in Indonesia on the independent learning internship program, the independent campus can help by implementing and imitating existing legal regulations including and not excluding making special regulations issued by the Ministry of Education, Culture, Research and Technology (Kemendikbudristek) in order to protect students who are at registered universities in Indonesia.

According to the Ministry of Women's Empowerment and Child Protection, trafficking in persons is carried out in a systematic way by criminals not only targeting people with low economic class, nowadays even educated people are targeted as victims of trafficking. The modus operandi is to offer internships, jobs, scholarships and instant income through online scamming.²³

Deputy for the protection of women's rights, Ratna Susianawati, said that the rise of human trafficking cases that occurred encouraged the government to be more vigilant and increase its commitment to eradicating human trafficking crimes. This is because the negative impact of human trafficking is felt by the victims who are exploited physically, sexually, economically as well as extortion and manipulation. The number of cases that occur, technology is even utilized by the perpetrators in every phase of exploitation starting from recruitment, advertising and even financial management is carried out online.²⁴

According to data collected by the Online Information System for the Protection of Women and Children, from 2020 to 2022, there were 1,418 cases and 1,581 victims of human trafficking reported. Based on data submitted by the Deputy for Coordination of the Improvement of Children, Women and Youth of the Coordinating Ministry for Human Development and Culture (Kemenko PMK), Woro Srihastuti Sulistyaningrum, said that in 2023 the number of victims of TPPO handled reached 1,359 people, and in 2024 until July 3 there were 728 people. Most victims in 2024 came from NTB (171 people), East Java (139 people), and Aceh (68 people) this is apart from student victims in overseas internship programs. Lisa said that the problem of TPPO is still rampant with various modes. Many people are tempted to work abroad because of the lure of high salaries, even educated people are victims of TPPO.²⁵

Based on the results of research in the form of interviews with Mr. Arfan as a young expert job introducer from the directorate of supervision, prevention and prosecution at the Indonesian Migrant Workers Protection Agency, cases regarding students who are victims of trafficking in persons with the mode of ferient job in Germany are not recorded in the administration or system owned by BP2MI. According to him, Indonesian citizens who will work abroad have a long process.

The high number of human trafficking cases in Indonesia is a cause for concern. Various cases of human trafficking that occur today based on news in print and electronic media as well as several research results show how human trafficking cases are heinous acts that are still being maintained in the era of human rights that should be upheld. Therefore, the discussion on the eradication and legal system of the crime of human trafficking should always be consistently discussed in academic circles so that the evaluation process of monitoring and handling continues and can lead to new formulations in order to stop the crime of human trafficking, which is a transnational crime. We all know that the principle of equality before the law is one of the characteristics of the rule of law. Therefore, investigating and creating something big to eradicate similar cases is something extraordinary.

The latest regulation in Indonesia that regulates the prohibition of trafficking in persons is Law No. 21/2007 on the Eradication of the Crime of Trafficking in Persons, the birth of this law is a form of legal protection for victims of trafficking in Indonesia in particular so that they can be protected. However, this law so far has not been able to guarantee that the crime of trafficking in persons is reduced because in eradicating the crime of trafficking in persons a high commitment is needed, namely not only in the

²³ Kementerian Pemberdayaan Perempuan dan Perlindungan Anak, 2023, *Pelaku Perdagangan Orang Mulai Incar Masyarakat Berpendidikan*, <https://www.kemenpppa.go.id/page/view/NDY0Nw==>, diakses pada 21 November 2024, Pukul 17.23 WIB.

²⁴ *Ibid*

²⁵ Kementerian Koordinator Bidang Pembangunan Manusia dan Kebudayaan Republik Indonesia, "*Penanganan Tindak Pidana Perdagangan Orang (TPPO)*", <https://www.kemenkopmk.go.id/deputi-lisa-sampaikan-isu-terkini-pembangunan-anak-perempuan-dan-pemuda> diakses pada 10 Agustus 2024, pukul 10.00 WIB.

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availability of material regulations but in the consistency of the Indonesian government and the Indonesian people who must also have integrity in order to create a balance in the context of eradicating the crime of trafficking in persons.

Criminal law is part of the overall law that applies in a country, which regulates relations between the state and individuals or regulates public interests. In terms of substance, material criminal law consists of:²⁶

1. Criminal Act
2. Criminal Responsibility/Criminal Liability
3. Criminal Prosedur

Furthermore, Friedman states that the law contains three elements that influence the legal structure, legal substance and legal culture in a society. The legal structure consists of legal institutions that are intended to carry out all existing legal instruments.

About the legal structure, Friedman explained:

“the structure of a legal system consist of elements of this kind, the number and size of courts, their jurisdiction (that is, what kind of cases their hear, and how, and why) and modes of appeal from one court to another. Structure also means how the legislature is organized, how many member sit on federal trade commission, what president can (legally) do or not do, what procedure the police departments follows and so on, structure in a way, is kind of cross section of the legal system, a kind of still photograph, which freeze the acion”

Another element of a legal system is its substance. What is meant by substance is the rules, norms and patterns of real human behavior within the legal system. So the substance of the law concerns all applicable laws and regulations that have binding force and become guidelines for law enforcement.

Friedman states about the substance of law as follows:

“another aspect of the legal system is its substance. By this is meant the actual rules, norms and behavior [atterns of people inside the norms”

Whereas in the elements of the legal system there is also a legal culture which is a human attitude (including the legal culture of law enforcement officials) towards law and the legal system. No matter how well the legal structure is structured to carry out the established legal rules and no matter how good the quality of the legal substance is made without being supported by the legal culture by the people involved in the legal system and society, law enforcement will not run effectively.

While in legal culture, Friedman argues:

“the third components of a legal system is the legal culture, by this we mean people’s attitudes toward the law and legal system, their beliefs, values, ideas, and expectation. In other word, it is hat part of the general culture which concerns the legal system. The legal system in other words is the climate of social thought and social force that determines how law is used, avoided, or abused. Without the legal culture, the legal systems is inert”

From the description stated above, the legal structure element of a legal system includes various institutions that exist in the legal system with various functions. While the legal substance includes everything that is the result of the legal structure including legal norms, both in the form of laws, decisions and doctrines. And the third element which is legal culture is a very important element to support the legal structure and legal substance so that law enforcement can run effectively. What Friedman stated above are three things contained in the criminal justice system.

A good legal arrangement is one that can carry out all elements of mutual support and complementarity in the legal system. This implementation is carried out by the criminal justice system which consists of the police (investigators), prosecutors (public prosecutors), judges (courts) and correctional institutions. The criminal justice system according to Mardjono Reksodiputro aims:

1. Prevent people from becoming victims of crime.
2. Resolve crimes that occur so that it is satisfied that justice has been served and the guilty convicted.
3. Seek to ensure that those who have committed crimes not to repeat the crime.

Human trafficking can take many forms. It is dynamic and adaptable and, like other forms of criminal activity, it is constantly changing to defeat eradication efforts to prevent it.²⁷

The case of trafficking in persons with the mode of sending student interns to Germany with a large enough amount indirectly emphasizes that there are weaknesses in the rule of law on the independent campus policy, weaknesses on the rule of law side cause serious implications such as the case that the researcher raised. Given that the rule of law that is compiled comprehensively can provide broad legal protection, improving the legal system is one way to be able to eradicate the crime of trafficking in persons. Laws emerge as a result of phenomena or events that arise and develop in society. Law was also born as an ability to regulate society and in the theory of the legal system it is explained that the legal system must be unified law that involves three elements namely legal structure, legal substance and legal culture in the application should be. It needs to be seen in the case that

²⁶ Moeljatno, 1987, *Asas-Asas Hukum Pidana*, cetakan ketujuh Jakarta : Rineka Cipta

²⁷ Mardjono Reksodiputro, 1987, *beberapa catatan umum tentang masalah korban dalam J.E Sahetapy, Victimologi: sebuah bunga rampai*, Jakarta : Pustaka Sinar Harapan, Hlm.96-97

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the researchers raised the criminal act of trafficking in persons against students in the German internship program certainly reflects the existence of a legal vacuum from one of the legal elements contained in legal arrangements. Which should be if the rule of law is created and realized as well as possible and does not provide a legal vacuum gap there are no cases of criminal acts against students in this internship program in Germany.

Efforts to eradicate the crime of trafficking in persons, especially in the education environment, can be implemented by relevant government agencies, namely the Ministry of Education, Culture, Research and Technology in the form of creating student internship regulations with sufficient content to protect and protect their citizens who will carry out internships. The Ministry of Education, Culture, Research and Technology has only issued regulations after cases of human trafficking in this internship program occurred in the university environment involving student victims. The Ministry of Education, Culture, Research and Technology has just issued Permendikbudristek Number 63 of 2024 concerning the Implementation of Student Internships. However, according to researchers, this regulation is also lacking in protecting or protecting students in the steps of internship programs abroad because it does not regulate the importance of supervision in organizing overseas internship programs.

In this regulation, according to researchers, there is also a legal vacuum that does not meet the three elements of the legal system in Indonesia so that it is not strong in protecting students who carry out internship programs abroad. In Chapter VII on guidance, supervision, monitoring and evaluation ”

“Article 32”:

- (1) Universities supervise the implementation of the Student Internship.
- (2) Supervision as referred to in paragraph (1) shall be carried out in accordance with the provisions of laws and regulations.

“Article 33”

- (1) Universities conduct monitoring and evaluation of the implementation of Student Internships.
- (2) Monitoring and evaluation as referred to in paragraph (1) at least includes:
 - a. the suitability of the implementation of the Student Internship with the objectives that have been set;
 - b. risk mitigation and resolution of problems that occur during the implementation of the Student Internship;
 - c. evaluation of the stages of organizing the Student Internship; and
 - d. feedback from Student Internship organizing partners and Student Internship participants.
- (3) Monitoring and evaluation as referred to in paragraph (1) shall be conducted at least 1 (one) time in 1 (one) year or at any time as needed.

Seeing the contents contained in the Regulation of the Minister of Education, Culture, Research and Technology of the Republic of Indonesia Number 63 of 2024 concerning the Implementation of Student Internships in Chapter VII Article 32 and Article 33 is not equipped with legal sanctions for agencies that have policies in supervision that do not carry out supervision comprehensively so that this provides a gap of emptiness for not carrying out properly the contents of the regulation regarding the implementation of the internship program, Why is this so because something that is not based on legal protection will undermine the contents of existing regulations because people or groups in organizations in Indonesia, according to researchers, do not prioritize the cultural elements of the legal system theory which should be if the cultural elements are put forward whatever the arrangement of the legal structure to carry out the stipulated legal rules and whatever the quality of the legal substance is made without being supported by a legal culture by the people involved in the legal system and society, legal arrangements will not run effectively. And in article 33, the time of one year in monitoring and evaluation referred to according to researchers is too long so that this can cause victims of human trafficking in the internship program to occur because universities do not carry out routine monitoring, for example monitoring once a month. Given that if monitoring is carried out routinely and repetitively in one year, it can protect students undergoing the internship program. And the supervisory bodies of both the relevant ministries involved and the universities that carelessly allow students to be dispatched to overseas internship programs which ultimately do not work well so that Indonesian students only become victims of human trafficking because these students undergo activities not like an internship program but are employed non-procedurally, resulting in students being exploited.

IV. CONCLUSIONS

Legal arrangements in the Independent Campus policy in Indonesia, especially in the internship program, still have weaknesses that open up opportunities for criminal acts of human trafficking against students. This weakness shows a legal vacuum that should be resolved by implementing legal system theory, which includes three main elements: legal structure, legal substance, and legal culture. The void in the legal structure can be seen from the discrepancy between the implementation of the policy and the formal provisions that should apply, thus opening the gap for abuse of authority. In terms of legal substance, weaknesses arise because existing regulations are not strong enough to prevent and take firm action against criminals, including those who facilitate such actions. Meanwhile, the legal culture, which should function as a link between regulations and society, has not been implemented optimally, one of which is due to the lack of socialization about the dangers and sanctions for human trafficking in the internship program scheme. Therefore, legal arrangements must be prepared by fulfilling the three elements in

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the legal system theory in order to provide effective protection for students. The regulations made must also apply indiscriminately, so that anyone involved in opening up opportunities for this crime can be sanctioned, including the campus. If it is proven that there is involvement of educational institutions in this practice, then the rector and/or related parties must be held responsible because this not only violates the law, but also tarnishes the ethics of higher education. With comprehensive and firm regulations, legal loopholes can be closed, so that similar cases do not recur in the future.

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