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Analysis of Judges' Inhibiting Factors in Deciding Criminal Cases Related to Trafficking of Women in Sexual Exploitation

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Article	Abstract
<p>Keywords: Rights Women's Rights; Law; Trafficking.</p> <p>Article History Received: Jan 11, 2023; Reviewed: Feb 11, 2023; Accepted: Mar 11, 2023; Published: Mar 31, 2023.</p>	<p>In the era of globalization moment This slavery and servitude in form trading man become the more lively in its hidden and illegal form, and women are more prone to become the victim. follow criminal <i>trafficking</i> is all action perpetrator trafficking that contains one or more action recruitment, transportation between regional and inter- country transfers hand, departure, reception and shelter temporary or on the spot goals, women and children. As for things that are very risky moment This is follow criminal related trafficking with trading Woman to exploitation sexual. Where is trade Woman it is very damaging need base somebody for grow in safe, and destructive environment right for free from violence and exploitation sexual. And of course matter This it is very clear, that crime <i>trafficking</i> related with trading Woman to exploitation sexual has violate right universal human rights For alive, independent, and free from all form slavery .</p>

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INTRODUCTION

Modern slavery is thre at multidimensional nations around the world, because slow suffering individual consequence violation Right Fundamental Human (HAM), relatedness between trading humans and crime organized as well as threats serious security like trading drugs forbidden, be the moreclear. So is the relation with concern health growing society Serious because the victim has disease, fine consequence condition poor life, as well consequence forced to do connection sex and trafficked in communities new.

one aspect this modern slavery really concerning, because no there is an immune country to crime, especially Again to problem crime trading human. Even more ironic crime This made as commodity trading commercial. Where is life a woman good at

home prostitution, or in slavery villages wherever, a price given on freedom an actual victim is a girl.

Basically, trading man or *human trafficking* violate right universal human rights, with sell buy freedom girl in the end resulted protection to right basic Woman become slipped. And phenomenon this, really contrary with what have mandated ohh Constitution of 1945, where everyone is obligated for honor right rights of others without except and without discrimination. Everyone has right for life, right For No tortured, and rights For No enslaved to use realize more life worth.

Human trafficking Actually is something missing old problems get attention special , so existence No so appears on the surface, though in the practice Already is problem casual social become something crime society and humanity. Where is the position man as object at a time as subject from trafficking the .

Trafficking especially related with trading female, no only deprive right basic human, will but also create they prone to to beatings, torture, disease, even trauma. Because of the perpetrator trafficking cheat, intimidate, and commit action violence For plunge the victim into in work similar slavery, or prostitution. So that can damage need base a Woman For growing up in a safe, destructive environment right For free from violence and exploitation sexual. Because in general in follow criminal *trafficking* , someone who is being sold buy from something Work forced treated with No humane, which then dipas For Work with exploit sexuality all over the place industry commercial .

How difficult look for low employment and education, is one the resulting factors for some people are vulnerable For fall victim to crime trafficking this. Factor poverty and no availability field work in the countryside has push seeker Work Good man nor female, for migrate to outside area even to foreign use look for job. Lack of education and limitations owned information cause they prone to trapped to in trading man, that put women in a very risky position, in particular health Good physique and spiritual, and also vulnerable to follow violence.

According to Indonesian law on trafficking Alone Already enter to in follow criminal. Where to act criminal trading Woman This can identified to in five types job, that is as worker sex commercial, workers domestic For marriage, for Work force, and for begging . follow criminal trafficking to exploitation sexual This resulted very big loss, however with relative punishment light. So that crime This can remove source Power man many countries, and resulted damage social to society.

Crime *trafficking* is current global phenomenon This has extends across a wide range parts of the world. Trading humans too presumably produce source profit third biggest for organizations crime international in the world after practice trading narcotics, drugs prohibited and weapons. Condition the participate affected by currents globalization and transparency that can give convenience access for public in do activity, fine across regions and cross international.

METHOD

In writing This using 2 (two) approaches , viz approach juridical normative and approach empirical. Approach juridical normative is approach with method study rules

or related norms with problem to be discussed. Approach grab intended For collect various regulation legislation, theories, and close literature relationship with problem to be discussed. Whereas approach empirical that is with research and collect the primary data obtained in a manner direct from object research, related and related tight with problem to be discussed.

RESULTS AND DISCUSSION

A. Forms follow Criminal Trafficking

According to UN Trade Protocol man or *human trafficking* defined as recruiting, sending, transferring, harboring, or reception somebody with threat or use violence or forms from coercion, kidnapping, deception, lying, or abuse power or position prone to or give or accept payment or obtain profit to get obtain agreement from someone in power over others, for objective exploitation. The exploitation referred to by the UN Protocol is covers at least exploitation For prostrate others or other forms of exploitation sex, work or service forced, slavery or similar practices with bondage, servitude or removal of organs.

Based on description above, then can is known that crime trafficking is something crime characterized organization in candidate recruiting, dispatching, hiring, engaging various different parties importance, so determination perpetrator think about identification based on applicable law. As for crime trafficking this in general tight relation with exploitation power illegal work and exploitation sexual or prostitution.

Article 1 paragraph (1) Law No. 21 of 2007 concerning Eradication follow Criminal Trafficking in Persons (PTPPO) stated that human trafficking is action recruiting, transporting, harboring, shipping, transferrin, or reception somebody with threat violence, use violence, abduction, confinement, forgery, fraud, abuse, fraud, abuse power or position vulnerable, entangled debt or give payment or benefit, so obtain agreement from the person holding it control on the other person, whether done within the country or between countries, for objective exploitation or causing people to be exploited.

Meanwhile inside Article 1 paragraph (2) of the PTPP Law is explained that follow criminal human trafficking is every action or series fulfilling action elements follow prescribed punishment in Constitution this. So if you see based on content Article 1 paragraph (1) and (2) of the PTPP Law, can is known that something crime Can said as something follow criminal *human trafficking* or trading human, if inside activity or implementation there are 3 (three) elements important, namely:

1. Process (movement)

- There is possible recruitment just happen between countries or between area
- There is shelter while (at destination)
- The victims most is women and children.

2. Method

- There is threats verbally or physique

Use verbal power or physique
 There is action kidnapping, fraud, lies
 Utilise position vulnerability, and isolation
 Bondage debt, payment or profit

3. Purpose (exploitation)

Victim exploits in form activity prostitution, or wedding / bride order
 Laborer legal migrants as well illegal
 Formal work, maid House ladder, beggar, industry pornography, dealer drug illicit,
 and organ dealers

Based on results mapping form violence to women conducted by the National Commission on Women, at least there are 7 (seven) forms trading women that occur in Indonesia, both domestically and abroad. girls he traded as:

- a. Worker domestic,
- b. beggar,
- c. dealer drug (drug addictive),
- d. Non-domestic workers with condition very bad job,
- e. Worker sex commercial,
- f. Satisfaction pedophile, and
- g. Bride Woman order in marriage international.

The Trafficking Victim Protection Act (TVPA) mentions forms trading existing weight in trading women, among others as following:

- a. Trading sex, where action sex commercial enforced in a manner forced, with method fraud or lies, or where somebody requested in a manner forced do something action thereby Not yet reach 18 years of age, or
- b. Recruiting, housing, transporting, providing, or get somebody For Work or give service through coercion, fraud, or violence for objective servitude, peonage, entanglement debt, or slavery.

Whereas according to Irwandi et al in *Situation of Street Children in Indonesia: Result and Social Mapping and Survey in 12 Cities (2001)* confirm that form trading Woman based on actor or perpetrator identified as following :

1. Parents , brothers / sisters , neighbours , friends , and girlfriends
2. Agent seeker Work (*brokers*)
3. Government office that provides sign identifier / identity false
4. Syndicate the organizations involved in sex commerce and pedophilia
5. Policy government that doesn't *concern* in business enforcement laws and regulations .

Form follow criminal trafficking Actually No only focused on issues around prostitution or prostitution or worker sex commercial course, will but has widespread and this is very related with the changes that occurred in elder year final this. in a

manner simple But solid, us Can define trading Woman as Then traffic and mobility Woman through parties manager Good institution individual, for Work both domestically and abroad. With emphasize elements coercion and action violence other, so cause Woman in position No free For determine choice alone.

B. Factor Inner Judge Inhibitor disconnect Case follow Criminal Trafficking Relevant Special With Trafficking of Women Against Exploitation sexual

follow criminal trafficking especially related with trading Woman to exploitation sexual, is something follow a very complex crime, of course very necessary effort comprehensive and integrated handling. No only needed knowledge and expertise professionalism course, will but also needed collection and exchange information, adequate cooperation among enforcers related laws. All party If Can each other exchange information and coordination with well, then will find point light inside handle case trafficking the.

like A organized crime, act criminal *trafficking in women* (trafficking female) against exploitation sexual This in action sometimes involve perpetrator cross- border, fine institution individually, or even figure society, which is often No realize follow inclusion they as fertilizing actor practice trafficking the. Crime trading Woman No happen in a manner spontaneous so course , but through various careful consideration by the actors as well as victims, so that the perpetrators Want to do deed the. In combat crime trafficking this, of course needed enough knowledge about characteristics crime, perpetrators and victims of One type crime. Because inside every case crime sometimes very characteristic contextual, then difficult For get comprehensive overview about crime the. This also applies to trade Woman with objective exploit sexual.

Though Already There is regulation government that regulates it in a manner firm and clear about trading human, start from regulation legislation until convention Right Fundamental Man International, however still just follow criminal related trafficking with trading Woman to exploitation sexual tend sometimes No touched by law. Although products law the has born, in fact that crime trading Woman or *trafficking in women* Still just lively happened in this country. Then how Then regulations the effective and capable make deter the perpetrators trafficking, especially related with trading meeting to exploitation sexual. The reality is , though after There is product good state policies form Constitution or regulation others, not yet capable in a manner effective can stop problem grab.

As for regulations Act that became base law to follow criminal related trafficking with trading Woman to exploitation sexual including:

1. 1945 Constitution of the Republic of Indonesia, which is regulated in Article 28G paragraph (1) and 28I paragraph (1). In article 28G paragraph (1) states that everyone is entitled on protection self personal, family, honor, dignity, and property thing below power, too right for security and protection from all threat afraid For do or No do something which is right basic. In article 28I paragraph (1), stated that right For life,

right For No tortured, right freedom of mind and heart conscience, rights religion, right For No enslaved , right For acknowledged as private before law and rights For No demanded on base applicable law recede is right basic humans who don't can reduced in circumstances whatever .

2. Criminal Law Act in article 297, article 324, as well Article 333 paragraph (1), (2), (3). Article 297, says that Trading women and trade child man who hasn't adults, threatened with criminal maximum imprisonment of six year.
Article 324, " Whosoever with cost aloneor other people's running costs commerce slave or with on purpose participate as well as in a manner direct or No direct in one deed mentioned above, was threatened with criminal maximum of twelve year ”.

Article 333

- (1) Whoever with deliberately and against law deprive independence somebody or forward deprivation Such independence is threatened maximum sentence of eight year.
 - (2) If deeds That resulted injuries heavy , then the guilty threatened with maximum sentence of nine year .
 - (3) If resulted dead , threatened with criminal maximum imprisonment of fifteen year .
3. Law No. 21 of 2007 concerning Eradication follow Criminal Trafficking in Persons (PTPPO) Article 1 paragraph (8), Article 3, and Article 4.

Article 1 paragraph (8), “Exploitation sexual is all form utilization of organs sexual or other organs of the victim to get advantage , incl but No limited to all activity prostitution and fornication ”.

Article 3, " Everyone who enters people into the territory of the Republic of Indonesia with Meaning For exploited in the territory of the Republic of Indonesia or exploited in another country is punished with criminal imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine a minimum fine of Rp.120,000,000,- (one hundred and twenty million rupiah) and a maximum of Rp.600,000,000,- (six queen million rupiah).

Article 4, " Everyone who brings Indonesian citizen to outside the territory of the Republic of Indonesia with Meaning For exploited convicted with criminal imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine a minimum fine of Rp.120,000,000,-(one hundred and twenty million rupiah) and a maximum of Rp.600,000,000,-(six hundred million rupiah)”.

4. UU no. 39 of 1999 concerning Right Fundamental Human Rights (HAM), Article 65.

Article 65, “Every child entitled obtain protection from activity exploitation and abuse sex, kidnapping, trafficking child, as well from various form abuse narcotics, psychotropics, and substances addictive others”.

Besides regulation Constitution above, in effort delete follow criminal trading girl, actually can variously used regulations other applicable Now these , among others:

1. UU no. 13 of 2006 concerning Protection Witnesses and Victims.
2. Law No.1 of 1974 concerning Marriage
3. UU no.7 of 1984 concerning endorsement Convention About Deletion all Form Discrimination Against Women.
4. UU no. 19 of 1999 concerning ILO endorsement (ILO Convention Concerning Deletion Work forced .
5. Law No. 21 of 1999 concerning ILO endorsement (ILO Convention Concerning Discrimination and Position).
6. RI Presidential Decree No. 88 of 2002 concerning Plan National Action (RAN) Elimination Trafficking of Women and Children.
7. Regional Regulation No. 6 of 2004 about Deletion Trafficking in Persons (*Human Trafficking*) of Women and Children

Delete follow criminal trafficking to trading Woman specifically with objective exploitation sexual of course looks very difficult, or even can said No Possible crime trafficking This is lost The same once. However so, no means matter This must left grow develop so just. At least with exists policies and regulations governing them in a manner firmly, p This capable For minimize or prevent grow the flower crime the.

Regulation legislation that is what was made footing or base for internal judges ensnare perpetrator follow criminal *trafficking in women* in advance court. Where is the punishment given in regulations the capable give severe and strict sanctions to the perpetrators crime trading female, and capable raises effect deterrent. Due to implementation the law given by the judge is not fell select. Rules already yes, implemented in a manner real upfront court For disconnect case in accordance with crime committed by the perpetrator.

However ironically, in fact No all incoming case to advance court can find point light inside the solution. Of all case trading Woman to exploitation incoming sex court, only handful only capable penetrates the final word inside the solution. This because exists a number of factor possible inhibitor limit room judge moves inside make decision For ensnare perpetrator follow criminal to case the. As for the factors judge 's obstacle that often becomes obstacle inside enforcement law to follow criminal related trafficking with trading Woman specifically to exploitation sexual is as following:

- 1. Victim No Reporting and Sometimes Experience Often Difficulty For Reveal the Truth Up Front Court, Because of What Happened he considered Is disgrace**

With exists matter that , can make it difficult investigator, prosecutor general , and even judge for reveal case trading Woman to exploitation sexual it , and ensnare perpetrator crime to court. Due to the difficult circumstances of the victim disclose facts at the time the judge due to victims of trauma, shame, and conditions psychic others sometimes Not yet recovered. Even sometimes sometimes victims when called at the time trial , the victim often does not Want to present with the victim's reason for fear For meet with perpetrator .

2. Convoluted Actors in Examination and Trial

With exists information convoluted offender at times inspection make slow trial process. Such thing Already become commonplace and even happens often. However, actually with exists information convoluted actor No is something obstacle main for judges, only just long and slow time in the process of completion the case as consequence in decide case trafficking the. However Actually with exists convoluted actor indeed will burdensome for perpetrator That Alone in judge's verdict later. Because even though perpetrator in the statement convoluted, isn't it means perpetrator can get away so just from trap law, because at the moment Not yet entry case in the trial process Already especially formerly provided with tools proof from investigator.

3. Related Trafficking With Trafficking in Women in General Is Syndicates that involve multiple parties .

Usually perpetrator in do follow criminal trafficking especially related with trading Woman is is something organized syndicates, and more tend use others for reach goal . And even form practice trading man sometimes sometimes utilise state policy in the field employment as guise For cover action crime trading related humans with placement power work abroad and within the country. Enforcement law to crime trading characteristic woman national and transnational experience difficulty in application law, p This related with organizations and syndicates involving crimes various party.

4. Difficult In Evidence And Evidence

Which became inhibitor furthermore in handle problem trafficking is relate with tool proof or proof, p This related with perpetrator follow criminal trafficking which is network or even syndicate most use service Service Providers for Indonesian Migrant Workers (PJTKI). So that For obtain tool proof or strong evidence needed extra prudence and thoroughness in handle it.

In matter This judge usually enforces chapter layered for perpetrator follow criminal trafficking, that is with use There are articles in the Criminal Code. Because if only imposed with One chapter just scared There is possibility perpetrator follow criminal trafficking can free and loose from trap law. That too if traded is Woman mature.

5. Related With State Jurisdiction

Trafficking categorized as a nature of crime transnational, that is an activity crime that uses results crimes that include various state jurisdictions. Crime transnational that is because its nature is contrary to rights and human dignity, also called evil which is an enemy to people human, or something more known with the term as *host humane generis*.

State jurisdiction is one factor, others to be an inhibitor in deciding a case of trafficking. Indonesia itself has not yet intertwined state jurisdiction and yet exists cooperation with other relevant countries with the problem of trafficking. So that if found something follows criminal involving trafficking Indonesian citizens abroad or related with state jurisdiction, still often happens confusion for settlement and prosecution. And law which one should use to finish the problem sometimes becomes a debate. With this matter that already exists, of course settlement of a case of trafficking will become stunted and slow in the process of solving it.

Based on the description above, if scrutinized thoroughly, actually the judge's obstacles can just be resolved, even though it won't sound the same once. If only in a matter of prosecution law for a problem following criminal trafficking especially related with trading women for objective exploitation sexual, not only done or even submitted everything to apparatus enforcers authorized by law just. But it is also involved participation from various elements such as Non-Governmental Organizations (NGOs), organizations in society, and society in general, with give information to those in authority if seen, witnessed, or indicate exists activity of trafficking or trading female, or things others can be suspected lead to direction of happening trading girls. All parties can exchange information and expertise in accordance with respective powers and codes of ethics agency.

Because of trafficking in a general manner and related in particular with trading women to sexual exploitation is something that threatens human health and soul, a consequence of trading with no respect for humanity. Crime like this too as an activity from *transnational organized crime*, crimes that are not even fought in a manner partially by each party and each institution. Not only in regarding prevention, but also in matter of handling cases of trading girls in front court. So that the obstacles that arise during the trial process can be minimized and resolved in a careful manner. To face cases of trading women to sexual exploitation, this, the government is also sued for its role active to act on criminal related trafficking with trading women can be written off, and able to lift the price of what human should be, not worthy to be sold or bought. Government must with serious notice ratifications and international conventions about trading human. So that the obstacles become an inner inhibitor for the judge to decide a case following criminal trafficking can be minimized. Where in matter this is a must noticed by the government are:

- a. Tighten regulation legislation with objective provide more protection good for rights girl.
- b. Take right action for look for root problem from practice trader humans, especially related with trading girls. Government cannot treat women who are victims of trafficking as perpetrator criminal.

Besides notice matter above , the government should expand socialization about Law No. 21 of 2007 concerning Eradication follow Criminal Trafficking in Persons (PTPPO). And did establishment of a Service Center Integrated (PPT) as implementation Regulation Government No. 9 of 2008 concerning Procedures and Mechanisms Service Integrated For Witness or PTPPO Victims, as well formation group PTPPO duties consisting of from various element government and society based on Presidential Decree No. 69 of 2008 concerning Group Task Prevention and Handling of TIP.

Problem about related trafficking with trading Woman to exploitation sexual Actually can prevented through enhancement education society, and improvement knowledge society, through gift information wide about trafficking along whole related aspects with problem, and equipped with information about effort deletion was carried out through available media . As for prevention to trafficking related specials with trading Woman For objective exploitation sexual can done with do things as following:

1. Education Improvement

Enhancement education especially addressed to children age school from poor families, and also to those because something matter No can continue to level next.

2. Dissemination Information

Dissemination information by anyone who cares with problem trafficking especially related with trading Woman to exploitation sexual. Good in framework invite public participate in accordance with its capabilities and powers in efforts deletion trafficking. Dissemination information about trafficking can by whom just through the mass media Good print nor electronics, inside framework development public opinion, partiality, and support mass.

3. Upgrade Supervision

In framework prevention to follow criminal trafficking can carried out by the Government with increase supervision to operational company service power Work in recruit, employ, train, prepare documents, and dispatch power Indonesian work both abroad and domestic.

4. Empowerment Former Trafficking Victims (Trafficking in Women)

Trafficking victim in general is originate from family No capable, and in condition social less culture profitable for development himself. because that is empowerment Woman be very important implemented for former victims of trafficking especially related with trading Woman For objective exploitation sexual No trapped return to in the same hole, so they can spared from risk to crime humanity the.

5. Improvement in the Economic Sector

Factor The economy in general is also very influential to happening follow criminal trafficking, because besides level low education of victims, usually victims of trafficking or trading women are also inclined originate from family that has circumstances

economy not enough adequate or poor. With exists enhancement economy to poor families, and give suitable and affordable work fulfil level life worthy to poor family , then risk to crime trading Woman to exploitation sexual can spared .

The most important thing done as effort prevention practices trading Woman with objective exploitation sexual is increase awareness and giving information to all party girls, about the danger trading girl before they decide For migration work. Because however heavy and difficult something conditions to be faced, if somebody Already mentally ready for deal with it, of course will more nice and light compared to those who don't know The same once. Women in general must given information as clear and wide as possible they can make right choice for future developments.

Although Still there is Lots limitations in eradication follow criminal trading women in Indonesia, however No can denied that moment This Already happen various very significant development. Because of the government Alone No will capable For answer all related problems with crime trading Woman to exploitation sexual this, sign exists support very active advocacy from public Good local, national and global.

CONCLUSION

Based on various description above, looked that factor to be inhibitor for internal judges decide case follow criminal trafficking especially related with trading Woman to exploitation sexual, is more dominant coming from victim side. Because the victim feels shame, even sometimes experienced trauma what ever received from perpetrator follow pindana the. Another frequent problem appear is available nope protection qualified witnesses and victims, so There is a number cases, where the victim is not Want to report the case Because exists worries from victim self, if later will exists action reply feud from perpetrator. Although base judge 's consideration disconnect matter in general Already true, based on the error actors and abilities perpetrator for responsible. However position perpetrator sometimes also be factor inhibitor for internal judges decide case trafficking, where perpetrator give information or convoluted answer when asked in advance trial. Not yet plus with relation to state jurisdiction, p This make the judge meet difficulty in disconnect case follow criminal trading Woman to exploitation sexual, especially If case follow criminal trafficking the happen between cross country. However No means with exists obstacles, then the judge does not Can disconnect every case follow criminal incoming traffic to advance court. And perpetrators Can get away so just. Fixed law running, and still will There is decision. With exists policies current government This the more growing, and improving capacity enforcement intended law to all apparatus enforcer law and personnel other related, expected obstacles the can overcome and act criminal related trafficking with trading Woman to exploitation sexuality, especially in Indonesia can prevented and controlled. With method give supplies material and construction form enforcement discipline to related laws with aspects trafficking and effort its deletion. And also there is cooperation from party government between Non-Governmental Organizations (NGOs), organizations society, and individuals domestic and foreign must built and developed, so formed capable power eradicate crime *trafficking in women* the.

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