

**LAW OF THE REPUBLIC OF INDONESIA**  
**NUMBER 21 YEAR 2007**  
**ON**  
**ERADICATION OF THE CRIMINAL ACT OF**  
**HUMAN TRAFFICKING**

WITH THE BLESSING OF THE GOD ALMIGHTY  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. Whereas every people as the creature created by the God Almighty has human rights in accordance to the nobility of their dignity which is protected by Law on the basis of Pancasila and 1945 Constitution;
- b. Whereas human trafficking, particularly trafficking of woman and children, constitute act that violates human dignity as well as human rights, therefore must be suppressed;
- c. Whereas human trafficking has been widely practiced in form of organized crime as well as unorganized crime, either in form of cross border crime as well as domestic, thus create tangible threat to the society, nation, and country, as well as to the society norms which based to the high respect to the human rights.
- d. Whereas the intention to prevent and deal with the criminal act of human trafficking is based on the values, national and international commitment, to conduct early stage prevention, punishment to the actors, protection of the victim and improvement of cooperation;
- e. Whereas existing regulation relevant to human trafficking has not provide a holistic and integrated legal basis for efforts to eradicate criminal acts of human trafficking.
- f. Whereas based on the consideration as stipulated in letter a, letter b, letter c, letter d and letter e, it is deemed necessary to enact a law on Eradication of Criminal Act of Human Trafficking;

In view of :

1. Article 20, Article 21, and Article 28B paragraph (2) of the 1945 Constitution;
2. Law Number 7 Year 1984 on Ratification of the Convention on the Elimination of all Forms of Discrimination Against Women (State Gazette Year 1984 Number 29, Supplement to the State Gazette of the Republic of Indonesia Number 3277)
3. Law Number 23 Year 2002 on Children Protection (State Gazette Year 2002 Number 109, Supplement to the State Gazette of the Republic of Indonesia Number 4235)

With Joint Approval From  
THE PEOPLE'S REPRESENTATIVE ASSEMBLY OF THE REPUBLIC OF  
INDONESIA  
and  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA  
Has decided

**LAW ON THE ERADICATION OF CRIMINAL ACT OF HUMAN  
TRAFFICKING**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1**

In this Law, referred to as

1. Human Trafficking shall be any acts to recruit, transport, harbor, deliver, transfer or receipt someone by means of threat or abuse of force, kidnap, locking up, forging, deception, abuse of power or abuse of vulnerable position, debt bondage or to provide payment or benefit, in order to obtain consent from the person that holds control over the other person mentioned, either conducted domestic as well as across the border, with the intention of exploitation or to cause exploitation over other people.
2. Criminal Acts of Human Trafficking shall be any acts or series of acts which fulfill elements of crime stipulated in this Law;
3. Victim shall be someone that suffers from psychological, mental, sexual, economy and/or social disturbance as result of the criminal acts of human trafficking;
4. Anyone shall be individual or corporation that commits criminal acts of human trafficking;
5. Children shall be someone under the age of 18 (eighteen) years old, including unborn child.
6. Corporation shall be group of people and/or assets which properly organized either in form of legal entity or non legal entity.
7. Exploitation shall be any acts with our without the consent of victim which covers but not limited to prostitution, Forced Labor or service, slavery or other practice similar to slavery, oppression, extortion, abuse of physical, sexual, reproduction organ, or unlawfully remove or transplant organ and/or body tissue or make use of the strength or skill of someone by other person to obtain profit either material as well as immaterial.

8. Sexual Exploitation shall be any form of the use of sexual organ or other body organ from the victim in order to obtain profit, including but not limited to any act of prostitution and adultery.
9. Recruitment shall be activity to asks, solicits, transfers or separate someone from his/her family or community.
10. Delivery shall be activity to deliver or harbor someone from one place to another
11. Violence shall be any unlawful act, with or without the use of any medium against physical and metal which cause danger to life, body, or causing expropriation of someone's freedom.
12. Threat of violence shall be any unlawful acts in form of statement, writing, image, symbol or body movement, either by using or without using any medium that creates feel of fear or restraints someone's fundamental freedom.
13. Restitution shall be payment of damages which burdened to the actor in accordance to a final and binding court decision against material and/or immaterial losses suffered by victim or their heirs.
14. Rehabilitation shall be a recovery from any interference to physical and mental as well as social condition in order to make the person able to carry out his/her role properly in their family as well as in society.
15. Debt Bondage shall be action that place someone in the status or condition or forced to put himself or his family or other person under his supervision as collateral, or his personal service as form of debt repayment.

## **CHAPTER II**

### **CRIMINAL ACTS OF HUMAN TRAFFICKING**

#### **Article 2**

- (1) Anyone who commits recruitment, transport, harbor, deliver, transfer or receipt someone by means of threat or abuse of force, kidnapping, locking up, forging, deception, abuse of power or vulnerable position, debt bondage or to provide payment or benefit even though with the consent from the person that holds control over the other person mentioned, with the purpose to exploit such person inside the territory of the Republic of Indonesia, is punishable with imprisonment at least 3 (three) years and maximum 15 (fifteen) years and fine at least Rp. 120.000.000 (one hundred twenty million Rupiah) and maximum Rp. 600.000.000 (six hundred million Rupiah)
- (2) If such act as mentioned in paragraph (1) has made someone become exploited, the actor shall be punished by same punishment as mentioned in paragraph (1).

#### **Article 3**

Anyone that brings person inside the territory of the Republic of Indonesia with the intention to be exploited in the territory of the Republic of Indonesia or exploited in other country, shall be liable to imprisonment for a term of at least 3 (three) years and maximum 15 (fifteen) years and fine at least Rp. 120.000.000 (one hundred twenty million Rupiah) and maximum Rp. 600.000.000 (six hundred million Rupiah)

#### **Article 4**

Anyone that brings Indonesian citizen outside the territory of the Republic of Indonesia with the intention to be exploited outside the territory of the Republic of Indonesia shall be liable to imprisonment for a term of at least 3 (three) years and maximum 15 (fifteen) years and fine at least Rp. 120.000.000 (one hundred twenty million Rupiah) and maximum Rp. 600.000.000 (six hundred million Rupiah)

#### **Article 5**

Anyone that adopt children by promising something or provide something with the intention to be exploited, shall be liable to imprisonment for a term of at least 3 (three) years and maximum 15 (fifteen) years and fine at least Rp. 120.000.000 (one hundred twenty million Rupiah) and maximum Rp. 600.000.000 (six hundred million Rupiah)

#### **Article 6**

Anyone that commits delivery of children either into Indonesia or out from Indonesia by any means, that caused exploitation of the children shall be liable to imprisonment for a term of at least 3 (three) years and maximum 15 (fifteen) years and fine at least Rp. 120.000.000 (one hundred twenty million Rupiah) and maximum Rp. 600.000.000 (six hundred million Rupiah)

#### **Article 7**

- (1) If criminal acts as mentioned in article 2 paragraph (2), article 3, article 4, article 5, and article 6 inflict serious injury, serious mental disturbance, other spreading disease that threat lives, pregnancy, or disturbance or lost of reproductive function, the punishment shall be aggravated by one per third from punishment mentioned in article 2 paragraph (2), article 3, article 4, article 5, and article 6.
- (2) If criminal acts as mentioned in article 2 paragraph (2), article 3, article 4, article 5, and article 6 has caused death of the victim, shall be liable to imprisonment for a term of at least 5 (five) years and maximum lifetime imprisonment and fine at least Rp. 200.000.000 (two hundred million Rupiah) and maximum Rp. 5.000.000.000 (five billion Rupiah)

#### **Article 8**

- (1) Every state organizer whose abuse their power which caused the criminal acts of human trafficking as mentioned in article 2 paragraph (2), article 3, article 4, article 5, and article 6, the punishment shall be aggravated by one per third from punishment mentioned in article 2 paragraph (2), article 3, article 4, article 5, and article 6.
- (2) In addition to punishment as mentioned at paragraph (1), the actor may be subject to additional punishment in form of dishonor dismissal from his/her position.

(3) Additional punishment as mentioned in paragraph (2) shall be mentioned in the body of the court judgment

#### **Article 9**

Anyone that try to move other person to commit criminal acts of human trafficking, while the actual offences is not completed, shall be liable to imprisonment for a term of at least 1 (one) year and maximum of 6 (six) years and fine at least Rp. 40.000.000 (forty million Rupiah) and maximum Rp. 240.000.000 (two hundred forty million Rupiah)

#### **Article 10**

Anyone that assist or attempt to commit criminal act of human trafficking shall be liable to the same punishment as mentioned in article 2, article 3, article 4, article 5, and article 6.

#### **Article 11**

Anyone that plans or conduct evil conspiracy to commit criminal act of human trafficking shall be shall be liable to the same punishment as if it was committed by the person convicted of trafficking of human as mentioned in article 2, article 3, article 4, article 5, and article 6.

#### **Article 12**

Anyone that use or make use of the victim of human trafficking by way of committing sexual intercourse or other adultery acts with the victim of human trafficking, employ the victim to continue the exploitation practice, or to take advantage of the proceeds of the criminal act of human trafficking shall be liable to the same punishment as mentioned in article 2, article 3, article 4, article 5, and article 6.

#### **Article 13**

- (1) Criminal act of human trafficking shall be regarded to be committed by corporation if such acts is conducted by people acting for and/or on behalf of the corporation or for the interest of the corporation, either on the basis of employment relation, as well as other relation, acts within the environment of the corporation either individually or jointly.
- (2) In the event where criminal act of human trafficking is conducted by a corporation as mentioned in paragraph (1), thus, the investigation, prosecution and punishment shall be conducted against the corporation and/or its management

#### **Article 14**

In the event where summons made to the corporation, such summons to present and delivery of such summon shall be delivered to the management board in the office of the management, where the corporation is operational, or in the residence of the management.

#### **Article 15**

- (1) In the case where the criminal acts of human trafficking is committed by a corporation, in addition to imprisonment and fine imposed to the management, punishment that can be imposed to the corporation shall be in form of fine aggravated by three times than fine mentioned in article 2, article 3, article 4, article 5, and article 6.
- (2) In addition to fine as mentioned in paragraph (1), corporation may subject to additional punishment in form of :

- a. cancellation of business permit
- b. confiscation of the assets that is proven to be the proceeds of the crime
- c. revocation of the status of legal entity;
- d. dismissal of management board; and/or
- e. prohibition to the management board to establish another corporation in the same field.

#### **Article 16**

In the case where criminal act of human trafficking is committed by organized group, therefore, each actor within such group shall be liable to the same punishment as mentioned in article 2 aggravated by one per third.

#### **Article 17**

If the act as mentioned in article 2, article 3, and article 4 is committed against children, punishment shall be aggravated by one per third.

#### **Article 18**

Victim which commits criminal acts after being forced by the person convicted of criminal act of human trafficking shall not be punished.

### **CHAPTER III**

#### **OTHER CRIMINAL ACTS IN RELATION WITH CRIMINAL ACT OF HUMAN TRAFICKING**

#### **Article 19**

Anyone that provides or produce false statement to the government document or other document or counterfeit government document or other document to assist the implementation of criminal act of human trafficking shall be liable to imprisonment for a term of at least 1 (one) year and maximum of 7 (seven) years and fine at least Rp. 40.000.000 (forty million Rupiah) and maximum Rp. 280.000.000 (two hundred eighty million Rupiah)

#### **Article 20**

Anyone that produce false testimony, false evidence or exhibits, or unlawfully influence witness in the course of the criminal act of human trafficking court examination, shall be liable to imprisonment for a term of at least 1 (one) year and maximum of 7 (seven) years and fine at least Rp. 40.000.000 (forty million Rupiah) and maximum Rp. 280.000.000 (two hundred eighty million Rupiah)

#### **Article 21**

- (1) Anyone that commit physical assault to the witness or court officials in the criminal act of human trafficking court hearing, shall be liable to imprisonment for a term of at least 1 (one) year and maximum of 5 (five) years and fine at least Rp. 40.000.000 (forty million Rupiah) and maximum Rp. 200.000.000 (two hundred million Rupiah)

- (2) If such acts as mentioned in paragraph (1) caused serious wound to the witness or court official, the person convicted shall be liable to imprisonment for a term of at least 2 (two) years and maximum of 10 (ten) years and fine at least Rp. 80.000.000 (eighty million Rupiah) and maximum Rp. 600.000.000 (six hundred million Rupiah)

#### **Article 22**

Anyone that intentionally prevent, block or directly or indirectly contribute to the failure of the process of investigation, prosecution and court examination against the suspect, defendant or witness in human trafficking case, shall be liable to imprisonment for a term of at least 1 (one) year and maximum of 5 (five) years and fine at least Rp. 40.000.000 (forty million Rupiah) and maximum Rp. 200.000.000 (two hundred million Rupiah)

#### **Article 23**

Anyone that assist in any person convicted of the criminal act of human trafficking escaping from the criminal hearing process by :

- a. providing or lend money, articles, or other kind of assets to the fugitive;
- b. provide housing to the fugitive;
- c. hide the fugitive; or
- d. hide information regarding the presence of the fugitive.

Shall be liable to imprisonment for a term of at least 1 (one) year and maximum of 5 (five) years and fine at least Rp. 40.000.000 (forty million Rupiah) and maximum Rp. 200.000.000 (two hundred million Rupiah)

#### **Article 24**

Anyone that inform identity of the witness or victim whereby, it is known to him that such identity must be keep confidential shall be liable to imprisonment for a term of at least 3 (three) years and maximum of 7 (seven) years and fine at least Rp. 120.000.000 (one hundred twenty million Rupiah) and maximum Rp. 280.000.000 (two hundred eighty million Rupiah)

#### **Article 25**

If the person convicted of trafficking is unable to pay the fine, the convict may be subject of substitute punishment of maximum 1 year imprisonment.

#### **Article 26**

Consent from victim of human trafficking shall not eliminate right to prosecute the criminal act of human trafficking.

#### **Article 27**

Person convicted of the criminal act of human trafficking shall lost his right to claim over debt or any other agreement against the victim, if such debt or agreement was used to exploit the victim.

### **CHAPTER IV**

### **INVESTIGATION, PROSECUTION AND COURT EXAMINATION**

### **Article 28**

Investigation, Prosecution And Court Examination in the case of criminal act of human trafficking shall be conducted in accordance with applicable criminal procedural law, unless stipulated the otherwise in this law.

### **Article 29**

Evidence other than as stipulated by the Criminal Procedural Law shall also be in form of:

- a. information stated, send, received, or kept electronically with optical device or alike; and
- b. data, record, or information that can be seen, read, and/or listen, which can be produced with or without support from any facility, either printed in the paper, any physical object except paper, or recorded electronically, including but not limited to:
  - 1) writing, voice or image
  - 2) map, plan, photograph, or alike, or
  - 3) letter, sign, number, symbol, or perforation that contain meaning or can be interpreted by someone that can read or understand.

### **Article 30**

As one of the valid evidence, statement from only one victim shall be sufficient to prove that defendant is guilty, if supported by one other valid evidence.

### **Article 31**

- (1) Based on sufficient preliminary evidence, investigator is authorized to intercept telephone communication or other communication devices suspected to be used to prepare, plan, and commit criminal act of human trafficking
- (2) Action to intercept communication as mentioned in paragraph (1) can only be conducted under written approval from the Head of the Court for the duration of maximum 1 (one) year.

### **Article 32**

Investigator, prosecutor, or judge shall have the authority to order any financial service provider to freeze assets belong to anyone suspected or indicted to commit criminal act of human trafficking.

### **Article 33**

- (1) In the course of investigation, prosecution, and court examination, the person making the report shall have the right not to have his identity, i.e name and address or other matters that might lead to the disclosure of the reporter's identity be disclosed
- (2) In the case where the reporter request his name and address or other matters as mentioned in paragraph (1) not to be disclosed, such non-disclosure obligation must be notified to the witnesses and other person related to the criminal act of human trafficking prior to the examination by official authorized to conduct examination.

#### **Article 34**

In the event where witness and/or victim cannot be presented before the court examination, witness statement can be made remotely by using audio visual communication means.

#### **Article 35**

During the duration of the investigation, prosecution and court examination process, witness and/or victim shall have the right to be accompanied by an advocate and/or other assistance necessary.

#### **Article 36**

- (1) During the duration of the investigation, prosecution and court examination process, witness shall have the right to obtain information regarding progress of the case involving himself.
- (2) Information concerning the progress of case as mentioned in paragraph (1) may be in form of provisions of copy of the minutes of each examination stage.

#### **Article 37**

- (1) Witness and/or victim have the right to make request to the head of the panel to provide statement before the court without the presence of the defendant.
- (2) In the event where witness and/or victim is about to provide statement without the presence of the defendant, head of the panel shall order the defendant to go outside the court room.
- (3) Examination of defendant as mentioned in paragraph (2) can be continued after the defendant is informed about every statement made by witness and/or victim when the defendant sent outside the court room.

#### **Article 38**

Investigation, prosecution, and court examination, of child witness and/or child victim shall be conducted by considering the best interest of the children by not wearing formal judge or official attire.

#### **Article 39**

- (1) Court hearing in criminal act of human trafficking in its session to examine child witness and/or child victim shall be conducted in closed hearing.
- (2) During the examination as mentioned in paragraph (1), child witness and/or child victim must be accompanied by their parents, guardian, step parent, advocate or other assistant.
- (3) Examination to child witness and/or child victim as mentioned in paragraph (1) shall be conducted without the presence of defendant.

#### **Article 40**

- (1) Examination to child witness and/or child victim, on the approval of the judge, may be conducted outside the court room with recording.
- (2) Examination as mentioned in paragraph (1) shall be conducted in front of authorized official.

#### **Article 41**

- (1) In the case where defendant has been legally and properly summoned, but failed to attend the hearing without any valid reason, the case may be examined and decided without the presence of the defendant.
- (2) In the case where the defendant present in the next hearing before the judgment is made, it is mandatory that defendant must be examined, and all statement made by witnesses and documents stated in previous hearings shall be regarded as evidence that presented in hearing with the presence of the defendant.

#### **Article 42**

Court Judgment made without the presence of the defendant shall be announced by the public prosecutor by placing it in the announcement board of the court, local government office, or notified directly to the defendant's family or representative.

### **CHAPTER V**

### **PROTECTION OF WITNESS AND VICTIM**

#### **Article 43**

Provision concerning protection of witness and victim in the criminal act of human trafficking shall be conducted on the basis of Law Number 13 Year 2006 regarding Witness and Victim Protection, unless stipulated the otherwise in this Law.

#### **Article 44**

- (1) Witness and or victim of criminal act of human trafficking has the right to have their identity protected and kept confidential.
- (2) Right as mentioned in paragraph (1) shall also be provided to the family member of the witness and/or victim up to second degree, if the family member of the witness and/or victim receives either physical or psychological threat from other people relevant to the statement made by witness and/or victim.

#### **Article 45**

- (1) to protect witness and/or victim, in each provinces and regency/cities, it is compulsory to establish special service room at local police office in order to conduct examination in investigation level for witness and/or victim of criminal act of human trafficking.
- (2) Further regulation concerning establishment of special service room and procedure to examine witness and/or victim shall be further regulated by the Regulation of the Chief of Police Force of the Republic of Indonesia.

#### **Article 46**

- (1) To protect witness and/or victim, it is possible to establish an integrated service center for witness and/or victim of criminal act of human trafficking in every regencies/cities.
- (2) Further provisions concerning procedure and mechanism of integrated service as mentioned in paragraph (1) shall be regulated by Government Regulation.

#### **Article 47**

In the event where witness and/or victim and their family members receive threat that may endanger their life, and/or assets, the Police Force must provide protection either prior to, during, and after the case examination process.

#### **Article 48**

- (1) Every victim of criminal act of human trafficking or their heir shall have the right to receive restitution.
- (2) Restitution as mentioned in paragraph (1) shall be in form of damages over :
  - a. lost of wealth or income;
  - b. pain
  - c. cost of medical and/or psychological treatment; and/or
  - d. any other losses suffered by victim as result as human trafficking.
- (3) Such restitution shall be provided and mentioned in the order of the court in the text of judgment.
- (4) Disbursement of restitution as mentioned in paragraph (1) shall be made promptly after the decision of the court of first instance.
- (5) Restitution as mentioned in paragraph (4) can be deposited in advance at the court where the case was decided.
- (6) Disbursement of restitution shall be conducted within 14 (fourteen) days since court decision with final and binding power is notified.
- (7) In the case where the defendant was acquitted by the court of appeal or cassation, the court would then order in its decision to refund restitution money that currently being deposited.

#### **Article 49**

- (1) Disbursement of restitution shall be reported to the Chief of the Court that renders such decision, supported with receipt of the disbursement of such restitution.
- (2) After the Chief of the Court receive the receipt as mentioned in paragraph (1), the Chief of the Court shall announce implementation of the disbursement in the announcement board of the relevant court.
- (3) Copy of the receipt of disbursement of restitution as mentioned in paragraph (1) shall be delivered by the court to the victim or their heirs.

#### **Article 50**

- (1) In the case where the person convicted for criminal act of human trafficking failed to make disbursement of restitution at the end of timeframe as mentioned in article 48 paragraph (6), victim or their heirs shall notify the court regarding this matter.
- (2) Court as mentioned in paragraph (1) shall issue reminder in writing to the person ordered to pay restitution, to immediately fulfill its obligation by paying restitution to the victim or their heirs.

- (3) In the event where reminder as mentioned in paragraph (2) does not implemented in the period of 14 (fourteen) days, court shall order the public prosecutor to seize defendant's assets and auction such asset to pay the restitution.
- (4) If the defendant is unable to pay restitution, the defendant shall be punished by substitution punishment of maximum 1 (one) year of imprisonment.

#### **Article 51**

- (1) Victim shall have the right to receive health, social rehabilitation, repatriation, and social reintegration from the government if such person suffers from physical as well as mental pain as result of criminal act of human trafficking.
- (2) Rights as mentioned in paragraph (1) shall be claimed by victim or its family member, victim's colleague, police, volunteer, or social worker after victim reports his case or other person report that matters to the police.
- (3) Claims as mentioned in paragraph (2) shall be submitted to the government through the minister or agency that handles health and social problems in the region.

#### **Article 52**

- (1) Ministers or agencies that handle rehabilitation as mentioned in article 51 paragraph (1) is obliged to provide health, social rehabilitation, repatriation and social reintegration in no later than 7 (seven) days since the submission of the request.
- (2) To organize implementation of health social rehabilitation service, repatriation and social reintegration as mentioned in paragraph (1), central and local government is obliged to establish social protection houses or trauma center.
- (3) To carry out service as mentioned in paragraph (2), public or other social services agencies may also establish social protection house or trauma center.

#### **Article 53**

In the case where victim experience trauma or disease that may endanger his/her life as result of the criminal act of human trafficking and resulted to the needs to have immediate treatment, the minister or agency that handle health and social matter in the relevant region shall provide first aid in no later than 7 (seven) days after the request was made.

#### **Article 54**

- (1) in the case where victim is located in foreign country, the government of the Republic of Indonesia through its representative abroad is obliged to protect personal and the interest of the victim, and make effort to return the victim back to Indonesia on the expenses of the government.
- (2) In the case where victim is citizen of other country currently present in Indonesia, the government of the Republic of Indonesia shall make effort for protection and repatriation to their originating country through coordination with the country's representative in Indonesia.
- (3) Provision of protection as mentioned in paragraph (1) and paragraph (2) shall be conducted in accordance with legislations, international laws or international custom.

#### **Article 55**

Witness and/or victim of criminal act of human trafficking, in addition to those that mentioned in this law is also eligible to obtain right and protection in accordance with other legislations.

## **CHAPTER VI PREVENTION AND HANDLING**

### **Article 56**

Prevention of criminal act of human trafficking shall have the objective to prevent as early as possible any acts of human trafficking from happening.

### **Article 57**

- (1) Government, local government, public and family is obliged to prevent criminal act of human trafficking from happening.
- (2) Government and local government are obliged to make policies, programs, activities, and allocate budget to implement prevention and handling of human trafficking matters.

### **Article 58**

- (1) In order to implement eradication of criminal act of human trafficking, government and local government is obliged to take steps on prevention and handling of the criminal acts of human trafficking.
- (2) In order to make effective and make sure implementation of steps as mentioned in paragraph (1) government shall establish task force which consist of representatives from government, law enforcement apparatus, public organization, non government organization, professional organization and researcher/academician.
- (3) Local government shall establish task force consists of representatives from local government, law enforcement apparatus, public organization, non governmental organization, professional organization and researcher/academician.
- (4) Task force as mentioned in paragraph (2) and paragraph (3) shall be a coordinating body which tasked with :
  - a. coordinating effort to prevent and handle criminal act of human trafficking
  - b. advocate, socialize, train and make cooperation
  - c. monitor progress on implementation of the victim protection which covers rehabilitation, repatriation and social reintegration.
  - d. Monitor development of implementation of law enforcement; and
  - e. Implement reporting and evaluation.
- (5) Central Task force shall be chaired by a minister or official of minister level appointed by Presidential Regulation.
- (6) In order to make effective and make sure implementation of steps as mentioned in paragraph (2), government and local government is obliged to allocate required budget.

- (7) Further provisions concerning establishment, organization structure, membership, budget and mechanism of central and local task force shall be regulated by Presidential Regulation.

## **CHAPTER VII**

### **INTERNATIONAL COOPERATION AND PUBLIC PARTICIPATION**

#### **Part One**

#### **International Cooperation**

##### **Article 59**

- (1) in order to make effective implementation of prevention and eradication of criminal act of human trafficking, the Government of the Republic of Indonesia have obligation to implement international cooperation, either in form of bilateral, regional or multilateral.
- (2) Cooperation as mentioned in paragraph (1) can be conducted in form of mutual assistance in criminal matters agreement and/or other technical cooperation in accordance with the provisions of legislations.

#### **Part Two**

#### **Public Participation**

##### **Article 60**

- (1) public shall participate in assisting effort to prevent and handle victim of criminal act of human trafficking.
- (2) Public participation as mentioned in paragraph (1) shall be implemented by way of providing information and/or reporting any criminal act of human trafficking to the law enforcement apparatus or other authorized officials, or participating in handling the victim of criminal act of human trafficking.

##### **Article 61**

For the purpose of prevention and handling of the victim of criminal act of human trafficking, government is obliged to open all access for public participation, either national as well as international in accordance to applicable legislations, laws and international custom.

##### **Article 62**

To implement public participation as mentioned in article 60 and article 61, public shall have the right to obtain legal protection.

##### **Article 63**

Public participation as mentioned in article 60 and 61 shall be implemented in responsible manner in accordance to the provisions of legislation.

## **CHAPTER VIII**

### **TRANSITIONAL PROVISION**

**Article 64**

At the time of its promulgation, criminal act of human trafficking case that is currently undergoing investigation, prosecution, or court examination process, shall be examined by the law that regulates it.

**CHAPTER IX  
CLOSING PROVISION**

**Article 65**

At the time of its promulgation, article 297 and article 324 Law Number 1 Year 1946 on Criminal Law Regulation (State Gazette of the Republic of Indonesia II Number 9) jo. Law Number 73 Year 1958 on Declaration of Application of the Law Number 1 Year 1946 on Criminal Regulation Code for all territory of the Republic of Indonesia and amend Criminal Code (State Gazette of the Republic of Indonesia Year 1958 Number 127, Supplement to State Gazette Number 1660) which has been amended and added several times, lastly with Law Number 27 Year 1999 on Amendment Criminal Law Code in relation with Crime against State Security (State Gazette of the Republic of Indonesia Year 1999 Number 74, Supplement to State Gazette Number 3850) shall be revoked and declared as not applicable.

**Article 66**

Implementing regulation as ordered by this Law must be enacted no later than 6 (six) month after enactment of this Law.

**Article 67**

This law shall come into effect on the date of its promulgation.  
For public cognizance, this law shall be promulgated by placing it in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta,

On the .....

PRESIDENT OF THE REPUBLIC OF INDONESIA,

sgd.

SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta,

On the .....

MINISTRY OF LAW & HUMAN RIGHT OF THE REPUBLIC OF INDONESIA,

Sgd.

HAMID AWALUDDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2007 NUMBER ....

**ELUCIDATION**  
**LAW NUMBER 21 YEAR 2007**  
**On**  
**ERADICATION OF CRIMINAL ACT OF HUMAN TRAFFICKING**

**I. GENERAL**

Human trafficking is modern form of human slavery. Human trafficking is one of the worst treatment of the violation of dignity of the mankind.

By the increasing number of human trafficking problem in various countries, including Indonesia and other developing country, it has attracts Indonesia's attention as a nation, international society, and member of international organization particularly the United Nations.

According to empirical facts, women and children represents the highest figure of the victim of criminal act of human trafficking, Victims are trafficked not only for the purpose of prostitution, or other form of sexual exploitation, but also other forms of exploitation, for example forced labor or service, slavery, or other practice comparable to slavery. The person convicted of criminal act of trafficking recruits, transfer, move, hide or accept people with intention to frame, or taking advantages of that person in the exploitative way in any of its forms with threat or abuse of force, kidnapping, forgery, fraud, abuse of power or vulnerable position, or making payment or benefit in order to obtain consent from the person having control over the victim.

Forms of exploitation shall covers forced of labor/service, slavery or other practice comparable to slavery, forced labor/service shall be labor conditions that arise from the method, plan, or pattern that intended to convince someone that if he does not perform certain work, the person under his supervision will suffer either physical or psychological. Slavery shall be a condition where someone is positioned under the ownership of other person. Practice comparable to slavery shall be action that puts someone under the authority of other person, which make such person cannot refuse not to do work that is unlawful, ordered by other person to him, even though such person does not wish to do so.

Criminal act of human trafficking, particularly woman and children, has become widely spread in form of criminal network, either organized or unorganized. Criminal Act of human trafficking even involves not only individuals, but also corporation and government executives which abuse their authority and power. The network of criminal act of human trafficking covers not only domestic but also across the border.

Provision concerning prohibition on human trafficking has been basically regulated by the Criminal Code. Article 297 of the Criminal Code stipulates prohibition to conduct trafficking over women and immature male children and classify such act as crime. Article 83 Law Number 23 Year 2002 on Children Protection stipulates prohibition to trade, sell, or kidnap children for personal purpose or for further trafficking. However, the provisions on Criminal Code and Children Protection Law does not formulate legally clear and fix definition on human trafficking. Besides, article 297 Criminal Code provides very light sanction and incomparable to the effect suffered by the victim as result of trafficking. Therefore, special law dealing with criminal act of human trafficking is necessary to

provide both material and formal legal basis. For that purpose, this special law shall anticipate and cover any kind of activity within the process, method or any form of exploitation that might happen in human trafficking practice, either committed domestically or internationally, by either individuals or corporation.

This law regulates protection of witness and victim as important aspect of law, which aimed to provide basic protection to victim and witness. Besides, this law also provides significant attention to the condition of the victim in form of restitution right that must be paid by the actor of the criminal act of human trafficking as compensation for victim and regulates the rights of the victim over medical and social rehabilitation, repatriation as well as reintegration that must be done by the government, especially for those who experience physical, psychological and social suffer as result of criminal act of human trafficking.

Prevention and handling of criminal act of human trafficking shall become the responsibility of government, local government, public and family. To materialize comprehensive and integrated steps in implementation of such prevention and handling it is necessary to establish a task force. Criminal act of human trafficking constitute a crime that happens not only in one territory of a country, but also across the border. Therefore, it is necessary to develop international cooperation in form of mutual legal assistance in criminal matters and/or other technical cooperation in accordance to the provision of legislations.

Enactment of this law is also part of Indonesia's commitment to implement United Nation Protocol Year 2000 regarding protocol to Prevent, Suppress and Punish Trafficking in Person, especially Women and Children (Palermo Protocol) which has been signed by the Government of the Republic of Indonesia

## **II. ARTICLE BY ARTICLE**

### **Article 1**

Sufficiently clear.

### **Article 2**

Paragraph (1)

In this article, the word 'for the purpose of' before the phrase 'exploit the person' shows that the criminal act of human trafficking constitutes a formal offences, whereby existence of the act shall be sufficient by fulfillment of the element of crime formulated, and does not necessarily create any effect.

Paragraph (2)

Sufficiently clear.

### **Article 3**

This article is intended that the territory of the Republic of Indonesia shall be the country of destination or transit

#### **Article 4**

Sufficiently Clear.

#### **Article 5**

Sufficiently Clear.

#### **Article 6**

Referred to as the phrase ‘delivery of a child into the country’ in this provision shall be transport of children among regions inside the territory of the Republic of Indonesia.

#### **Article 7**

Paragraph (1)

Referred to as serious wound in this provision shall be :

- a. illness or obtain wound that have no expectation to recover or may caused fatality;
- b. permanently unable to carry on the duties or work;
- c. lost one of the sense;
- d. suffers of severe disability
- e. becomes invalid
- f. suffer from mind or mental disorder for at least 4 (four) week continuously or 1 (one) year intermittently; or
- g. miscarriage or death of the fetus of a women or causing dysfunction of reproductive organ.

Paragraph (2)

Sufficiently Clear.

#### **Article 8**

Paragraph (1)

Referred to as “government executives” in this article shall be government official, member of the Indonesia’s National Army, member of Police Force of the Republic of Indonesia, security apparatus, law enforcement or public official that abuse their authority to commit or make criminal act of human trafficking easier.

Referred to as abuse of authority in this article shall be carry out authority belong to the position not in accordance with the provision of regulation.

Paragraph (2)

Sufficiently Clear.

Paragraph (3)

Sufficiently Clear.

**Article 9**

Sufficiently Clear.

**Article 10**

Sufficiently Clear.

**Article 11**

Sufficiently Clear.

**Article 12**

Sufficiently Clear.

**Article 13**

Sufficiently Clear.

**Article 14**

Sufficiently Clear.

**Article 15**

Paragraph (1)

Sufficiently Clear.

Paragraph (2)

Referred to as cancellation of business permit, confiscation of the assets that is proven to be the proceeds of the crime, revocation of the status of legal entity, dismissal of management board, and/or prohibition to the management board to establish another corporation in the same field” in this article shall be implemented in accordance to the legislations.

**Article 16**

In this article, referred to as organized group shall be a structured group consist of 3 (three) or more person, which exist for certain period of time and acting with the objective to conduct one or more criminal act regulated by this Law with the goal to obtain material or financial profit either directly or indirectly.

**Article 17**

Sufficiently Clear.

**Article 18**

Referred to as “forced” in this article shall be a condition where someone/victim is ordered to commit in such way, that makes the person conduct something that is against his own will.

**Article 19**

Referred to as “government document” in this article shall cover but not limited to passport, citizen identity card, certificate, family card, birth certificate, and certificate of marriage.

Referred to as “other document” in this article shall covers but not limited to joint work agreement, letter to request Indonesian worker, insurance, and relevant documents.

**Article 20**

Sufficiently Clear

**Article 21**

Paragraph (1)

Referred to as “officer in court” shall be judge, public prosecutor, registrar, counsel of the victim, advocate, police, currently on duty in the hearing of criminal act of human trafficking.

Paragraph (2)

Sufficiently Clear.

Paragraph (3)

Sufficiently Clear.

**Article 22**

Sufficiently Clear.

**Article 23**

Sufficiently Clear.

**Article 24**

Sufficiently Clear.

**Article 25**

Sufficiently Clear.

**Article 26**

Sufficiently Clear.

**Article 27**

In this article, victim shall still reserve the right of claim over the debt or agreement if the person convicted with the criminal act of human trafficking has obligation over the debt or other agreement against the victim.

**Article 28**

Sufficiently Clear

**Article 29**

Referred to as “data, record, or information that can be seen, read, and/or listen, which can be produced with or without support from any facility, either printed in the paper, any

physical object except paper, or recorded electronically, in this article for example data stored in the computer, telephone, or other electronic devices, or record, such as :

- a. bank account record, business record, financial record, credit record or debt, or transaction record related to someone or corporation suspected to be involved in criminal act of human trafficking case.
- b. Record of movement, travel or communication by someone or organization suspected to be involved in criminal act as regulated by this Law, or
- c. Document, sworn statement or other evidences which can be obtained from foreign country, where Indonesia has cooperation with authorities of such country in accordance with the provisions the law concerning mutual legal assistance in criminal matters,

#### **Article 30**

Sufficiently Clear

#### **Article 31**

Sufficiently Clear.

#### **Article 32**

Referred to as the “financial service provider” i.e. bank, stock companies, mutual funds, custodian, and money changer.

#### **Article 33**

Sufficiently Clear.

#### **Article 34**

Sufficiently Clear

#### **Article 35**

Referred to other counsel i.a. shall be psychologist, psychiatric, health expert, spiritual counsel, and family member.

#### **Article 36**

Paragraph (1)

Referred to as victim has the right to obtain update on the progress of the status involving himself in this article shall be victim that becomes witness in the hearing process of the criminal act of human trafficking.

Paragraph (2)

Referred to as Information concerning the progress of case in every stage of the examination in this article, shall be inter alia, copy of minutes of examination or resume of examination in investigation stage, prosecution, indictment, and the text of the court judgment.

**Article 37**

Sufficiently Clear

**Article 38**

Sufficiently Clear

**Article 39**

Sufficiently Clear

**Article 40**

Paragraph (1)

Referred to as “recording” in this article can be conducted by using audio and/or audio visual record instrument.

Paragraph (2)

Referred to as authorized officials shall be investigator or public prosecutor.

**Article 41**

Sufficiently Clear.

**Article 42**

This article is intended to

- a. make possible for the escaped defendant to know the decision;
- b. impose additional punishment to the defendant in form of “discrediting his reputation” over defendant uncooperative attitude with the legal process.

**Article 43**

Sufficiently Clear

**Article 44**

Sufficiently Clear

**Article 45**

Sufficiently Clear

**Article 46**

Sufficiently Clear.

**Article 47**

Sufficiently Clear

## **Article 48**

### Paragraph (1)

In this article, mechanism to request for restitution shall be commenced since the victim reports his case to local Police office, and handled by the investigator in conjunction with the handling of the crime committed. Public Prosecutor shall notify the victim regarding their rights to ask for restitution, further, the public prosecutor shall convey sum of loss suffered by the victim as result of the crime in conjunction with the prosecution. This mechanism does not erase the right of the victim to bring his own claim over such loss.

### Paragraph (2)

Referred to as “other losses” as mentioned in this article for example :

- a. lost of assets
- b. cost of basic transportation
- c. cost of lawyer or other cost in relation to legal process; or
- d. lost of income promised by the actor.

### Paragraph (3)

Sufficiently Clear

### Paragraph (4)

Sufficiently Clear

### Paragraph (5)

In this provision, payment of the restitution in form of cash in the court is implemented in accordance to the regulation. This article shall be comparable to the process to handle civil case’s consignment.

### Article (6)

Restitution in this article shall be actual payment from the amount of restitution decided which previously deposited on the court of first instance.

### Article (7)

Sufficiently Clear

## **Article 49**

Sufficiently Clear

## **Article 50**

Sufficiently Clear

## **Article 51**

### Paragraph (1)

Referred to as “health rehabilitation” in this article shall be recovery of physical as well as psychological condition to the original state.

Referred to as “social rehabilitation” in this article shall be recovery from any disturbance to his mental social and recovery of social functions in order to make victim able to carryout his role properly within the family or society.

Referred to as “social integration” in this article shall be reunification of victim of criminal act of human trafficking to their family or replacement of his family which may provide protection and fulfillment over the needs of the victim.

Right of “repatriation” must be conducted by providing guarantee that victim is really wants to be sent home, and will not face greater risk for the victim.

Paragraph (2)

In this article, request for rehabilitation may be requested by the victim or their representatives by providing proof of the report to the police.

Paragraph (3)

Referred to as “government” in this article refers to agencies responsible in field of health, and/or handling of social problem, and may be implemented jointly between the executor of authority in the level of central, province, and regency/city particularly from where the victim is originated or resided.

## **Article 52**

Article (1)

Sufficiently clear

Article (2)

In this article, establishment of social protection house or trauma center shall be conducted in accordance to actual needs of each regions, by considering priority principle. In the case where regions has already have social protection house or trauma center, the utilization of social protection house or trauma center needs to be optimized in accordance to this law.

Article (3)

Sufficiently clear

## **Article 53**

Sufficiently clear

## **Article 54**

Paragraph (1)

Referred to “its representatives abroad” in this article shall refers to the embassy, consulate general, representatives office, trade office or all diplomatic offices or other consular offices in accordance to legislation implementing the order of the government of the Republic of Indonesia to protect the interests of the Indonesian citizen or Indonesian legal entity that faces legal problem abroad.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Article 55

Referred to as “other legislation” in this article shall refer also to the laws that governs witness and/or victim protection.

**Article 56**

Sufficiently clear

**Article 57**

Paragraph (1)

Referred to as “the government” in this article shall be agencies that carry out the government function in field of education, women empowerment, and labor, law & human rights, communication and information.

Referred to as “Local Government” in this article shall cover the province and regency/cities.

Paragraph (2)

Referred to as “handling” shall cover inter alia, monitoring, empowerment, and capacity improvement of the law enforcement apparatus and other stakeholder.

**Article 58**

Sufficiently clear

**Article 59**

Paragraph (1)

Referred to as “the Government of the Republic of Indonesia” in this article shall be official which by the President has been authorized to carry out implementation of foreign relation and implementation of foreign politics of the government of the Republic of Indonesia in accordance with the legislation.

Paragraph (2)

Referred to as “mutual legal assistance in criminal matters” in this article shall be:

- a. picking up the evidences and to obtain statement from person;
- b. delivery of the official document and other relevant legal record.
- c. Identification of a person and location
- d. Implementation of request to investigate and seize and transfer of evidence in form of document and article.
- e. Effort to transfer the proceeds of the crime;

- f. Effort to obtain consent from the person committed to provide testimonial or assist the investigation by the requesting party and if such person is currently under detention, to arrange temporary transfer to the requesting party.
- g. Delivery of document;
- h. Expert appraisal and notification of the result of the criminal process; and
- i. Other assistance in accordance to the objective of mutual assistance in criminal matter.

**Article 60**

Sufficiently clear

**Article 61**

Sufficiently clear

**Article 62**

Referred to as legal protection as mentioned in this article may be in form of protection over :

- a. personal security
- b. confidentiality of the private identity.
- c. Legal prosecution as consequences of party requesting and jointly responsible for criminal act of human trafficking.

**Article 63**

Sufficiently clear

**Article 64**

Sufficiently clear

**Article 65**

Sufficiently clear

**Article 66**

Sufficiently clear

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