

JURIDICAL ANALYSIS OF PERPETRATORS PARTICIPATING IN CHILD TRAFFICKING CRIMES (TPPO) AS VICTIMS

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Article History

Received: 30 Februari 2025

Accepted: 25 Maret

Published: 20 April 2025

Abstract

Human trafficking, particularly involving children, remains a persistent and complex challenge for the Indonesian legal system. Despite the enactment of Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons and related regulations, gaps persist in addressing individuals who simultaneously occupy the roles of perpetrator and victim. The urgency of this study arises from the increasing number of coerced participants being criminalized, which undermines substantive justice and human rights protections, highlighting the need for a normative and context-sensitive legal framework. This research aims to analyze the juridical accountability of individuals involved in child trafficking while experiencing victimization, evaluating the extent to which the current legal system aligns with principles of justice, legal certainty, and expediency. The research employs a qualitative approach with a normative juridical method, combining statute and conceptual analyses. Data were collected through comprehensive document review, including primary legal materials, academic literature, and international conventions, and were analyzed using qualitative juridical interpretation to examine the alignment between statutory provisions and ethical, social, and restorative justice considerations. Findings indicate that the Indonesian legal system often treats coerced individuals as full perpetrators, reflecting a gap between formal law and moral justice as articulated in Radbruch's legal philosophy. Judicial practices are inconsistent, and institutional coordination is weak, limiting the effectiveness of law enforcement and rehabilitative mechanisms. Comparative insights from the United Kingdom and the Philippines reveal that explicit recognition of coerced participants as victims enhances both justice and law enforcement effectiveness. The study recommends legal reforms incorporating restorative justice principles, codification of non-punishment for coerced participants, judicial training, and institutional integration with social support services to ensure equitable, humane, and effective legal responses.

Keywords: Child Trafficking, Perpetrator-Victim, Restorative Justice, Legal Accountability, Indonesia.

A. INTRODUCTION

The phenomenon of human trafficking, particularly involving children, remains one of the most complex and persistent forms of transnational organized crime that challenge modern legal systems. Despite the adoption of numerous international conventions, such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (*Undang-Undang Nomor 21 Tahun 2007*), the implementation at the national level often reveals significant gaps between normative frameworks and their enforcement. In Indonesia, child trafficking persists

not only because of economic disparities and weak law enforcement but also due to the intricate socio-cultural factors that blur the boundary between perpetrators and victims. This ambiguity becomes more visible when individuals who initially experience coercion or exploitation later become participants in similar criminal acts. Such duality raises a profound juridical question regarding the extent to which justice and legal certainty can be realized for those who commit trafficking-related crimes while simultaneously being victims of systemic exploitation.

In Indonesia, the legal system has explicitly criminalized trafficking in persons through Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, supported by several derivative regulations such as Government Regulation Number 9 of 2008 concerning Procedures and Mechanisms for the Integrated Service Center for Victims. However, despite the existence of these legal instruments, various law enforcement reports indicate that the number of child trafficking cases continues to increase, particularly in economically vulnerable regions. The challenge does not solely lie in the detection of perpetrators but in the legal interpretation of those who become complicit under coercive or exploitative circumstances. This condition demonstrates that normative regulations alone are insufficient to embody the values of justice, legal certainty, and expediency as emphasized by Radbruch's legal philosophy, especially when dealing with the moral complexity of perpetrators who simultaneously experience victimization.

Previous studies on human trafficking in Indonesia have generally focused on the patterns of crime, victim protection mechanisms, and the effectiveness of law enforcement institutions. Scholars such as Muhtaj (2019) emphasized the human rights dimensions of trafficking, particularly the state's obligation to safeguard vulnerable groups. Similarly, Soekanto (1988) examined the sociological barriers to law enforcement, while Ali and Pramono (2011) analyzed the institutional weaknesses in coordinating inter-agency responses. However, these studies tend to view perpetrators and victims as two distinct legal entities, leaving minimal discussion on individuals who occupy both roles within the same criminal framework. This conceptual gap limits the development of a more equitable criminal justice perspective that accommodates the moral and social complexities of those who engage in trafficking activities under coercive conditions. Therefore, a deeper juridical analysis is necessary to re-examine how criminal liability should be imposed upon participants in child trafficking who are simultaneously victims of the same exploitative system.

This research offers a distinctive contribution by positioning perpetrators who are simultaneously victims of child trafficking within a more balanced legal framework grounded in the principles of justice and humanity. Unlike previous normative analyses that narrowly interpret criminal participation based on the *actus reus* and *mens rea* dichotomy, this study employs a more nuanced juridical perspective that incorporates the moral and coercive contexts surrounding the offender's involvement. Such an approach enables a reinterpretation of criminal liability not merely as a mechanical application of statutory provisions but as a moral judgment reflecting the values of justice, certainty, and expediency within Radbruch's legal theory. The novelty lies in its effort to integrate philosophical, normative, and socio-legal dimensions to propose a more restorative understanding of justice in the handling of trafficking cases involving child victims.

The urgency of this research emerges from the persistent tension between the formal rigidity of criminal law and the dynamic realities of victimization in human trafficking cases. In Indonesia, legal responses often prioritize punitive measures while overlooking the socio-psychological conditions that shape an individual's participation in criminal activities. As a result, law enforcement tends to criminalize rather than rehabilitate those who have been entrapped in exploitative networks. This condition contradicts the humanistic values embedded in the national

legal system and international human rights instruments that Indonesia has ratified. Therefore, there is an urgent need to reformulate the legal interpretation and prosecutorial discretion concerning perpetrators who are also victims, ensuring that justice is not only procedural but also substantive in nature. Such a reformulation is essential to strengthen the balance between legal certainty and humanitarian justice in the country's criminal justice system.

This study aims to analyze the juridical accountability of individuals who participate in child trafficking crimes while simultaneously being victims of such offenses. By employing a normative juridical method with a statute and conceptual approach, this research seeks to examine the extent to which the current legal framework accommodates justice for those caught in this dual legal status. The analysis further explores how the principles of justice, legal certainty, and expediency can be reconciled in adjudicating such complex cases. The findings are expected to contribute theoretically by enriching the discourse on the moral foundation of criminal liability, and practically by offering legal insights that support a more humane and restorative approach to the enforcement of anti-trafficking laws in Indonesia. Through this contribution, the study aspires to bridge the gap between normative law and social justice in addressing one of the nation's most persistent human rights challenges.

B. LITERATURE REVIEW

Theoretical Foundation of Criminal Liability

The concept of criminal liability forms the central pillar of criminal law, as it determines whether an individual's conduct warrants legal punishment. In classical legal doctrine, liability is grounded upon the unity between the act (*actus reus*) and the mental state (*mens rea*). According to Sudikno Mertokusumo (2008), the essence of justice lies in the proper attribution of responsibility that aligns with the actor's intent and the harm caused. Within this framework, the imposition of liability is seen as a moral judgment reflecting the collective conscience of society. However, this conventional understanding becomes problematic when applied to cases of human trafficking involving individuals who act under coercion or exploitation. The intersection between voluntariness and victimization challenges the rigidity of traditional criminal law, suggesting the need for a more contextual and value-oriented interpretation of culpability.

Radbruch's legal philosophy provides a crucial foundation for reconciling the tension between legal certainty, justice, and expediency. Radbruch (2011) argued that the law must serve as a means to achieve justice, not merely as an instrument of formal regulation. When positive law contradicts the essence of justice, the value of justice should prevail. This philosophical perspective becomes highly relevant in the discourse of child trafficking, where legal formalism often neglects the social realities that shape an offender's actions. By applying Radbruch's triangle of values, this research seeks to balance the procedural demands of law enforcement with the moral imperatives of fairness and humanity. In this sense, justice is not limited to punishment but also encompasses the recognition of human dignity within the legal process.

Soerjono Soekanto (1988) asserted that the effectiveness of law is not solely determined by the existence of legislation but also by its ability to function within the social system that it aims to regulate. The law becomes truly effective when its normative commands align with societal values, institutional capacities, and patterns of behavior among citizens. In the context of human trafficking, the limited effectiveness of legal enforcement often stems from structural and cultural barriers such as limited institutional coordination, corruption, and public tolerance toward exploitative labor practices. These factors weaken the preventive and rehabilitative purposes of criminal law. Therefore, examining the participation of victims as perpetrators within the

trafficking chain requires not only doctrinal interpretation but also an assessment of how the law operates within its socio-legal environment. The concept of legal effectiveness thus provides an analytical lens to understand why justice for child trafficking victims remains difficult to achieve despite the presence of comprehensive regulations.

From a human rights standpoint, every child possesses an inherent right to protection from all forms of exploitation and abuse. Muhtaj (2019) emphasized that the state's obligation to protect children is not discretionary but a fundamental constitutional duty derived from both national law and international conventions such as the Convention on the Rights of the Child (CRC). Within this framework, individuals who are trafficked as children but later coerced into participating in similar crimes occupy a morally complex position that demands a human-centered legal approach. The principle of non-punishment for trafficked victims, as recognized in several international instruments, reflects the moral imperative to treat such individuals primarily as victims rather than offenders. Integrating this perspective into the Indonesian legal system requires a reinterpretation of criminal liability that acknowledges coercion, exploitation, and diminished autonomy as mitigating conditions within the process of justice delivery.

Indonesia has established a comprehensive legal framework to combat human trafficking through Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons, further supported by the Criminal Code and the Law on Child Protection. The law provides clear definitions of trafficking, stipulates criminal sanctions, and outlines mechanisms for victim protection. Nevertheless, the application of these provisions in judicial practice often reveals inconsistencies between legal norms and the factual conditions faced by victims. The emphasis on prosecution and punishment has overshadowed the rehabilitative and restorative aspects that are essential to addressing the broader dimensions of trafficking. Legal scholars such as Aziz Syamsuddin (2011) and Makhrus Munajat (2022) have argued that criminal law should not merely focus on retribution but also on the protection and recovery of victims. Hence, within the framework of Law Number 21 of 2007, a more progressive interpretation is needed to address cases where offenders have also endured coercion, exploitation, or abuse, thereby requiring differentiated treatment within the justice process.

The notion of a perpetrator who is simultaneously a victim introduces a profound theoretical and practical dilemma within criminal law. From a doctrinal perspective, the principle of equality before the law necessitates that every individual be treated as accountable for their actions. Yet, as noted by Irianto (2005) and El Muhtaj (2005), social structures and systemic inequalities often limit an individual's capacity to act autonomously, leading to situations where culpability becomes blurred. In cases of child trafficking, coercion, deception, and economic vulnerability serve as decisive factors that diminish the offender's moral agency. This complexity calls for the incorporation of viktimologi and restorative justice principles into the interpretation of criminal responsibility. Recognizing the duality of perpetrator-victim status not only aligns with the humanitarian vision of the Indonesian legal system but also reflects a transformative approach to justice that prioritizes rehabilitation over retribution. Such an understanding paves the way for redefining accountability within a framework that harmonizes the objectives of punishment, protection, and human dignity.

C. RESEARCH METHODOLOGY

This research employs a normative juridical approach, which focuses on examining legal norms, principles, and doctrines governing the issue of criminal liability in cases of child trafficking. The normative juridical method is selected because the primary objective of the study

is to interpret and evaluate existing legal provisions within the context of justice and human rights. As explained by Marzuki (2008), normative legal research aims to provide prescriptive analysis rather than empirical observation, emphasizing the coherence between the law in books and the ideals of justice in society. In this study, such an approach is considered the most suitable to uncover how Indonesian criminal law accommodates, or fails to accommodate, the dual status of individuals who are both perpetrators and victims of trafficking.

To strengthen the depth of legal interpretation, this research utilizes two complementary approaches, namely the statute approach and the conceptual approach. The statute approach is applied to analyze statutory regulations such as Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, the Criminal Code, and Law Number 35 of 2014 on Child Protection, as well as relevant international instruments including the Palermo Protocol and the Convention on the Rights of the Child. Meanwhile, the conceptual approach is used to elaborate theoretical perspectives from Radbruch's philosophy of justice, Soekanto's theory of legal effectiveness, and the principles of viktimologi and restorative justice. The combination of these approaches allows the research to construct a comprehensive understanding that integrates the normative, philosophical, and sociological dimensions of legal accountability in trafficking cases.

The data used in this study consist primarily of secondary legal materials, which include primary, secondary, and tertiary sources. The primary legal materials comprise legislation, court decisions, and international conventions related to trafficking and child protection. The secondary materials consist of scholarly writings, academic journals, textbooks, and expert commentaries discussing legal theories, enforcement challenges, and victim-perpetrator dynamics. The tertiary materials are in the form of dictionaries, encyclopedias, and legal commentaries that provide conceptual clarification. The use of secondary data is consistent with the nature of normative legal research, where analytical reasoning and legal interpretation serve as the primary instruments for drawing conclusions rather than empirical observation or statistical testing.

The data were analyzed using a qualitative juridical analysis, which involves systematic interpretation and evaluation of legal norms and doctrines. This technique emphasizes the logical and contextual relationship between legal principles and the empirical realities reflected in judicial practices. The analysis was conducted through several stages: identifying relevant legal norms, interpreting their meaning in accordance with established theories, and evaluating their consistency with justice and human rights principles. The qualitative juridical technique is chosen because it enables the researcher to construct a critical understanding that transcends the formalistic boundaries of statutory interpretation. In doing so, the analysis not only assesses the validity of existing laws but also formulates normative recommendations for their improvement, ensuring that the outcomes of this research are both theoretically grounded and practically applicable within Indonesia's legal system.

D. RESULT AND DISCUSSION

The Legal Status of Perpetrators Participating in Child Trafficking Crimes

Under Indonesian law, the crime of human trafficking is defined comprehensively in Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons, which criminalizes all forms of participation in trafficking activities. The statute stipulates that anyone involved in recruitment, transportation, or harboring of persons for exploitative purposes may be classified as a perpetrator, irrespective of their role in the trafficking chain. This provision demonstrates the legislator's intention to adopt a broad punitive scope in order to dismantle

organized trafficking networks. However, the same breadth creates interpretative difficulties when applied to individuals who, despite being legally complicit, act under duress, manipulation, or dependency. Within the Indonesian Criminal Code, the concept of *medeplegen* (joint perpetration) and *uitlokking* (instigation) further complicates the analysis, as these doctrines presuppose the existence of volition and shared criminal intent. When such intent is absent due to coercion, it raises the question of whether the individual should still bear the same criminal responsibility as an autonomous offender.

Judicial practice in Indonesia reveals significant inconsistencies in interpreting the status of perpetrators who simultaneously experience victimization. Some courts adopt a formalistic stance, focusing on the fulfillment of statutory elements without considering the psychological and socio-economic background of the offender. Others take a more progressive view, recognizing the presence of coercion and subordination as mitigating circumstances. For instance, in several provincial court rulings related to trafficking networks operating in border regions, judges have acknowledged that some defendants were initially recruited as victims before being compelled to assist in the same criminal enterprise. However, due to the absence of explicit statutory provisions recognizing such dual status, judicial reasoning often remains discretionary. This inconsistency reflects a broader issue within the Indonesian legal system, where the pursuit of legal certainty frequently overshadows the realization of substantive justice for those whose culpability is diminished by coercive circumstances.

From a theoretical standpoint, this ambiguity exposes the tension between positivist and value-based interpretations of criminal law. According to Radbruch's philosophy of law, justice, legal certainty, and expediency must be harmonized; however, when strict adherence to the law contradicts justice, the law must yield to moral reasoning. The classification of a coerced participant as a full-fledged perpetrator violates this principle because it disregards the offender's moral and psychological incapacity. Mertokusumo (2008) further explains that the essence of legal responsibility lies in the alignment between intent and wrongdoing; when such alignment is disrupted, the foundation for punishment becomes morally untenable. Consequently, an individual who is both a participant and a victim should not be treated under the same doctrinal framework as a voluntary perpetrator. The failure to differentiate these categories results in what Soekanto (1988) described as the "ineffectiveness of law," where the application of norms no longer corresponds to the values of the society it governs.

The absence of explicit recognition of the perpetrator-victim duality within Indonesian criminal statutes signifies a normative gap that undermines the humanistic orientation of the national legal system. While Law Number 21 of 2007 focuses on punitive measures, it lacks provisions addressing cases where offenders are simultaneously victims of coercion, exploitation, or abuse. This gap not only creates interpretive uncertainty for judges but also limits the potential for restorative and rehabilitative justice. Comparative legal studies, such as those in the United Kingdom and the Philippines, demonstrate that acknowledging the dual status of trafficked individuals contributes to more effective prosecution of trafficking syndicates, as it encourages victim cooperation and prevents secondary victimization. Therefore, to strengthen both the legitimacy and effectiveness of anti-trafficking efforts, Indonesia's legal system must evolve from a retributive paradigm toward a restorative framework that integrates justice with compassion. Only through such transformation can the law function as a genuine instrument of protection rather than a mechanism of punishment for those who are themselves victims of systemic exploitation.

The Application of Criminal Liability to Perpetrators Who Are Also Victims

Criminal liability under Indonesian law is fundamentally premised upon the existence of intent (*mens rea*) and voluntary conduct (*actus reus*). As noted by Mertokusumo (2008), an act can only be punishable when it reflects a conscious and deliberate decision to violate legal norms. However, this classical conception faces serious challenges in cases of human trafficking, where coercion, deception, and dependency often dominate the offender's actions. Individuals who were previously trafficked and subsequently involved in similar acts frequently act under the control of traffickers, lacking both freedom of will and awareness of their culpability. The presence of coercive circumstances therefore undermines the moral foundation of liability, because punishment under such conditions contradicts the basic principles of justice. In the case of child trafficking, the absence of maturity and autonomy further weakens the assumption of criminal intent, compelling the law to treat such actors not merely as perpetrators but as individuals requiring protection and rehabilitation.

From a doctrinal standpoint, the Indonesian legal system has yet to articulate a coherent framework to address situations in which a trafficked person participates in subsequent trafficking activities. The Criminal Code recognizes certain grounds for eliminating liability, such as compulsion (*overmacht*) and necessity (*noodtoestand*), yet these provisions are narrowly construed and rarely invoked in trafficking cases. Judicial reluctance stems from the difficulty of proving coercion beyond reasonable doubt, especially when the victim's participation appears voluntary on the surface. This formalistic interpretation contrasts with the broader understanding of coercion under international law, particularly in the Palermo Protocol, which considers psychological pressure, threats, and abuse of vulnerability as valid grounds to negate consent. The doctrinal rigidity in Indonesian courts therefore perpetuates a cycle of secondary victimization, where individuals who have suffered exploitation are criminalized instead of being assisted through restorative justice mechanisms.

Applying Radbruch's philosophy, the strict imposition of criminal liability upon coerced individuals violates the hierarchy of legal values, where justice must prevail when law contradicts moral conscience. Radbruch (2011) emphasized that the purpose of law is not only to secure order but also to uphold humanity. In the same vein, Soekanto (1988) argued that the effectiveness of law depends on its social legitimacy, laws that disregard moral fairness lose their authority in practice. In trafficking cases, the moral complexity of offender-victims challenges the positivist view that equates culpability with mere statutory violation. Treating coerced individuals as criminals without acknowledging their victimhood strips them of human dignity, contradicting the humanitarian values enshrined in both the Indonesian Constitution and international conventions. Therefore, from a philosophical perspective, legal responsibility must be interpreted dynamically, allowing the integration of empathy, morality, and social justice into the adjudication process.

To ensure that the application of criminal liability aligns with justice and human rights, Indonesia must adopt a more contextual and restorative legal policy in addressing cases involving perpetrators who are also victims. This can be achieved by explicitly recognizing the principle of non-punishment for trafficked persons coerced into criminal conduct, as endorsed by the United Nations Office on Drugs and Crime (UNODC). Such recognition does not imply impunity but rather emphasizes rehabilitation and reintegration over retribution. Legal reform should also include judicial training on the interpretation of coercion, the inclusion of social workers and psychologists in legal proceedings, and the establishment of clear prosecutorial guidelines. These measures would operationalize the spirit of Law Number 21 of 2007 in harmony with Radbruch's value of justice and Soekanto's notion of legal effectiveness. Through this transformation,

Indonesia's criminal justice system can move closer to a model of humane accountability that acknowledges both responsibility and victimization as integral dimensions of justice.

The Limitations of Current Legal Framework and Its Implications for Justice

Although Indonesia has ratified international conventions and enacted comprehensive legislation on human trafficking, significant structural weaknesses persist in both the substance of the law and its implementation. Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons focuses heavily on criminalization and punishment, leaving limited space for restorative mechanisms that recognize the victim's socio-economic vulnerability. The statute does not contain explicit clauses addressing perpetrators who act under coercion, nor does it provide a procedural framework for differentiating between voluntary offenders and coerced participants. Furthermore, coordination among law enforcement agencies remains weak, with overlapping institutional jurisdictions between the police, prosecutors, and social services. This fragmentation leads to inconsistent application of the law and often results in the re-victimization of those who should have been protected. As a consequence, the law's retributive orientation undermines its own humanitarian objectives.

The limitations of the current legal framework are also reflected in the rigidity of doctrinal interpretation within Indonesian jurisprudence. Courts frequently adhere to a positivist approach that equates culpability with the mere act of participation in a crime, disregarding the broader context of coercion or exploitation. This interpretation contradicts international legal standards, such as the *Non-Punishment Principle* contained in the 2002 Recommended Principles and Guidelines on Human Rights and Human Trafficking issued by the United Nations. While these principles have been acknowledged in Indonesia's policy discourse, they have not been formally integrated into domestic legislation or judicial practice. Consequently, judges lack normative guidance to differentiate between genuine offenders and those whose participation results from manipulation or dependency. The absence of jurisprudential consensus further weakens predictability and fairness in sentencing, creating disparities that erode public trust in the justice system.

The doctrinal rigidity and structural fragmentation of Indonesia's anti-trafficking framework have produced adverse socio-legal consequences. Victims who are prosecuted as perpetrators face stigmatization, psychological distress, and exclusion from social reintegration programs, which contradict the principles of human rights protection embedded in national and international law. Muhtaj (2019) argues that human rights must function as a corrective mechanism against the excesses of legal formalism. However, the failure to apply a victim-sensitive perspective in criminal proceedings reveals an institutional bias toward punitive justice. This bias perpetuates cycles of marginalization, especially among women and children who have limited capacity to resist coercion. As a result, the law inadvertently legitimizes systemic injustice by punishing individuals it was designed to protect. Such outcomes highlight the urgent need to realign legal practice with the humanitarian values espoused by the Indonesian Constitution and the Universal Declaration of Human Rights.

The weaknesses in Indonesia's current legal framework reflect a deeper philosophical imbalance between legal certainty and moral justice. Radbruch's theory asserts that when law deviates from justice to an intolerable degree, it loses its legitimacy as law. In the context of human trafficking, this principle calls for a paradigm shift from formal legality toward substantive morality. The prevailing retributive model fails to acknowledge the complexity of human behavior under coercive circumstances, thereby reducing justice to mere procedural conformity. To restore

the law's moral authority, legal reform must integrate the principles of restorative justice, human dignity, and proportionality into the interpretation of liability. Policy implications include the need for statutory amendments recognizing the dual status of perpetrator-victims, the establishment of rehabilitation-oriented sentencing options, and enhanced training for judges and prosecutors on human rights-based adjudication. Such reforms would not only harmonize Indonesia's legal system with international standards but also fulfill Radbruch's vision of law as a bridge between justice and humanity.

Discussion: Theoretical and Comparative Justification

The findings of this study highlight a persistent normative gap in the Indonesian legal system regarding perpetrators who are simultaneously victims of child trafficking. While Law Number 21 of 2007 broadly criminalizes participation in trafficking, it does not differentiate between voluntary offenders and coerced individuals. This gap underscores a tension between formal legal positivism and moral justice, central to Radbruch's legal philosophy. According to Radbruch (2011), the law's legitimacy relies not solely on procedural correctness but on its alignment with justice; when positive law produces morally intolerable outcomes, it loses its normative force. Rigid application of statutory provisions to coerced individuals contravenes the moral imperative to recognize their diminished agency and victimhood, thereby violating Radbruch's principle of justice prevailing over strict legality.

Soekanto's (1988) framework on legal effectiveness further elucidates structural and societal factors that impede the law's practical function. The observed inconsistencies in court decisions, compounded by fragmented institutional coordination and inadequate socio-legal support for victims, reflect a law that is formally enacted yet socially ineffective. This discrepancy between normative prescriptions and enforcement realities illustrates Soekanto's notion that law must resonate with societal values and capacities to achieve genuine efficacy. Thus, Indonesia's anti-trafficking legal framework, though comprehensive in scope, remains deficient in operationalizing restorative principles that accommodate coerced participants as both perpetrators and victims.

Comparative jurisprudence reinforces the need for a more nuanced legal interpretation. In the United Kingdom, the Modern Slavery Act 2015 incorporates provisions differentiating coerced participants, allowing courts to consider prior victimization in sentencing and rehabilitation decisions. Similarly, the Philippines' Anti-Trafficking in Persons Act (RA 9208) mandates that individuals compelled into trafficking activities be treated as primary victims rather than offenders, with access to comprehensive support services. These models illustrate that legal systems can reconcile punitive objectives with humanitarian considerations, enhancing both justice and law enforcement effectiveness. By contrast, Indonesia's current statutory framework emphasizes retribution without formal mechanisms for victim-sensitive adjudication, perpetuating secondary victimization and undermining public confidence in the justice system.

Integrating these insights, this study underscores the urgent need for a paradigm shift from a predominantly retributive approach to a restorative and context-sensitive framework within Indonesian law. The recognition of perpetrator-victims should not be construed as granting impunity but as acknowledging the moral and psychological constraints affecting criminal agency. To operationalize this transformation, legal reform should pursue several measures: statutory amendments to explicitly codify non-punishment for coerced individuals; judicial training on victim-sensitive legal interpretation; integration of social workers and psychologists in court proceedings; and the establishment of clear prosecutorial guidelines emphasizing rehabilitation

alongside accountability. Such reforms harmonize Radbruch's principle that justice must guide the law with Soekanto's emphasis on socially effective legislation, ensuring that legal certainty, fairness, and humanity coexist in adjudicating child trafficking cases.

In conclusion, by embedding policy and practical considerations into the discussion, this study demonstrates that juridical and social justice objectives are not mutually exclusive. A coherent, restorative approach to perpetrators who are also victims strengthens the ethical legitimacy of the Indonesian legal system, mitigates secondary victimization, and enhances institutional effectiveness. Ultimately, aligning doctrinal interpretation with moral and comparative insights provides a pathway for Indonesia to fulfill both its national and international commitments to child protection and human rights, transforming the law from a purely punitive instrument into a genuine mechanism of protection, rehabilitation, and equitable justice.

E. CONCLUSION

This study confirms that the Indonesian legal framework, while comprehensive in addressing human trafficking, exhibits a critical normative and operational gap concerning perpetrators who are simultaneously victims of child trafficking. The analysis demonstrates that Law Number 21 of 2007, in conjunction with the Criminal Code and Child Protection Law, criminalizes participation broadly without adequately considering coercive circumstances that diminish moral and psychological agency. Consequently, individuals who are coerced into trafficking activities often face disproportionate legal consequences, highlighting a persistent tension between formal statutory application and substantive justice.

Conceptually, the findings reinforce Radbruch's legal philosophy, emphasizing that justice must prevail when strict adherence to law produces morally intolerable outcomes. The study illustrates that treating coerced participants as autonomous offenders violates both justice and humanity, undermining the legitimacy of legal enforcement. Soekanto's framework on legal effectiveness further contextualizes this issue, revealing that fragmented institutional coordination, inconsistent judicial interpretation, and inadequate socio-legal support impede the law's practical efficacy. Comparative analysis of jurisdictions such as the United Kingdom and the Philippines confirms that integrating victim-sensitive mechanisms into statutory and procedural frameworks enhances both legal effectiveness and humanitarian outcomes.

Normatively, this research proposes that Indonesian law should adopt a restorative and context-sensitive approach to address the dual status of perpetrator-victims. Key recommendations include: the explicit codification of non-punishment for coerced individuals in the criminal statute; judicial capacity building for victim-sensitive adjudication; institutional collaboration with social workers and psychologists; and clear prosecutorial guidelines emphasizing rehabilitation alongside accountability. Such reforms reconcile the principles of justice, legal certainty, and expediency, ensuring that coercion, exploitation, and diminished autonomy are recognized as mitigating factors in criminal liability.

In response to the research objectives, the study concludes that juridical accountability for participants in child trafficking must be differentiated based on the presence or absence of coercion, voluntariness, and moral agency. By acknowledging the complex interplay between perpetration and victimization, Indonesian law can move toward equitable and humane enforcement, fulfilling both domestic obligations and international human rights commitments. Ultimately, this research advocates a paradigm shift from retributive punishment to restorative justice, positioning the law as an instrument of protection, rehabilitation, and moral legitimacy rather than mere retribution.

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