

Intersectionality Regulations for Handling Crisis of Women Trafficking during the Pandemic

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Abstract

Human trafficking that occurs in vulnerable groups such as women is a crime that violates human rights. Until now, the practice of buying and selling human beings, especially women, continues to multiply, especially in the pattern of victim screening. The reality is that the Covid-19 pandemic has not reduced the number of cases of trafficking in women who have socially experienced various inequalities and particular vulnerabilities due to their marginal social position, thus making them entangled in indications of trafficking in women that dominate and pose a significant threat. The study of intersectionality is considered capable of seeing the different situations faced by women and marginalized groups. It becomes a meeting point study on gender issues, especially during the current pandemic, which shows the increasing cases of trafficking in women. And the purpose of this research is to explain the form of handling the crisis of trafficking in women with intersectionality law regulations. This study uses a qualitative method by collecting data on intersectionality law regulations through report documents, literature, news, and journalism related to the research. Data analysis used the Nvivo12 Plus qualitative data processing application with crosstab query tools analysis and cluster analysis group. Furthermore, the study results show that intersectionality legal regulations refer to gender equality. However, these regulations are still ineffective and still discriminate against women or are less gender-sensitive to suppress the spread of cases of trafficking in women. The vulnerable sector is shown in the sex trade, worrying, especially during the current pandemic. Based on the study results, it is concluded that there is a need for new legal regulations regarding intersectionality that provide legal construction as a basis for women in fighting against unfair hegemony and guaranteed in various legal instruments, both international and national law.

Keywords

Crisis, Intersectionality, Pandemic, Regulations, and Woman Trafficking.

1. Introduction

Commemoration of World Anti-Trafficking in Human Rights today is different from previous years, when the widespread Coronavirus in various countries, some world bodies are commemorating the great potential for worsening cases of human trafficking when the coronavirus continues to hit (Mazrieva, 2020). The number of women or children as victims of human trafficking is countless even today (Department of State United States of America, 2020) states that at least 25 million people are victims of crime. The Inter-Agency Coordination Against Trafficking (ICAT) noted that 49% of victims of human trafficking were women and 23% were girls (Sigiro et al., 2020). Furthermore, data from the International Organization for Migration (IOM) also prove cases of trafficking in women are very troubling with the number of victims being 90.3% of women and 23.6% of girls who are groups vulnerable to violence (Sulistyowati, 2021).

Trafficking in women is a very serious global phenomenon, most victims of trafficking occur in national border areas and victims are generally transferred to superpower countries (UNODC, 2021). Trafficking in women includes sexual exploitation, forced marriage, forced labor, forced begging, and trafficking of children for the sale and purchase of organs, and trafficking in women accounts for more than 60% of migrant worker recruitment (Crawford, 2017). Reported to UN data in (UNODC, 2021) The ASEAN region shows cases of trafficking in women from the Mekong region, the Middle East, several countries in Africa, Central Asia, Russia, and Sri Lanka as well as various other Southeast Asian regions. sexual and labor, this is in line with the report of The Straits Times (Khotimah, 2019).

The COVID-19 pandemic has a direct impact on women, where the pandemic threatens the ability of women who are already marginalized to survive (Arif et al., 2021). Various studies have also mentioned that before the pandemic spread to various countries, the problem of sex buyers and pimps sexually assaulted women in the sex trade compared to other women (Farley, 2020). And in the current situation, increasing poverty due to the pandemic has allowed greater exploitation of women, this was also conveyed by Dutch researcher Ine Vanwesenbeeck regarding exploitation. (1994). The pandemic shows exploitation and violence such as prostitution including sugar daddy/sugar baby prostitution, massage parlor prostitution, cell phone prostitution, street prostitution, and webcam prostitution are on the rise (Farley, 2020). In addition, the coronavirus pandemic has also hampered the process of identifying, eradicating, and preventing trafficking in women, where most of the budget and law enforcement resources have been diverted in the Covid-19 situation (Sari, 2015).

The state is responsible for protecting its citizens especially against vulnerable groups such as women, the government has full power and authority to fight this crime (Sumirat, 2017). Reporting from the Human Trafficking Report (TiP), the US explained that Southeast Asia, including Cambodia, Brunei, Vietnam, Singapore, and Thailand, was included in the Tier 2 category that did not meet the criteria for victim protection, plus Burma, which became a Tier 3 area for the protection of trafficking victims. Even though Indonesia is a country with a high level of trafficking in women, it has yet to take steps to approve the ASEAN convention to eradicate trafficking in women. This can assume that the togetherness of ASEAN countries is very lacking and also shows the weakness of "legal ties" in regional cooperation commitments between countries (Horizon, 2020).

Trafficking in women is a form of treatment that violates human dignity (Arif et al., 2021), and also becomes part of human slavery (Sari, 2015). The provisions regarding the prohibition of human trafficking, especially trafficking in women and children are regulated in the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) which is an international human rights agreement that specifically regulates women's rights (Edyono, 2007). However, based on research from the CEDAW Working Group Initiative (CWGI) shows that there are still many legal products, laws, and regional regulations that contradict the provisions of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), which describes the government's efforts to eliminate discrimination against women. not maximally done (Erdianto, 2016).

This paper will discuss and highlight the impact of the Pandemic which increases the loss of the problem of trafficking in women and children by using intersectionality analysis. The existence of interference in the judicial process, as well as overlapping and legal uncertainty, resulted in the emergence of a regulatory crisis so improving legal products and legal infrastructure in the issue of trafficking is an important thing to do.

Concerning Bonds critique (2003) in (Sari, 2015) to the lack of use of analysis or an inappropriate perspective in *Convention on Elimination of All Forms of Discrimination Against Women* (CEDAW) and other UN conventions and UN human rights enforcement institutions. The concept of intersectionality is used in analyzing discrimination and identifying forms of multiple discrimination that are closed with one discrimination with a narrow view of the consequences of discrimination such as gender, race, and social class as well as looking at the crime factors during the pandemic related to the criminology of trafficking in women and children (Arif et al., 2021).

1.1 Objectives

The study of intersectionality is considered capable of seeing the different situations faced by women and marginalized groups. The call for intersectionality has the function of a deep understanding of racial and gender differences. Intersectionality becomes a reference in interpreting the world and how to change it with regulatory ideals as a principle to involve the social world theoretically and practically (Cundill et al., 2021). This has become a meeting point for studies on gender issues, especially during the current pandemic, which shows the increasing number of cases of trafficking in women (Mazrieva, 2020).

Intersectionality is modeled or considered as a regulatory ideal rather than a general theory or hypothesis. Intersectionality has a classification scheme with the aim of fighting inequality or injustice in a regulatory form in various countries which are currently considered unable to overcome the problem of trafficking (Gasdaglis & Madva, 2020).

And the purpose of this study is to explain the form of handling the regulatory crisis during the pandemic regarding trafficking in women which showed an increase during the Covid-19 pandemic, especially the crisis of trafficking in women with legal regulations of intersectionality.

2. Literature Review

Basically, regulations related to human trafficking have been enacted in the last few decades, but indeed in a policy, no one is perfect in the sense that there are always shortcomings after shortcomings, apart from being a logical consequence of the development of human civilization, it is also a separate note for researchers to find formulas (regulations). to solve the problem of trafficking in women and children (Figure 1).

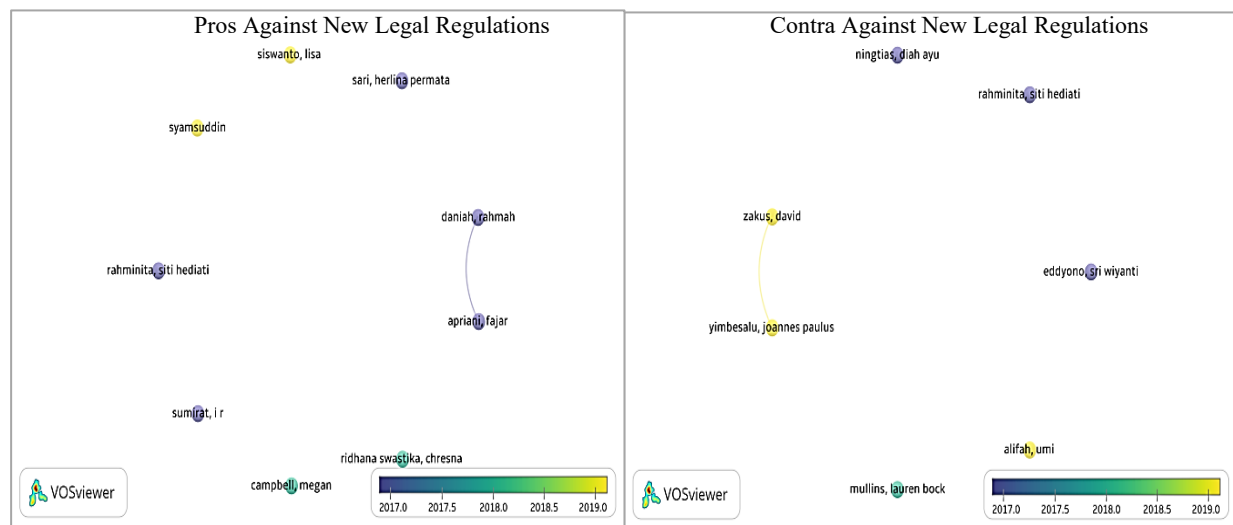


Figure 1. Network Visualization VOSviewer Software Regulation Women Trafficking

Based on the results of the Vosviewer analysis, it shows that various articles or research related to trafficking in women support and do not support the enactment of new legal regulations. Various studies have shown that existing legal regulations are the best basis for overcoming the problem of trafficking in women and children. Various studies also show that existing legal regulations are considered sufficient and capable of dealing with the problem of trafficking in women and children (Edyono, 2007) in his research conveyed the concept of CEDAW as a legal regulation that became the main basis in handling cases of trafficking in women, where many countries did not support the establishment of an International Criminal Court related to human rights violations, followed by research (Rahminita, 2017) which states that the concept of legal regulation of CEDAW is sufficient to be a solution to cases of trafficking in women and children, where CEDAW is considered to have helped in the expected equality struggle.

The CEDAW Convention is also considered as legal material that can become the basis for regulation so there is no need to formulate new laws or regulations that specifically regulate trafficking in women (Alifah, 2021). Women's human rights are also guaranteed not to be discriminated against because of their gender as a woman, existing regulations have defined every difference, exclusion made for gender equality, controlling women sexually and being protected from the social environment and giving a person the freedom, especially women, to choose what they want will be carried out (Ningtias, 2017). Legal regulations that are used as the basis for eliminating all forms of discrimination against women are included in international conventions that show the equal position of women and men in obtaining their rights (Mullins, 2018).

Meanwhile, on the other hand, research (Sari, 2015) shows that the existing legal regulations have not been able to minimize the crime of trafficking in women and even the cases are not detected and covered where often cases of trafficking in women and children are viewed narrowly in one perspective, this further becomes a benchmark for the need for new legal regulations in dealing with the problems of trafficking in women and girls. child. Furthermore, support for the new legal regulations was put forward (Syamsuddin, 2020) in his writing which states that all forms of international policies and regulations, as well as law enforcement, non-governmental organizations, and other

activities, are considered unable to eliminate all forms of human trafficking, especially women and children, where trafficking in women and children persists and even the models and forms are increasingly complex and widespread into a serious problem for life.

Related legal products (Sumirat, 2017) also explained that the improvement of legal products and legal infrastructure is very much needed, especially in the application of law enforcement, there is interference in judicial proceedings and overlapping of legal rules that result in a legal crisis in a country. In addition, the coordination of the government as public officials and law enforcement officers requires much better, firm, and clean coordination in the implementation and protection of victims of trafficking in women (Daniah & Apriani, 2017). The new legal regulations are sought to minimize cases of trafficking in women and children where the concept of poverty in existing legal regulations such as CEDAW does not have substantive references related to gender-based poverty (Campbell, 2018). The existing regulations have not been maximally implemented, where the CEDAW regulations make rules that are formed only based on women's human rights but have not been able to synergize with the practice in reality (Ridhana Swastika, 2018). So based on various studies, it shows that the development of regulations on cases of trafficking in women is still very much needed as a new legal basis in dealing with the problems that occur.

3. Methods

This study uses a qualitative approach to explain the phenomena that occur and understand the meaning of the events that occur (Hamilton & Finley, 2019). Qualitative research is a type of research that reveals a holistic-contextual aspect by collecting genetic data and utilizing researchers as an instrument to collect data (Kumar, 2018). Qualitative research describes research activities and their impacts (Jackson & Bazeley, 2019), and it describes the identification of important things with their proper meaning. This study focuses on the rules of intersectionality in handling the women's trafficking crisis, especially during the Covid-19 pandemic. The intersectionality study is used to look at the situation of vulnerable groups such as women and marginalized groups. This has become a meeting point for studies on gender issues, especially during the current pandemic, which shows the increasing number of cases of trafficking in women. This research was conducted in Indonesia and Asia to analyze the forms of handling the women's trafficking crisis and the application of intersectionality law regulations on trafficking in women.

4. Data Collection

Data collection techniques in this study used field data involving report documents, online data such as online news content with timeline series data, journalism, and various documents related to research. This research is supported by a literature review on the rules of intersectionality in handling the women's trafficking crisis, especially during the pandemic. Data analysis using Nvivo12 software with data transfer to Nvivo12 which is a qualitative document analysis tool with the help of computer equipment (Jackson & Bazeley, 2019). Ease of use and being able to process words as well as explore word frequency, attributes, cases from big data produces a category of factors or sub-factors in research (Hi-Jew, 2020). In this study, the unit of analysis is the intersectionality used in the application of gender-related laws, which are then linked to cases of trafficking in women.

5. Results and Discussion

5.1 Vulnerable Sectors of Human Trafficking & Big Data Woman Trafficking

Concerning sectors vulnerable to trafficking in women which are included in the crime category, especially during the COVID-19 pandemic, the perspectives of criminology and victimology are important sciences to understand as a science that studies crime and also discusses criminal etiology (Figure 2).

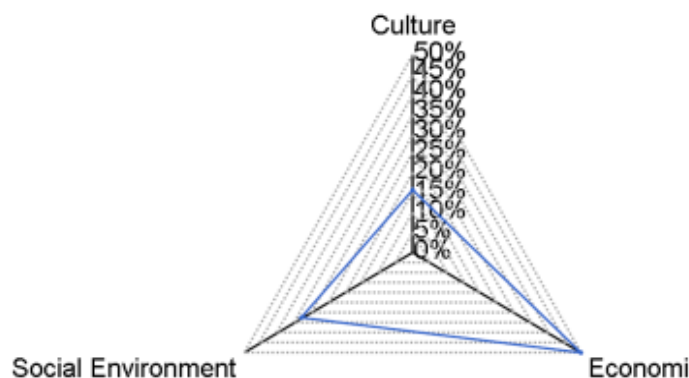


Figure 2. Vulnerable Sectors to Women Trafficking

Table 1. Crosstab Query–Rate (%)

Variable	Culture	Economy	Social Environment	Total
1: Sector Woman Trafficking	16.67%	50%	33.33%	100%
2: Total	16.67%	50%	33.33%	100%

The results of the Crosstab Query-rate (%) show that the sector that is vulnerable and is included in the crucial category for cases of trafficking in women is in the economic sector with a percentage of 50% (Table 1). The economic sector here is meant to be a sector that encourages someone to commit crimes, especially during a pandemic, with the implementation of large-scale social restrictions to prevent the spread of the coronavirus, which has a direct impact on decreasing income and even the loss of people's livelihoods. This recent incident was reported by (Detik.com, 2021) explained that during the pandemic, many layoffs occurred, causing the layoff victims to find it difficult to meet their daily needs. So this economic crush makes people desperate to commit criminal acts in the criminal realm. This shows that the economic sector is the main motivator for criminals, including women traffickers.

Furthermore, the second is in the Social Environment sector with a percentage result of 33.33% showing a fairly large number in terms of sectors that are vulnerable to trafficking in women. Crimes committed related to trafficking in women are carried out due to the environment of certain groups form to encourage criminal behavior take action women. Then the third vulnerable sector in the case of trafficking in women is the cultural sector with a percentage of 16.67%, this sector makes women and girls vulnerable to trafficking through forced marriages through marriage which is also known to the victim's parents then taken outside the area and sold buy it for financial gain.

Cases of trafficking in women are still common, we can see many cases of exploitation in the mass media or social media. Trafficking in women is included in the manipulative mode which gives promises to victims without providing information regarding the risks that occur so that they fall into and become victims of buying and selling transactions (Table 2).

Table 2. Crosstab Query–Rate (%) Survey Main Target of Women Trafficking

Variable	Sexual exploitation	Forced labor	Total
1: Play target	63.64%	36.36%	100%
2: Total	63.64%	36.36%	100%

Based on the results of the Crosstab Query-Rate (%) using Nvivo 12 Plus, it was found that the target of trafficking in women was sexual exploitation with a value of 63.64%, indicating that in some cases the most frequent and many victims of trafficking in women are ensnared and traded as sex workers. Then forced laborers were also targeted by perpetrators of the crime of human trafficking with a percentage of 36.36% indicating that women were also traded as forced laborers who were treated inhumanely who have forcibly revoked their rights as human beings to live properly.

The results showed that women and children were victims of human trafficking who experienced discrimination due to gender intersection and low economic class. The economy affects each other with acts of discrimination and even violence, discrimination shows that they also do not get an education so poverty also locks up women and discrimination continues to occur. The intersectionality analysis of women and children who are victims of human trafficking should also be handled with intersectionality, this means that all community policies or actions must refer to the elimination of gender discrimination and economic class simultaneously. their identity. The identification of vulnerable sectors for trafficking in women is detailed as an act of gender and economic class discrimination and further significant, systematic, and detailed efforts are needed as well as the need for activities or policies to eliminate trafficking in women.

5.2 International and ASEAN Regulations on Trafficking in Women

The United Nations (UN) states that human trafficking is one of the third largest criminal activities in the world, which generates about US\$ 9,500,000 in taxes per year. Seeing this situation, regional cooperation is needed in overcoming this problem considering that human trafficking that can occur is a transnational crime. Based on international law, there are at least several conventions that are carried out to determine the form of human exploitation that is seen as an act of human trafficking.

Table 3. Recognition by international conventions against forms of trafficking in persons 1904 – 2000

No	Trade Form	1904	1910	1921	1933	1949	2000
1	Confession of Forced Prostitution	Yes	Yes	Yes	Yes	Yes	Yes
2	Confession of Non-Sexual Forced Labor	No	No	No	No	No	Yes
3	Recognition of Human Organ Trafficking	No	No	No	No	No	Yes
4	Not Recognizing Internal/domestic Trade	Yes	No	No	Yes	No	No

Based on the Table 3, it can be seen that the international law that stipulates the form of trafficking has changed from 1904 to 2000, which shows that sexual exploitation since 1904 has been designated as a form of human trafficking. While non-sexual exploitation was only designated in 2000 as human trafficking. Furthermore, more specifically, the United Nations approved the draft convention on the elimination of all forms of discrimination against women, and it was declared effective in 1981 with the approval of 20 countries. The Convention on the Elimination of All Forms of Discrimination Against Women or in short CEDAW is the culmination of international efforts to protect and promote women's rights (Edyono, 2007).

CEDAW *(Convention on the Elimination of All Forms of Discrimination Against Women)*

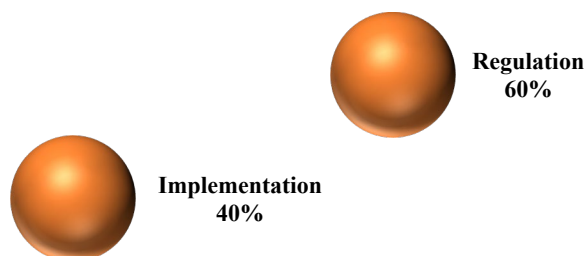


Figure 3. Crosstab Query–Rate (%) Survey Main Target of Women Trafficking

Based on the results of the Crosstab Query-rate (%) it shows that the form of international law enforcement or policy that is set as an international convention related to women is still not able to eliminate human trafficking as seen from the percentage results that the regulation is greater than the value of the implementation of the regulation (Figure 3). This shows that the implementation of rules related to human trafficking cases is low in society.

So that this legal regulation is not optimal and not even fully implemented to fight the crime of trafficking in women and children.

Meanwhile, for the Southeast Asia Region, in 1997, a meeting and inauguration of the Ministers of Home Affairs from the Association of Southeast Asian Nations (ASEAN) were held in Manila, the Philippines, resulting in the ratification of the ASEAN Declaration on Transboundary Crime which later became a landmark document for dealing with transboundary crimes. , namely the ASEAN Ministerial Meeting on Transnational Crime (AMMTC) and its subsidiary body, the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC). Then in 2004, at the tenth ASEAN Summit (Summit) the heads of state ratified the ASEAN Declaration Against Trafficking in Persons,

Particularly Women and Children, which became the basis for protection against the crime of trafficking in women and children.

Based on the Declaration, ASEAN has issued Responses to Trafficking in persons especially women and children (2006) with 11 important indicator points as follows: There is still a lack of understanding of the crime of trafficking in persons; There are limited resources in eradicating the crime of trafficking in women and children; The crime of trafficking in persons has not become a priority; Ineffective monitoring of the working conditions of immigrant workers; Limited safe and regular migration paths; Lack of oversight of exploitative and unsafe working conditions, including domestically; Limited border cooperation; Limited and lack of national legislation; Difficulties in investigating criminal acts of trafficking in persons, given the complexity and multidimensionality of the problem of trafficking in persons; and The need to protect victims of trafficking in persons and efforts to punish perpetrators of criminal acts of trafficking in persons; and The involvement of public officials in the crime of trafficking in persons, especially women and children.

In 2011, ASEAN through AMMTC/SOMTC has issued a report on the Progress Report on Criminal Justice Responses to Trafficking in Persons Particularly Women and Children in the ASEAN Region. It is known that 10 ASEAN countries have signed the United Nations Convention against Transnational Organized Crime (UNTOC) and 8 countries have ratified it. In addition, 7 ASEAN member countries signed the Protocol to Suppress, Prevent and Punish Trafficking in Persons especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime with 6 ratifications and 3 countries that have not signed the protocol at all.

The establishment of the ASEAN Convention on Trafficking in Persons (ACTIP) stemmed from the efforts of AMMTC, particularly at the 6th AMMTC (2007) in Bandar Seri Begawan, Brunei Darussalam with an agreement to examine the possibility of establishing an ASEAN convention related to trafficking in women. AMMTC started its first discussion by conducting a feasibility study on the establishment of ACTIP in July 2011. Then the second meeting was held again in September 2011. ASEAN countries supported the formation of ACTIP, only Singapore at that time still objected to the proposal.

In September 2012, through the SOMTC Working Group, the countries of Singapore and Thailand proposed a draft Regional Plan of Action (RPA) action-oriented handling of trafficking in persons. The third meeting in the context of the formation of ACTIP was held again in April 2013, which in the end discussed the ACTIP and RPA drafts simultaneously, the discussion went on for quite a while because each article required detailed and elaborative discussion. At the Environmental Working Group (EWG) meeting in March 2014 in Manila, the Philippines, it was agreed that ACTIP should be going beyond the Trafficking in Persons (TIP) Protocol. Through ACTIP, law enforcement officers are given leniency in carrying out various activities such as exchanging data and information to accelerate bureaucratic processes, tracking assets, to extradition policies in the context of preventing and enforcing the law against criminal acts of trafficking in persons, especially women. However, so far the implementation of the ASEAN convention has not been fully carried out even though many countries are not aware of the ASEAN convention to be applied.

Meanwhile, Indonesia has ratified the implementation of CEDAW since 1984 through Law No. 7 of 1984 concerning the elimination of all forms of discrimination against women and is constitutionally bound by the articles contained in CEDAW in Indonesia. Furthermore, Indonesia also established a Task Force for the Prevention and Handling of Victims of Trafficking in Persons, the task force has the aim of carrying out the effectiveness and ensuring the implementation of prevention and handling of criminal acts of trafficking in persons, especially women. However, this has become an iceberg phenomenon where only a few cases of trafficking in women have been detected on the surface and many cases remain unsolved (Sri Danti, 2016). This shows that cases of trafficking in women or gender trafficking are still happening in Indonesia. The Sexual Harassment Bill and the Anti-trafficking Bill have also not been widely found and are very limited.

Further analysis is needed of various discrimination against human rights violations, especially in the trafficking of women, which can identify forms of discrimination from various operating systems that have not been detected in society so far.

5.3 The Urgency of New Regulations

Examining the dimensions of the policy issued by CEDAW does not significantly touch the upstream of the existing problems, especially related to trafficking in women. As in some countries, there are still ambiguity factors, capabilities, and different temporal dimensions. All the efforts that have been made by CEDAW are considered to be less comprehensive and in-depth so it is necessary to have a renewal starting from the concept, systematization, regulation, and implementation. Moreover, efforts to increase cooperation in ASEAN should not be ignored. The form of the new regulation should also provide an umbrella for fellow ASEAN members to minimize all forms of human trafficking, especially women and children.

Therefore, Efforts to minimize the crime of human trafficking, especially women and children, have so far not shown maximum results, for that all forms of acceleration of regulatory reform should continue to be carried out. This is done by considering the balance from many points of view to obtain objective and comprehensive results. Previously there was a formal mechanism that could be used to tackle the crime of trafficking in persons, including women and children, namely the United Nations Convention against Transnational Organized Crime (UNTOC) but it was not effective because it did not explain in detail the procedures for dealing with the crime of trafficking in women.

If we refer to the criticism of the Convention on the Elimination of Discrimination Against Women (CEDAW) and various other UN conventions in the enforcement of human rights, they have various shortcomings with inappropriate perspectives. The urgency of intersectionality is then able to identify forms of multiple discrimination. The study of intersectionality is a cross-sectional study for system relations in the form of oppression, domination, or discrimination, where the urgency of intersectionality is not only based on a single point of crime against women but also based on race, class, gender, age, global location, and sexual preferences so that it can cover and cover problems related to women's and gender issues, especially in the case of trafficking in women.

Thus, extensive reforms in legal regulations related to trafficking in women can be developed with the concept of intersectionality, in which intersectionality becomes the urgency of new regulations to analyze various discrimination against women which are part of human rights violations so the concept of new legal urgency can provide an umbrella for acts of discrimination resulting from a combination of cases of violence against women. woman. With the concept of intersectionality in law enforcement, Indonesian women and children victims of human trafficking can be identified and classified as victims of what kind of crime with a legal order that is adjusted to the severity of the crime in the discrimination category.

6. Conclusion

The crime of trafficking in women is a problem that has long been a major international problem and continues to this day. Criminal behavior is also triggered by various indicators where the vulnerable sectors that trigger and become motivators of crime are at the economic, social, and cultural levels, where the targets of trafficking in women are mostly traded as sex workers and unskilled workers. In addition, at this time, the need for social distancing due to the Covid-19 pandemic is also a factor in increasing unemployment due to layoffs, which is a problem for increasing crime because victims of layoffs are unable to meet their daily needs.

This research also overall shows that in eradicating trafficking in women, the government must increase efforts and cooperation with related parties dealing with child trafficking such as Komnas HAM, police, courts, etc. law so that every regulation in the country does not conflict and the public understand the importance of legal certainty when faced with serious problems directly. From this research, it is also hoped that the obstacles and shortcomings in the handling of trafficking in women and children can be addressed with new legal regulations that bind firmly and clearly for the safety of the community.

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