

THE IMPLEMENTATION OF ARTICLE 7 OF THE PALERMO PROTOCOL IN LAW NUMBER 21 OF 2007: AN ANALYSIS OF THE COMPATIBILITY OF INTERNATIONAL LEGAL NORMS WITH THE PROTECTION OF VICTIMS OF HUMAN TRAFFICKING IN INDONESIA

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Abstract. Human trafficking constitutes a form of transnational organized crime that results in serious violations of human rights and places victims in highly vulnerable positions, both physically, psychologically, and legally. Within the framework of international law, the Palermo Protocol serves as the principal legal instrument that promotes a victim-centered approach, one of which is reflected in Article 7, which regulates the protection of victims' legal status, including the possibility of granting temporary or permanent residence permits in the receiving State. As a State Party, Indonesia has adopted this commitment through Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking. This article aims to analyze the regulation of victim protection under Article 7 of the Palermo Protocol, examine its implementation within Law Number 21 of 2007, and identify normative gaps between international law and national law in the protection of victims of human trafficking. This research employs a normative juridical method using statutory and conceptual approaches by examining international legal instruments, national legislation, and relevant legal literature. The findings indicate that Law Number 21 of 2007 has generally adopted the principles of victim protection; however, it has not explicitly regulated the protection of victims' legal status as mandated by Article 7 of the Palermo Protocol. This normative gap potentially results in legal uncertainty and increases the risk of secondary victimization of victims of human trafficking. Therefore, regulatory harmonization is necessary to strengthen victim protection based on human rights principles and in accordance with international legal standards.

Keywords: Human Trafficking; Palermo Protocol; Victim Protection.

I. INTRODUCTION

Human trafficking constitutes one of the most complex and dangerous forms of transnational organized crime, as it involves systematic exploitation of human beings and results in serious violations of fundamental human rights. This crime is not merely economically motivated but also thrives on the social, economic, and legal vulnerabilities of its victims, particularly women and children. From a philosophical perspective, human trafficking directly contradicts the principle of human dignity, which recognizes human beings as legal subjects entitled to live free from slavery, exploitation, and inhuman or degrading treatment.[1]

Globally, human trafficking has expanded alongside increasing cross-border mobility, development disparities, social conflicts, and weaknesses in labor protection and migration governance in many countries. These conditions have compelled the international community to establish a comprehensive legal framework capable of addressing human trafficking not only through the criminalization of perpetrators but also through the protection and recovery of victims. In this context, the United Nations adopted the Protocol to Prevent, Suppress and Punish Trafficking in

Persons, Especially Women and Children, commonly known as the Palermo Protocol, as the primary international legal instrument in combating human trafficking.

The Palermo Protocol represents a significant paradigm shift in addressing human trafficking, moving from a purely punitive approach toward a victim-oriented approach. One of the clearest manifestations of this paradigm is reflected in Article 7 of the Palermo Protocol, which emphasizes the protection of the legal status of victims of human trafficking, particularly through the possibility of granting temporary or permanent residence permits in the receiving State. This provision underscores that victims of human trafficking should not be treated as immigration offenders, but rather as individuals entitled to legal protection, security, and certainty of legal status in order to facilitate the restoration of their rights.[2]

As a member of the international community, Indonesia has demonstrated its commitment to combating human trafficking by ratifying the Palermo Protocol and enacting Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking. This law serves as the primary national legal instrument governing the prevention, prosecution, and

protection and rehabilitation of victims of human trafficking. Normatively, Law Number 21 of 2007 recognizes the rights of victims to protection, rehabilitation, restitution, and compensation, and affirms the State's obligation to provide protection throughout the judicial process.

Nevertheless, a closer examination reveals persisting issues concerning the extent to which Article 7 of the Palermo Protocol has been fully implemented within Indonesia's national legal system. The protection of victims under Law Number 21 of 2007 tends to focus predominantly on social rehabilitation and legal assistance, while the regulation of victims' legal status particularly with regard to residence permits and immigration protection for foreign victims has not been explicitly or comprehensively addressed. This normative gap has the potential to generate legal uncertainty for victims and to undermine the effectiveness of the protection that the State is obligated to provide.[3]

The lack of harmony between international legal norms and national law in the protection of victims of human trafficking has implications not only at the normative level but also in the practice of law enforcement. In the absence of clear legal provisions concerning victims' legal status, victims face the risk of secondary victimization, premature deportation, or limited access to fundamental rights during the recovery process. Accordingly, an analysis of the conformity between Article 7 of the Palermo Protocol and Law Number 21 of 2007 is essential to assess the extent to which Indonesia's commitment to protecting victims of human trafficking has been concretely realized.

Based on the foregoing, this research aims to examine in depth the regulation of protection for victims of human trafficking under Article 7 of the Palermo Protocol and its relevance within the framework of international law, as well as to analyze how these provisions have been implemented in Law Number 21 of 2007 as part of Indonesia's national legal system. Furthermore, this study seeks to critically identify and analyze the normative gaps between Article 7 of the Palermo Protocol and the provisions of Law Number 21 of 2007, particularly in relation to the protection of the legal status of victims of human trafficking, in order to provide an analytical foundation for future regulatory strengthening and legal harmonization..

II. RESEARCH METHODS

This study employs a normative juridical research method, focusing on the analysis of legal norms governing the protection of victims of human trafficking within both international and national legal frameworks. Normative legal research is appropriate for this study as it examines written legal norms, principles, and doctrines rather than empirical data, with the objective of assessing the conformity and coherence between international legal instruments and domestic legislation.

The research adopts a statutory approach, which involves a systematic examination of relevant international and national legal instruments, particularly Article 7 of the Palermo Protocol and Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking. This approach is used to

identify the extent to which international legal obligations concerning the protection of victims' legal status have been incorporated into Indonesia's national legal system.[4]

In addition, a conceptual approach is applied to analyze legal concepts and principles related to victim protection, human dignity, human rights, and state responsibility. This approach enables the study to explore doctrinal perspectives and theoretical frameworks developed by legal scholars in understanding the victim-centered approach in combating human trafficking and assessing the normative implications of Article 7 of the Palermo Protocol.

The sources of legal materials used in this research consist of primary legal materials, including international treaties, national legislation, and relevant regulations, as well as secondary legal materials such as legal textbooks, scholarly articles, journal publications, and expert opinions that are relevant to the subject matter. These materials are analyzed qualitatively through descriptive and analytical techniques to examine the consistency, gaps, and alignment between international legal norms and national legal provisions.

The analysis is conducted using a prescriptive-analytical method, whereby the identified legal norms are interpreted and systematically compared to evaluate their normative coherence and effectiveness in protecting victims of human trafficking. The findings of the analysis are then used to formulate legal arguments and recommendations aimed at strengthening the harmonization between international obligations and national legal frameworks in order to enhance the protection of victims of human trafficking in Indonesia.

III. RESULTS AND DISCUSSION

Regulation of Victim Protection under Article 7 of the Palermo Protocol and Its Relevance in International Law

Article 7 of the Palermo Protocol constitutes a significant normative framework for the protection of victims of human trafficking within international law, particularly with regard to their legal status in the receiving State. This provision obliges States Parties to consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in their territory, either temporarily or permanently, taking into account humanitarian and compassionate considerations as well as the personal circumstances of the victims. The formulation of Article 7 reflects a clear intention to ensure that victims are not treated merely as objects of criminal proceedings or as violators of immigration law, but rather as rights-bearing individuals deserving of legal protection and humane treatment.[5]

From an international legal perspective, Article 7 embodies the principle of victim-centered protection, which represents a departure from traditional crime-control approaches that prioritize state security and law enforcement objectives. The provision acknowledges that victims of human trafficking often experience severe physical, psychological, and social harm, and that their recovery requires legal certainty, safety, and stability. By allowing victims to remain legally in the receiving State, Article 7 seeks to prevent secondary victimization, such as arbitrary detention or forced

repatriation, which may expose victims to further risks, including re-trafficking or retaliation by traffickers.

The relevance of Article 7 within international law is closely linked to broader human rights norms and principles. The protection of victims' legal status aligns with fundamental international human rights instruments, including the Universal Declaration of Human Rights and core human rights treaties that emphasize the right to personal security, freedom from exploitation, and protection against inhuman or degrading treatment. In this context, Article 7 reinforces the obligation of States to respect, protect, and fulfill human rights, even in situations involving migration control and transnational crime. Consequently, the provision serves as a bridge between international criminal law and international human rights law, ensuring that efforts to combat trafficking do not undermine the rights of victims.[6]

Moreover, Article 7 must be understood as part of an integrated framework within the Palermo Protocol, complementing other provisions related to victim assistance, protection, and repatriation. While the Protocol grants States a degree of discretion in determining the specific form of residence permits, such discretion is not unlimited. States are expected to exercise their authority in good faith and in accordance with the object and purpose of the Protocol, namely the prevention of trafficking, the protection of victims, and the promotion of international cooperation. Therefore, the absence of rigid obligations does not diminish the normative force of Article 7, but rather underscores the need for States to translate its principles into effective domestic legislation.[7]

In practical terms, Article 7 also has strategic relevance in strengthening the effectiveness of anti-trafficking measures. Providing legal residence to victims can facilitate their access to justice, enable their participation in criminal proceedings against traffickers, and support their social reintegration. This approach not only enhances victim protection but also contributes to the broader goal of combating trafficking networks by encouraging victim cooperation without fear of deportation or legal repercussions.[8]

Based on this analysis, it can be concluded that Article 7 of the Palermo Protocol establishes an essential international legal standard for the protection of victims of human trafficking, particularly concerning their legal status and right to remain in the receiving State. Its relevance within international law lies in its integration of human rights principles into the framework of transnational criminal law, promoting a humane and victim-oriented response to human trafficking. As such, Article 7 serves as a normative benchmark against which national legislation should be assessed in evaluating compliance with international obligations to protect victims of human trafficking..

Implementation of Article 7 of the Palermo Protocol in Law Number 21 of 2007

Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking represents Indonesia's primary legislative framework for addressing human trafficking and reflects the State's commitment to fulfilling its international obligations under the Palermo Protocol. Normatively, the law adopts a comprehensive approach by regulating prevention, prosecution, and victim protection, thereby aligning with the

general objectives of the Palermo Protocol. In terms of victim protection, Law Number 21 of 2007 emphasizes the recognition of victims' rights and the responsibility of the State to provide legal, social, and medical assistance.[9]

The implementation of Article 7 of the Palermo Protocol within Law Number 21 of 2007 can be observed indirectly through provisions that guarantee protection and recovery for victims of human trafficking. The law affirms victims' rights to receive protection during the criminal justice process, including protection from threats, access to legal assistance, rehabilitation, restitution, and compensation. These provisions reflect the spirit of the Palermo Protocol in adopting a victim-oriented approach, recognizing victims as subjects of rights rather than merely as instruments in criminal proceedings.

However, when examined specifically in relation to Article 7 of the Palermo Protocol, which focuses on the legal status of victims and the possibility of granting temporary or permanent residence permits, the implementation within Law Number 21 of 2007 appears to be limited. The law does not explicitly regulate the granting of residence permits or legal stay for victims of human trafficking, particularly foreign victims who are located within Indonesian territory. As a result, the protection of victims' legal status, as envisioned by Article 7 of the Palermo Protocol, is not comprehensively articulated within the statutory framework of Law Number 21 of 2007.[10]

Instead, the protection of foreign victims' legal status tends to be addressed through general immigration regulations and administrative discretion rather than through a specific victim-protection mechanism embedded within anti-trafficking legislation. This approach indicates that the implementation of Article 7 has been fragmented and procedural rather than normative and substantive. Consequently, victims may still face uncertainty regarding their right to remain in Indonesia during recovery or judicial proceedings, potentially exposing them to deportation or other immigration-related consequences.

Despite these limitations, Law Number 21 of 2007 demonstrates partial compliance with Article 7 of the Palermo Protocol through its broader commitment to victim protection and rehabilitation. The law creates a legal basis for State intervention aimed at restoring victims' dignity and ensuring their safety. Nevertheless, the absence of explicit provisions on legal residence status signifies that the implementation of Article 7 remains incomplete and dependent on sectoral regulations outside the core anti-trafficking framework.

Based on this analysis, it can be concluded that Law Number 21 of 2007 has implemented the principles of Article 7 of the Palermo Protocol in a general and implicit manner through its victim protection provisions. However, the law has not fully translated the specific obligation concerning the protection of victims' legal status into clear and enforceable national norms. This gap highlights the need for stronger normative integration between international obligations under the Palermo Protocol and Indonesia's domestic legal system to ensure comprehensive and effective protection for victims of human trafficking..

Normative Gaps Between Article 7 of the Palermo Protocol and Law Number 21 of 2007 in the Protection of Victims of Human Trafficking

The comparison between Article 7 of the Palermo Protocol and Law Number 21 of 2007 reveals the existence of several normative gaps that affect the effectiveness of victim protection within Indonesia's legal framework. While both instruments share a common objective of safeguarding victims of human trafficking, their regulatory scope and normative emphasis differ significantly, particularly with regard to the protection of victims' legal status.[11]

The primary normative gap lies in the absence of explicit provisions in Law Number 21 of 2007 concerning the granting of temporary or permanent residence permits for victims of human trafficking, as mandated by Article 7 of the Palermo Protocol. Article 7 explicitly encourages States Parties to consider allowing victims to remain in their territory based on humanitarian and compassionate grounds, as well as the personal circumstances of the victims. In contrast, Law Number 21 of 2007 does not contain any specific norms regulating the legal stay or immigration status of victims, especially foreign victims who may be present in Indonesia as a result of trafficking. This omission results in a lack of legal certainty and leaves the protection of victims' status dependent on general immigration laws rather than a victim-centered protection regime.[12]

A second normative gap concerns the difference in legal orientation between the two instruments. Article 7 of the Palermo Protocol adopts a human rights-based approach that prioritizes the dignity, safety, and recovery of victims, even where such protection may limit the strict application of immigration control measures. Conversely, Law Number 21 of 2007, while recognizing victims' rights to protection and rehabilitation, remains largely embedded within a criminal law framework that emphasizes prosecution and punishment of offenders. As a result, the protection of victims' legal status is not positioned as a substantive right, but rather as an ancillary issue that may be addressed through administrative discretion.

Furthermore, the Palermo Protocol implicitly requires States to integrate victim protection into a coherent and coordinated legal system that minimizes the risk of secondary victimization. Law Number 21 of 2007, however, does not provide clear coordination mechanisms between anti-trafficking authorities and immigration institutions in relation to the treatment of victims. This regulatory gap increases the risk that victims may experience re-victimization through detention, deportation, or prolonged legal uncertainty, particularly during criminal proceedings against traffickers.[13]

Another normative gap can be identified in the level of binding force and clarity of obligations. Although Article 7 grants States a degree of discretion, its placement within an international treaty creates a normative expectation that States will translate its principles into concrete domestic legislation. The lack of explicit incorporation of Article 7 into Law Number 21 of 2007 indicates a partial domestication of international norms, which undermines the principle of harmonization between international and national law. This gap reflects a broader challenge in aligning Indonesia's anti-

trafficking legislation with its international commitments in a comprehensive and systematic manner.[14]

Based on the foregoing analysis, it can be concluded that the normative gaps between Article 7 of the Palermo Protocol and Law Number 21 of 2007 are primarily manifested in the absence of clear legal provisions on victims' residence status, the dominance of a punitive criminal law approach over a human rights-based framework, and the lack of institutional coordination mechanisms to ensure effective victim protection. These gaps highlight the need for legislative reform or the adoption of implementing regulations that explicitly incorporate the standards of Article 7 of the Palermo Protocol into Indonesia's national legal system. Strengthening normative alignment would not only enhance legal certainty for victims but also reinforce Indonesia's compliance with its international obligations in combating human trafficking through a victim-centered approach.

IV. CONCLUSIONS

This study demonstrates that Article 7 of the Palermo Protocol establishes an important international legal standard for the protection of victims of human trafficking, particularly with regard to their legal status and the possibility of granting temporary or permanent residence in the receiving State. The provision reflects a victim-centered and human rights-based approach that emphasizes human dignity, legal certainty, and protection from secondary victimization. Within the framework of international law, Article 7 serves as a normative bridge between transnational criminal law and international human rights law, ensuring that anti-trafficking efforts do not compromise the fundamental rights of victims. The analysis further shows that Law Number 21 of 2007 has partially implemented the principles of Article 7 of the Palermo Protocol through general provisions on victim protection, rehabilitation, restitution, and compensation. However, the implementation remains indirect and incomplete, as the law does not explicitly regulate the protection of victims' legal or immigration status. Consequently, the realization of Article 7 within Indonesia's national legal system relies largely on administrative discretion and sectoral immigration regulations rather than on clear and enforceable statutory norms. Moreover, this study identifies significant normative gaps between Article 7 of the Palermo Protocol and Law Number 21 of 2007, particularly in the absence of explicit provisions on residence permits for victims, the predominance of a punitive criminal law approach over a human rights-based framework, and the lack of institutional coordination mechanisms to prevent secondary victimization. These gaps indicate that Indonesia's anti-trafficking legal framework has not yet fully harmonized international obligations with domestic legislation. Therefore, strengthening normative alignment through legislative reform or the adoption of specific implementing regulations is essential to ensure comprehensive, effective, and victim-centered protection for victims of human trafficking in accordance with international legal standards.

REFERENCES

- [1] S. A. Putrazta, "Perlindungan Hukum Korban Tindak Pidana Perdagangan Orang Lintas Negara Berkedok Lowongan Kerja Digital Di Myanmar," Vol. 2, No. November, 2025.
- [2] A. B. Salhuteru, A. A. N. Oka, Y. Darmadi, U. Udayana, D. P. Klod, And K. Denpasar, "Perlindungan Korban Human Trafficking Dalam Perspektif Asas Kemanusiaan Dan Non-Diskriminasi Perspektif Asas Kemanusiaan Dan Non-Diskriminasi," Vol. 3, No. 11, 2025.
- [3] D. Agustiani And A. S. Ruslie, "Perlindungan Hukum Pekerja Migran Sebagai Korban Human Trafficking Difa Agustiani, Ahmad Sholikhin Ruslie Universitas 17 Agustus 1945, Surabaya, 60118, Indonesia," Vol. 1, No. 1, 2023.
- [4] P. Tindak, P. Perdagangan, And O. Di, "No Title," Vol. 4, No. 2, Pp. 105–122, 2024.
- [5] Y. Gunawan, A. Yasyhini, I. Haque, M. Aya, And M. Rahma, "Un Palermo Protocol' S Implementation On The Legal Protection Of Street Children Trafficked In Indonesia," Vol. 13, No. 2, Pp. 145–157, 2022.
- [6] A. Jefri And B. Harefa, "Pemenuhan Hak Anak Korban Tindak Pidana Perdagangan Orang," Pp. 174–196, 2021.
- [7] J. Priambodo And A. Iskandar, "Tinjauan Yuridis Sengketa Tanah Akibat Perbuatan Melawan Hukum: Studi Kasus Putusan No.88/Pdt.G/2020/Pn.Bks," *El-Mujtama: Jurnal Pengabdian Masyarakat*, Vol. 2, No. 2, Pp. 265–279, 2022, Doi: 10.47467/Elmujtama.V2i2.1315.
- [8] S. Marthayori, R. Apriyanti, I. Gunawan, And G. Ganjar, "Analysis Of The Implementation Of Victim Protection Principles In Trafficking In Persons : A Case Study Of Supreme Court Decisions Of The Republic Of Indonesia," Vol. 4, No. 8, Pp. 3939–3950, 2025.
- [9] B. Parmono And R. Hidayati, "Strengthening Legal Safeguards For Indonesian Migrant Workers Against Human Trafficking," Vol. 12, No. 1, Pp. 1–31, 2025.
- [10] T. O. Yanti *Et Al.*, "Perlindungan Hukum Bagi Perempuan Korban Perdagangan Orang Di Indonesia Dalam Perspektif Hak Asasi Manusia," Vol. 6, No. 5, Pp. 2–12, 2024.
- [11] T. Tampubolon, W. Tan, N. Z. Silviani, F. Law, And U. I. Batam, "Legal Protection Against Human Trafficking : A Dilemma In Indonesia And The Asean Region Keywords :," Vol. 27, No. 1, Pp. 329–354, 2025.
- [12] K. Stogmuller, "Komitmen Indonesia Dalam Pemberantasan Tindak Pidana Internasional," 2025.
- [13] A. D. Rachmawati, K. F. Dantes, U. P. Ganesha, And P. Hukum, "Perlindungan Hukum Terhadap Korban Perdagangan Manusia," Vol. 10, No. 3, Pp. 222–234, 2022.
- [14] S. Theja, P. Studi, I. Hukum, F. Hukum, And U. Terbuka, "Perlindungan Hukum Bagi Korban Tindak Pidana Perdagangan Orang(Tppo)," Vol. 05, No. 2, Pp. 17–29, 2024.