



Criminal Responsibility of Perpetrators of Human Trafficking in Cambodia from the Perspective of Indonesian and International Law

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Abstract

This study aims to analyze policies and criminal liability related to human trafficking in Cambodia from the perspective of Indonesian and international law, while identifying key obstacles to law enforcement. Employing a normative legal approach combined with a comparative approach, the research examines the legal provisions of Indonesia, Cambodia, and international instruments, particularly the Palermo Protocol 2000. This study brings a new insight by focusing on its comparative analysis within the ASEAN regional context, emphasizing the impact of institutional corruption and corporate impunity on the ineffectiveness of criminal liability enforcement in Cambodia issues that remain underexplored in prior research. The result reveals that although Cambodia has established a comprehensive legal framework, its implementation is hindered by systemic corruption, government complicity with trafficking networks, and weak cross-border cooperation. In contrast, Indonesia demonstrates more advanced mechanisms for corporate accountability and victim protection. The study concludes that human trafficking in Cambodia persists due to institutional weaknesses and lack of accountability among public officials. Therefore, it recommends strengthening ASEAN judicial cooperation, enhancing law enforcement capacity, and implementing transparent accountability mechanisms to improve the effectiveness of anti-trafficking law enforcement.

Keywords: Criminal Liability, Human Trafficking, Cambodia, Indonesian, International Law.



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INTRODUCTION

Human trafficking is the most serious forms of transnational organized crime that threatens human dignity in the era of globalization. This phenomenon involves the systematic exploitation of human beings through the process of enlisting, transporting, shifting, accommodating, or obtaining individuals a person by means of intimidation, application of force, unlawful taking, dishonest manipulation, deceitful conduct, or the exploitation of authority and a victim's vulnerable state for exploitative ends (Yusuf et al., 2025). The International Labour Organization (ILO) reports that nearly 40 million people across the world are victims of modern slavery, with 25 million people subjected to forced labor and 15 million people trapped in forced marriage, generating illegal profits of around US\$150 billion annually. The complexity of human trafficking has increased with the development of digital technology, which facilitates new modes of operation in the recruitment and exploitation of victims across national borders (Wulandari & Kirana, 2023).

Cambodia faces critical challenges in addressing human trafficking crimes, which have developed into a structured criminal industry. Since the enactment of the Law on Suppression concerning trafficking in persons and sexual exploitation enacted in 2008, Cambodia

has sought to strengthen its legal framework to combat this crime, but its implementation still faces significant obstacles. The Trafficking in Persons Report issued by the United States Department of State has placed Cambodia in Tier 3 since 2022, reflecting the state's inability to comply with the essential standards for eradicating human trafficking and not demonstrating significant efforts to address this issue (Wirawan & Novikrisna, 2024).

The fundamental problem in enforcing anti-trafficking laws in Cambodia is closely related to systemic corruption and the complicity of government officials with trafficking networks. This phenomenon shows that anti-trafficking laws in Cambodia, which were initially adopted in response to international pressure to maintain development aid, have in practice become instruments of corruption and injustice against powerless individuals. The situation is further exacerbated by the emergence of online fraud centers that force thousands of people, including foreign nationals, to work in cybercrime operations, with an estimated 100,000 workers exploited in forced labor in these complexes (Valerisella et al., 2025).

In the regional context, the Association of Southeast Asian Nations has made joint efforts to combat transnational crime a priority through the Association of Southeast Asian Nations Ministerial Meeting on Transnational Crime and the Convention adopted by ASEAN to combat human trafficking, prioritizing cases involving women and children, which was adopted in 2015. However, the effectiveness of this regional cooperation is still hampered by differences in legal systems, varying law enforcement capacities among member states, and obstacles in harmonizing policies and procedures for mutual legal assistance. Research on ASEAN security cooperation in combating human trafficking shows that despite a strong normative framework, its implementation still faces significant challenges related to member states' political commitment, resource allocation, and geographical and cultural barriers (Sundram, 2024). Indonesia, as a country with significant experience in handling human trafficking through Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons, has developed a more progressive legal framework by recognizing corporate criminal liability and comprehensive victim protection mechanisms. The recognition of corporations as subjects of criminal law in human trafficking crimes is an important development, given that many cases involve business entities, particularly labor recruitment agencies, that operate without permits and are involved in the falsification of travel documents. A comparison of the Indonesian and Cambodian legal systems is important for identifying best practices and lessons learned in the implementation of criminal liability for human traffickers. The 2000 Palermo Protocol, serving as an additional protocol to the UN Convention against Transnational Organized Crime, outlines international standards for addressing trafficking in persons, especially women and minors, has become the international standard for defining and addressing human trafficking.

This Protocol emphasizes a comprehensive approach that integrates three main pillars, namely crime prevention, prosecution of perpetrators, and protection of victims with full respect for the human rights of victims (Stoyanova, 2017). However, a twenty-year evaluation following the adoption of the Palermo Protocol reveals that there are still significant gaps in national implementation, particularly regarding inconsistent definitions of human trafficking, weak law enforcement against trafficking for forced labor compared to sexual exploitation, and challenges in dealing with digital exploitation that transcends the existing legal framework (Sundram, 2024). Given this background, this study is urgent in order to comprehensively analyze the criminal

liability of perpetrators of human trafficking in Cambodia from a comparative perspective with Indonesian law and international legal standards. This study seeks to answer questions regarding the concept and implementation of criminal liability for perpetrators of human trafficking under Cambodian law and its comparison with the Indonesian legal system, the structural obstacles faced in enforcing anti-trafficking laws in Cambodia, the effectiveness of international legal instruments, particularly the Palermo Protocol, in influencing legislation and law enforcement practices in Cambodia, and the role of regional cooperation within the Association of Southeast Asian Nations in strengthening the criminal liability of cross-border human traffickers. This research is expected to contribute theoretically to the development of international criminal law and practically to the formulation of policy recommendations to improve the effectiveness of anti-trafficking law enforcement at the national and regional levels.

RESEARCH METHOD

This study applies a normative legal research method with a comparative approach to examine the criminal responsibility of human trafficking perpetrators in Cambodia from the perspectives of Indonesian and international law. Normative legal research is employed to analyze legal norms, principles, and doctrines governing human trafficking, with emphasis on written law rather than empirical data. This approach enables a systematic examination of how criminal liability is conceptually constructed and normatively regulated within different legal systems.

The research utilizes a statutory approach by examining primary legal materials, including Cambodia's *Law on Suppression of Human Trafficking and Sexual Exploitation (2008)*, Indonesia's *Law No. 21 of 2007* on the Eradication of Trafficking in Persons, and relevant international instruments, particularly the 2000 Palermo Protocol. These legal sources are analyzed to assess the regulation of criminal liability, corporate accountability, victim protection mechanisms, and jurisdictional scope within each legal framework.

In addition, a comparative law approach is employed to identify similarities and differences between the Cambodian and Indonesian legal systems, with the objective of highlighting normative gaps and best practices in combating human trafficking. A conceptual approach is also applied by using criminal law theories, including criminal liability (*actus reus* and *mens rea*) and integrative punishment theory, to evaluate the coherence and effectiveness of existing legal regulations. The analysis is conducted through qualitative normative analysis using deductive legal reasoning, and the findings are formulated into legal arguments and policy recommendations aimed at strengthening criminal accountability and regional cooperation within the ASEAN context.

RESULTS AND DISCUSSION

Criminal Law Policies in Indonesia and Cambodia in Combating Human Trafficking: A Comparative Legal Framework

According to Barda Nawawi Arief, the ultimate goal of criminal law policy is to protect society in order to ensure social welfare. Efforts to combat crime cannot be separated from the objectives of protecting society (Social Defense) and improving social welfare (Social Welfare). Thus, criminal law policy has a broad meaning because it is not only oriented towards punishing perpetrators, but also serves as a social instrument for building order, justice, and mutual welfare. The term criminal law policy comes from the words Policy (English) or Politiek (Dutch), which in Indonesian is equivalent to the term criminal law politics (Rahayu & Januarsyah, 2025).

In foreign literature, this term is often referred to as Penal Policy, Criminal Law Policy, or Strafrechts Politiek. According to Sudarto, criminal law policy can be understood as a conscious effort by the state to create legal regulations that are in line with the needs of society, as well as a strategic step by the government in determining the direction and objectives of law formation that represent the public interest. Thus, criminal law policy is an integral part of criminal policy and social policy. The three are closely related because they are all oriented towards the protection and welfare of society. The formulation of criminal policy is also directly related to law enforcement policy, as both are means for the state to maintain social order. According to G.P. Hoefnagels, crime prevention strategies are divided into two main approaches, namely the penal approach, which is an effort that uses criminal law with a repressive nature (action after a crime has occurred), and the non-penal approach, which is an effort outside of criminal law that is preventive in nature (prevention before a crime occurs), for example through education, economic empowerment, and increasing public awareness of the law. In Hoefnagels' perspective, criminal law policy also has three stages: The formulation stage (legislative): the drafting of criminal rules by legislators, which is called law enforcement in abstracto. The application stage (judicial): the application of rules by law enforcement officials such as the police, prosecutors, and courts, or law enforcement in concreto. and the execution stage (administrative): the implementation of criminal decisions by correctional institutions and other relevant agencies (Ponlok, 2024).

Criminal Law Policy in Indonesia in Combating Human Trafficking in the Indonesian context, criminal law policy to combat human trafficking is manifested through Law No. 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons (TPPO). The formation of this law was the result of a legal political process that took into account social, moral, and humanitarian aspects. There are several fundamental reasons behind the enactment of Law No. 21 of 2007, namely: Human trafficking is carried out in an organized manner, both at the national and international levels; This practice threatens the foundations of national life and is contrary to human rights values; and A special legal instrument is needed to effectively prevent and combat human trafficking (Najib & Juned, 2025). From a formal perspective, this law contains criminal provisions that punish anyone who recruits, transports, harbors, or transfers a person coerced by violent threats, fraudulent acts, or the improper exercise of power for exploitative ends. The criminal penalties are severe, with a maximum prison sentence of fifteen years and fines of up to hundreds of millions of rupiah. In addition to emphasizing repressive aspects, Indonesia's criminal law policy also pays attention to victim protection through mechanisms of restitution, rehabilitation, and social reintegration. From the perspective of application and execution, the implementation of this law involves the coordinating body tasked with managing and preventing TPPO, the Ministry of Women's Empowerment and Child Protection (KemenPPPA), and other law enforcement agencies. However, a number of studies show that there are still obstacles in the implementation of this law, such as low public awareness, lack of coordination between institutions, and weak implementation of restitution for victims. This shows the need to strengthen non-penal aspects to complement existing penal efforts. Criminal Law Policy in Cambodia on Combating Trafficking in Persons Cambodia regulates its criminal policy under the legal framework governing the suppression of trafficking and sexual exploitation (Mardan & Ilmih, 2025).

This regulation was created to align with the provisions of the Protocol on Preventing, Suppressing, and Punishing Trafficking in Persons, which is part of the 2000 UN Convention (Palermo Protocol). Normatively, this law prohibits all forms of human trafficking, especially those related to forms of exploitation including sexual abuse, involuntary labor, and offenses targeting children. The Cambodian government emphasizes that this law is an important instrument for protecting the morals, human rights, and dignity of its citizens. However, in practice, several studies, such as those by Keo, Bouhours, and Broadhurst in the Asian Journal of Criminology, show that the implementation of this law is more repressive than rehabilitative. This means that law enforcement officials in Cambodia tend to focus on prosecuting perpetrators without paying adequate attention to the protection and recovery of victims. In addition, there are still systemic problems such as weak judicial capacity, corruption, and low public awareness of human trafficking issues (Lo, 2024).

Although Cambodia has a coordinating body such as the National Committee for Counter Trafficking (NCCT), its implementation in the field has not been fully effective due to limited resources and a lack of cross-sectoral cooperation. In general, both Indonesia and Cambodia share similarities in recognizing human trafficking as a serious crime that threatens humanity. Both countries have also ratified international conventions and have specific laws to regulate this crime. However, there are several striking differences in their policies and implementation:

Aspect	Indonesian	Kamboja
Primary Legal Basis	UU No. 21 Years 2007 about TPPO	Law on Suppression of Human Trafficking and Sexual Exploitation (2008)
Policy Approach	Penal and non-penal (enforcement + prevention + victim protection)	Dominant penal (repressive, focus on enforcement)
Victim Protection	There is restitution, rehabilitation, and social reintegration (even though still didn't optimal)	Still limited to punishing perpetrators
Enforcement Agency	Task force TPPO (across ministries and regions)	National Committee for Counter Trafficking (NCCT)
Implementation challenges	Interagency coordination, Victim Restitution, Public Awareness	Corruption, weak capacity of officials and stigmatization of victims
Goal Orientation	Social Defence and Social Welfare	Social Defence

The table above explains that in the context of combating human trafficking, both Indonesia and Cambodia have a legal basis that explicitly regulates prevention, enforcement, and protection of victims. Although both countries consider human trafficking to be a serious crime that violates human dignity, the policy approaches taken by each country show different characteristics and priorities. In Indonesia, the main legal basis for criminal policy is the Indonesian legal instrument issued in 2007 to address human trafficking crimes (TPPO). This law not only focuses on repressive aspects through law enforcement, but also includes preventive and rehabilitative efforts as a form of protection for victims. Thus, Indonesia's

criminal law policy combines penal and non-penal approaches in a balanced manner. The penal approach is manifested through the imposition of strict the imposition of criminal penalties on offenders, while the non-punitive approach is pursued through various preventive measures, public education, and victim recovery programs (Karisma & Fairuzzaman, 2025).

Unlike Indonesia, Cambodia enacted the Law on Suppression of Human Trafficking and Sexual Exploitation in 2008 as the main legal basis for combating human trafficking. Cambodia's criminal policy is still predominantly penal or repressive, focusing on punishing perpetrators. Victim protection has not been a major focus, as the policy is more directed at law enforcement and social stability. Nevertheless, the existence of a coordinating body such as the National Committee for Counter Trafficking (NCCT) demonstrates the Cambodian government's commitment to continuing to strengthen the handling of human trafficking cases at the national level. In terms of victim protection, Indonesia has a relatively more comprehensive mechanism. Through regulations on restitution, rehabilitation, and social reintegration, the state is directed at helping victims regain a condition where they can function again in society. However, the implementation of these policies still faces various obstacles, especially in terms of restitution and psychosocial assistance, which are not yet optimal. Meanwhile, in Cambodia, victim protection is still limited. Policies focus more on law enforcement against perpetrators, while the recovery of victims often does not receive adequate attention. Institutionally, Indonesia has a Task Force for the Prevention and Handling of TPPO, which consists of various ministries and institutions at the central and regional levels. This task force is responsible for coordinating law enforcement, prevention, and victim recovery efforts in an integrated manner. In Cambodia, a similar function is carried out by the National Committee for Counter Trafficking (NCCT), but its effectiveness is continues to be constrained by inadequate human resources and budgetary support. In terms of implementation challenges, the two countries face different issues. Indonesia still faces weak coordination between institutions, the community's limited understanding of the risks associated with human trafficking, and the implementation of victim restitution that is not yet optimal. In contrast, Cambodia faces more structural obstacles, such as corruption among law enforcement officials, low capacity of judicial institutions, and strong stigma against victims, especially women who are sexually exploited (Islam & Hasan, 2024).

When viewed from the perspective of policy objectives, Indonesia places greater emphasis on the balance between social defense (community protection) and social welfare. This approach shows that Indonesian criminal policy not only serves to protect the community from the threat of crime but also seeks to restore the social welfare of victims. In contrast, Cambodia still focuses on the aspect of Social Defense, which aims to maintain social order and state stability, while the welfare of victims has not yet become a comprehensive policy priority. Overall, a comparison between Indonesian and Cambodian criminal law policies shows that although both countries have adequate legal instruments to combat human trafficking, Indonesia tends to be more progressive in integrating penal and non-penal approaches. Meanwhile, Cambodia still needs to strengthen victim-oriented policies so that efforts to combat human trafficking are not only repressive but also humane and socially just. It can be concluded that Indonesia has begun to balance penal and non-penal efforts, while

Cambodia still emphasizes repressive penal aspects. Therefore, a more humanistic approach is needed in Cambodia to strengthen victim protection, as has begun to be developed in Indonesia.

Legal Framework for Human Trafficking Accountability in Cambodia and Comparison with Indonesia

Cambodia was one of the first countries in Southeast Asia to adopt specific anti-trafficking legislation through the Law on Suppression of the Kidnapping, Trafficking, and Exploitation of Human Persons, which was passed in 1996, even before the adoption of the Palermo Protocol. The 1996 law regulates human trafficking with very severe penalties, equivalent to premeditated murder, reflecting the response to a global campaign led by the United States to combat human trafficking as a condition for continued development assistance. However, this law was deemed ineffective due to an imprecise definition of human trafficking and misuse in a dysfunctional judicial system, prompting Cambodia to pass a more Cambodia's broad legal framework issued in 2008 to address trafficking in persons and sexual exploitation. The 2008 Cambodian law characterizes human trafficking as any act of recruiting, moving, relocating, sheltering, or taking control of an individual by means of threats, force, coercion, kidnapping, deceit, or the misuse of authority or vulnerability, with the intent to exploit them. Such exploitation encompasses sexual abuse, forced labor, slavery or slave-like practices, and the extraction of organs and the exploitation of children for begging or criminal activities. This law establishes criminal penalties of 7 to 15 years' imprisonment for human trafficking involving adult victims and 15 to 20 years for trafficking in children. This provision is in line with the definition in the Palermo Protocol, which emphasizes three key elements, namely The definition encompasses the actions involved such as recruiting, transporting, relocating, providing shelter, or taking charge of a person alongside the methods used, which may include threats, force, coercion, kidnapping, fraudulent or deceptive practices, and the misuse of authority, as well as the ultimate objective of exploitation, as outlined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons.

Indonesia has adopted a more progressive approach through Law No. 21 of 2007 on the Eradication of Trafficking in Persons, which not only criminalizes traditional forms of trafficking but also recognizes the criminal liability of corporations as legal entities. According to Article 1 points 4 and 6 of the Law, the term "every person" includes individuals and corporations, where a corporation is defined as an organized group of people or assets, whether a legal entity or not (Corporate Liability in Human Trafficking Cases). This recognition is very important considering that many human trafficking cases involve labor recruitment agencies, shipping companies, and other business entities that operate illegally or abuse their business licenses to engage in human trafficking. A comparison of the two legal systems shows that Indonesia has a broader scope in regulating criminal liability by covering not only individual perpetrators but also corporations that facilitate or profit from human trafficking. Indonesian law also regulates in more detail the protection of victims, including the right to restitution, compensation, rehabilitation, and social reintegration. In contrast, legal implementation in Cambodia still focuses heavily on the criminalization of commercial sex workers rather than the prosecution of actual human trafficking networks, resulting in the majority of those convicted being poor women who are themselves victims of an exploitative system (Islam & Hasan, 2024).

Law Aspect	Cambodia	Indonesia
Legal Basis	<i>Law on Suppression of Human Trafficking and Sexual Exploitation (2008)</i>	<i>UU No. 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang (TPPO)</i>
Subject of Law	Individual perpetrator	Individual and corporation
Adult Criminal Sanctions	7–15 years imprisonment	3–15 years imprisonment + fines
Child Criminal Sanctions	15–20 years imprisonment	3–15 years imprisonment + fines
Corporate Liability	Not explicitly regulated	Clearly regulated in Pasal 15 and Pasal 16
Victim Protection	Limited, mostly focused on rehabilitation	Comprehensive: restitution, compensation, rehabilitation
Jurisdiction	Territorial	Territorial and extraterritorial
Compliance with the Palermo Protocol	—	—

The table above shows that in an effort to combat human trafficking, both Cambodia and Indonesia have legal bases that explicitly regulate the forms, subjects, and criminal sanctions for perpetrators of this crime. Although both countries share a commitment to eradicating human trafficking, there are fundamental differences in their regulations, scope, and level of compliance in accordance with international instruments, including the Palermo Protocol. As for its statutory foundation, Cambodia bases its efforts on the Law on Suppression of Human Trafficking and Sexual Exploitation, which was enacted in 2008. This law is the main instrument for prosecuting perpetrators of human trafficking and sexual exploitation. Meanwhile, Indonesia uses Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons (TPPO) as its national legal basis. This law not only regulates the enforcement of criminal measures against violators, while also emphasizes the protection and recovery of victims, making its scope broader than the regulations in Cambodia. The next difference is apparent in the legal subjects that can be held criminally liable. Cambodian law only prosecutes individuals, while Indonesian law is more progressive because it also recognizes corporations as legal subjects. This is stated in Articles 15 and 16 of Law No. 21 of 2007, which allows legal entities or companies to be held liable if they are proven to be involved in human trafficking. This approach shows that Indonesia's legal policy has adapted to the development of modern forms of crime that are often carried out through business networks or criminal organizations.

In terms of criminal sanctions, Cambodia imposes relatively heavy penalties on perpetrators of human trafficking. For adult perpetrators, the penalty ranges from seven to

fifteen years in prison, while for perpetrators whose victims are children, the penalty can increase to twenty years in prison. On the other hand, Indonesia imposes prison sentences ranging from three to fifteen years, accompanied by substantial fines as an additional deterrent. Indonesia also imposes heavier penalties on perpetrators who exploit children. The combination of imprisonment and fines demonstrates Indonesia's more comprehensive legal approach to providing justice and prevention. In terms of corporate liability, Cambodian law does not explicitly regulate the involvement of legal entities in human trafficking crimes. Existing provisions only target individual perpetrators without addressing the responsibility of legal entities. In contrast, Indonesia has anticipated modern forms of organized crime by establishing specific rules on corporate criminal liability. This shows that Indonesia's criminal policy is more adaptive to the complexity of cross-border crime and the global economy (Asnawi & Ismail, 2020).

In the Indonesian criminal law system, the imposition of sanctions on perpetrators of human trafficking is explicitly regulated in Law No. 21 of 2007 on the Eradication of Human Trafficking (TPPO). This provision is a form of the state's commitment to protecting human dignity and maintaining social order. In terms of sanctions, Indonesia imposes prison sentences of between three and fifteen years, as well as large fines to create a deterrent effect (Article 2 paragraph (1) of Law No. 21 of 2007). For perpetrators who exploit children, the punishment is heavier because it is considered a more serious crime. The combination of imprisonment and fines shows that the Indonesian penal system not only emphasizes retribution but also prioritizes deterrence and the protection of society.

When linked to criminal theory, the system in Law No. 21 of 2007 reflects the application of a combined (integrative) theory, which is a blend of retributive and utilitarian theories. The retributive theory views punishment as a fitting response to evil deeds, while the utilitarian theory emphasizes the social benefits of punishment, namely crime prevention and offender rehabilitation (Ismail, 2025). Thus, the purpose of the punitive response to human trafficking extends beyond repressive, but also preventive and corrective, namely to restore social balance and protect victims from repeated exploitation. Furthermore, in determining punishment, judges must ensure that the essential elements of criminal liability, consisting of *Actus Reus* and *Mens Rea*, need to be fulfilled. *Actus Reus* denotes the observable or external component of a criminal act, namely a concrete act that violates the law. In the context of human trafficking, this element includes acts such as the act of sourcing, transporting, accommodating, or shifting a person by applying coercive force", fraud, or threats for the purpose of exploitation (Article 1 paragraph (1) of Law No. 21 of 2007). *Mens Rea* is the internal element that indicates the perpetrator's malicious intent or deliberateness. In cases of human trafficking, the perpetrator usually has the intention of obtaining economic gain by exploiting the victim through forced labor, prostitution, or modern slavery. Both elements must be proven simultaneously in order for a person to be convicted. This means that physical acts without malicious intent (*mens rea*) cannot be categorized as crimes, and vice versa. Proving *mens rea* in human trafficking cases is important because it demonstrates the perpetrator's intent or awareness in exploiting victims for personal or group gain (Iskandar & Nursiti, 2021).

In addition to regulating the punishment of individuals, Law No. 21 of 2007 also expands the scope of criminal liability to corporations. This provision is stated in Articles 15 and 16,

which state that if a human trafficking crime is committed by or on behalf of a corporation, criminal liability can be imposed on the corporation and/or its management. In this case, Indonesia has applied the principle of Vicarious Liability, which is the principle of indirect liability, whereby the fault or malicious intent of the management is considered as the fault of the corporation. Corporations can be subject to sanctions in the form of criminal fines, revocation of business licenses, freezing of activities, and even dissolution of legal entities. This regulation shows progress in Indonesia's criminal law system, as it recognizes that human trafficking is not always carried out by individuals, but can also be carried out in an organized manner through business networks or companies (Naibaho, 2022). Thus, the criminalization policy in Law No. 21 of 2007 has adapted to the nature of modern crimes, which are transnational and complex.

When linked to the theory of criminal liability, this provision reflects the principle of Strict Liability, whereby corporations can still be held liable without having to prove malicious intent on the part of all its managers, as long as it can be proven that the crime was committed within the scope of the corporation's business activities. This is relevant because human trafficking crimes are often committed through illegal labor companies, migration agents, or criminal organizations that exploit legal loopholes for profit. Thus, the criminal justice system in Indonesia in dealing with human trafficking crimes has integrated the principles of retributive justice, prevention, and social protection. The application of the elements of Actus Reus and Acrea provides an objective and subjective basis for determining the guilt of the perpetrator, while the provisions regarding corporate liability expand the scope of the law to enable effective action against organized crime. This comprehensive approach is in line with the stated objectives of criminal law, namely to protect society (Social Defense) and achieve social welfare (Social Welfare) through fair and humane law enforcement (Fadah et al., 2025). The aspect of victim protection also shows significant differences. Policies in Cambodia are still limited and tend to focus on deporting victims to their country of origin without adequate recovery mechanisms. This approach has been criticized for not fulfilling human rights principles. Meanwhile, Indonesia implements a more comprehensive victim protection policy, including restitution, compensation, medical and psychological rehabilitation, and social reintegration. This approach not only places victims as objects of protection, but also as subjects who have the right to be restored and reintegrated into society. In terms of jurisdiction, Cambodia applies the principle of territoriality, meaning that law enforcement only applies to crimes committed within its territory. Conversely, Indonesia has a broader approach by exercising both territorial and extraterritorial jurisdiction. This means that Indonesian law can be applied to Indonesian citizens who commit human trafficking outside the country, as well as to foreign citizens who commit crimes within Indonesian territory. This policy aligns with the spirit of international cooperation in combating cross-border crime (Haughton, 2019). The implementation of criminal accountability for human trafficking perpetrators in Cambodia faces very serious structural obstacles, particularly regarding endemic corruption and the complicity of government officials with trafficking networks. The 2024 Trafficking in Persons Report notes that Cambodia remains at Tier 3 because the government failed to meet the minimum standards for eliminating human trafficking and did not demonstrate significant efforts to address the

issue, with corruption and the complicity of officials at various levels of government being major obstacles to law enforcement action.

Observers found that local authorities and security agencies helped enable trafficking operations by working in coordination with criminal networks, accepting bribes from traffickers to facilitate the entry of victims into Cambodia, and even participating in online fraud center operations that forced thousands of foreigners into forced labor (Haughton, 2019). The complex phenomenon that has emerged is the proliferation of online fraud centers or Fraud Factories in Cambodia, which force tens of thousands of foreign workers into forced labor to carry out cyber fraud schemes. Non-governmental organizations estimate that approximately 100,000 workers are exploited in forced labor in these complexes, with workers facing punishments such as physical torture, sexual violence, wage deductions, and debt bondage for poor performance or disobedience, and can be resold to other criminal networks if they do not meet sales quotas or pay recruitment debts. Although the Cambodian government conducted an operation in August 2022 to target and investigate this cyber fraud operation complex, the traffickers simply moved their operations to more remote rural areas, including other Chinese-invested special economic zones where government oversight was weaker (Arrasyid et al., 2025). Another significant obstacle is discrimination in law enforcement, where authorities are more likely to secure trafficking convictions when the accused are foreigners, whereas cases with Cambodian suspects are frequently downgraded to lighter charges. Law enforcement in rural and remote areas does not receive equal legal implementation due to official complicity and corruption, with law enforcement officials in those regions failing to prosecute traffickers connected to government officials. Worse still, the government did not investigate, prosecute, or punish government officials involved within offenses related to trafficking in persons, creating a cycle of impunity that perpetuates this crime (Hajdin, 2021).

The Palermo Protocol and International Legal Standards in the Criminal Liability of Human Traffickers

The instrument known as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, complementing the UN Convention on Transnational Organized Crime, was approved in Palermo, Italy on 15 November 2000 and subsequently enforced on 25 December 2003, is the most comprehensive international legal instrument regulating human trafficking, with over 178 ratifying state parties (Palermo Protocol). This protocol provides a universally accepted definition of human trafficking by identifying three constituent components: actions such as recruiting, moving, and relocating individuals harboring, or receiving a person; the means used, such as threats or use of force, abduction, fraud, abuse of power or position of vulnerability; and the purpose of exploitation, which includes at least forms of exploitation such as sexual abuse, involuntary labor, slavery or slave-like conditions, servitude, and the extraction of organs (Protocol to Prevent, Suppress and Punish Trafficking in Persons) (Goździak & Vogel, 2020). The Palermo Protocol requires States Countries are obligated to criminalize the conduct described in Article 3, which includes not only completed acts of trafficking but also attempts, such offenses, participating as a member of an organized criminal group, organizing or directing others to commit trafficking in persons, and contributing to the commission of such offenses by a group of persons acting with a common purpose (Article 5 of the Palermo Protocol). This obligation to criminalize aims to ensure that all forms of involvement in human trafficking,

from the main perpetrators to facilitators, can be held criminally accountable. The protocol also regulates jurisdiction, extradition, and mutual legal assistance to facilitate international cooperation in prosecuting perpetrators operating across national borders (Child & Hunt, 2022).

What distinguishes the Palermo Protocol from previous international instruments is its approach, which integrates criminal law enforcement with the protection of victims' human rights thru a three-pillar framework: Prevention, Prosecution, and Protection (Hyland, 2010). Article 6 of the Protocol stipulates the obligation of states to safeguard victims' confidentiality and personal identity, and to offer information about legal processes, facilitate victims in expressing their views and concerns in criminal proceedings, and provide the physical, mental, and social rehabilitation of victims, which includes adequate housing, counselling, medical, psychological, and material assistance, as well as opportunities for education and employment. This comprehensive approach recognizes that victims of human trafficking are not merely witnesses in criminal proceedings but individuals whose fundamental rights have been violated and require holistic recovery (Callista et al., 2025). However, a twenty-year evaluation of the Palermo Protocol's implementation revealed several significant weaknesses and challenges. First, the Protocol was developed within the operates solely within the realm of criminal law and lacks mandatory provisions concerning the safeguarding of trafficked persons' human rights. Second, there is inconsistency in national implementation regarding the definition of human trafficking, with many countries not fully adopting the Protocol's definition or adding additional elements that are not in line with international standards. Third, the development of digital technology has created new forms of exploitation such as human trafficking for online fraud operations that were not anticipated in the Palermo Protocol framework (Aryani & Ilmih, 2024). In the context of Cambodia, although the country ratified the Palermo Protocol in July 2007 and adopted anti- trafficking legislation in 2008 that largely aligns with the Protocol's definition, its implementation is still far from international standards (Albayumi et al., 2022). The main criticism is that Cambodia is using anti-human trafficking laws more as an instrument to criminalize commercial sex workers rather than addressing the organized networks that actually control the exploitation industry. Research shows that Cambodian trade laws measures aimed at enforcing the Palermo Protocol unintentionally compromise the health rights of female sex workers by pushing them into hazardous environments marked by exploitation and violence

CONCLUSION

Based on the analysis of criminal liability for human trafficking perpetrators in Cambodia from the perspective of Indonesian and international law, it can be concluded that both countries share a similar commitment to combating human trafficking, but differ in their effectiveness and approach to its implementation. Cambodia has a specific legal framework thru the Law on Suppression of Human Trafficking and Sexual Exploitation, which largely aligns with the 2000 Palermo Protocol. However, the implementation of the law in the field still faces many fundamental obstacles. Its justice system tends to punish small-time offenders who are partly victims of structural poverty, while key players such as capital owners, corrupt officials, and large criminal networks often escape legal repercussions. The main obstacles to law enforcement in Cambodia are the high level of corruption, the weak accountability of law enforcement officials, and the involvement of some officials in human trafficking networks. This leads to discriminatory and inconsistent law enforcement practices.

Conversely, Indonesia, thru Law Number 21 of 2007 concerning the Eradication of Human Trafficking, presents a more progressive approach. This law not only ensnares individuals but also recognizes corporations as subjects of criminal law, a crucial step in addressing modern forms of crime often committed by business entities. Additionally, Indonesia has integrated a more comprehensive victim protection mechanism, including the right to restitution, compensation, medical and psychological rehabilitation, and social reintegration. This approach demonstrates that Indonesia not only emphasizes the repressive aspect but also considers restorative justice and victim recovery as part of a socially just criminal justice system. From a jurisdictional perspective, Indonesia also has an advantage by applying the principle of extraterritoriality, which allows for law enforcement against Indonesian citizens who engage in human trafficking abroad. Conversely, Cambodian law is still limited to territorial jurisdiction. This Indonesian approach reflects efforts to align national policies with the cross-border nature of human trafficking crimes. In the context of criminal law theory, Indonesia is more prominent in applying the integrative punishment theory, which combines elements of Retributive Justice (equal retribution for actions) and Utilitarian Justice (social utility). This means that punishment is not only seen as a means of retribution, but also as an instrument of prevention, social protection, and rehabilitation for the offender. Meanwhile, Cambodia's legal system still tends to be repressive and is not yet oriented toward victim recovery and social welfare.

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