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Reconstruction of Criminal Liability Against Digital Platforms in Cases of Human Trafficking in the Virtual World

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Abstract

The study aims to critique the shortcomings in the TPPO Law and ITE Law, which do not yet regulate strict liability for digital platforms. Therefore, this study focuses on analyzing the importance of criminal liability reform and the integration of due diligence principles and progressive sanctions for digital platforms.

The method used in this study is a normative juridical approach, focusing on the analysis of legal norms relevant to the issues of digital human trafficking and corporate responsibility.

The novelty of this study provides further insight into the reform of the criminal liability system and the integration of the principles of due diligence and progressive sanctions for digital platforms.

The results of the study show that the involvement of digital platforms in human trafficking has become a serious challenge in the digital age, where technology is used for online recruitment, coordination, and exploitation of victims. Although Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons (TPPO Law) regulates aspects of human trafficking, this regulation does not explicitly stipulate the responsibility of digital platforms, creating a legal loophole that is exploited by criminals. Therefore, in this case, **The concluded** findings of this study indicate that reform of the criminal liability system is necessary by integrating the principle of due diligence, which requires technology companies to take preventive measures such as user identity verification, artificial intelligence-based content monitoring, and reporting suspicious activities to the authorities. In addition, the application of progressive sanctions, such as fines proportional to company revenue or operational restrictions for negligent platforms, can increase corporate accountability.

Keywords: Criminal Law; Digital Platforms; Human Trafficking; Cyberspace

Abstrak

Tujuan penelitian ini mengkritisi kekurangan dalam UU TPPO dan UU ITE yang belum mengatur tanggung jawab mutlak (*strict liability*) bagi platform digital. Maka dalam penelitian ini difokuskan untuk menganalisis pentingnya reformasi pertanggungjawaban hukum pidana dan Integrasi Prinsip Due Diligence dan Sanksi Progresif bagi Platform Digital.

Metode penelitian yang digunakan dalam penelitian ini dengan pendekatan yuridis normatif, dengan fokus pada analisis norma hukum yang relevan terhadap isu perdagangan manusia digital dan tanggung jawab perusahaan.

Kebaruan penelitian memberikan pandangan lebih terhadap reformasi sistem pertanggungjawaban hukum pidana dan Integrasi Prinsip Due Diligence dan Sanksi Progresif

bagi Platform Digital.

Hasil penelitian menunjukkan Keterlibatan platform digital dalam perdagangan orang telah menjadi tantangan serius dalam era digital, di mana teknologi dimanfaatkan untuk perekrutan, koordinasi, dan eksploitasi korban secara daring. Meskipun Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang (UU TPPO) telah mengatur aspek perdagangan manusia, regulasi ini belum secara eksplisit menetapkan tanggung jawab platform digital, menciptakan celah hukum yang dimanfaatkan pelaku kejahatan. Sehingga dalam hal ini,

Kesimpulan dalam penelitian ini, menunjukkan bahwa reformasi sistem pertanggungjawaban hukum pidana diperlukan dengan mengintegrasikan prinsip *due diligence*, yang mewajibkan perusahaan teknologi melakukan langkah-langkah pencegahan seperti verifikasi identitas pengguna, pemantauan konten berbasis kecerdasan buatan, serta pelaporan aktivitas mencurigakan kepada otoritas. Selain itu, penerapan sanksi progresif, seperti denda proporsional terhadap pendapatan perusahaan atau pembatasan operasional bagi platform yang lalai, dapat meningkatkan akuntabilitas korporasi.

Kata kunci: Hukum Pidana; Platform Digital; Perdagangan Manusia; Ruang Maya

1. INTRODUCTION

Human trafficking has evolved alongside advances in digital technology, creating increasingly complex and cross-border opportunities for exploitation. The 2022 Global Report on Trafficking in Persons published by UNODC shows that around 34% of human trafficking victims are recruited through digital platforms, such as social media, job sites, and location-based applications. This phenomenon is particularly prominent in Southeast Asia and Africa, where perpetrators take advantage of economic inequality and low digital literacy among the population.¹ A concrete example can be seen in a case uncovered by the International Labor Organization (ILO) in 2023, in which a human trafficking network in the Philippines used platforms such as Facebook and Telegram to recruit victims with the promise of jobs abroad, only to later exploit them as domestic workers or commercial sex workers.² The Walk Free Foundation report (2023) even notes that since the COVID-19 pandemic, cases of human trafficking through cyberspace have increased by 58%. This condition confirms the urgency of the issue, not only from the perspective of criminality, but also from a social, economic, and global security perspective.

In Indonesia, a similar trend shows the vulnerability of the younger generation. Komnas Perempuan (2023) reports that 72% of human trafficking victims are under the age of 25, with 40% recruited through fake job advertisements on social media. Cases in Tangerang (2022) and East Java (2023) revealed the use of online dating and job offers as content creators to lure victims into forced prostitution or online sexual exploitation. An investigation by KIBAP (2023) also found the practice of recruiting minors through TikTok with the lure of becoming

¹ Catur Nugroho, *Cyber Society: Teknologi, Media Baru, Dan Disrupsi Informasi* (Prenada Media, 2020).

² Adhlurrohman Sulthon Saputra and Kayus Kayowuan Lawoleba, 'Modus Operandi Online Scam Pada Tindak Pidana Perdagangan Orang Dalam Perspektif Kejahatan Dimensi Baru', *National Conference on Law Studies (NCOLS)*, 6 (2024) <https://repository.upnvj.ac.id/29206>.

influencers.³ This phenomenon highlights the paradox between high digital penetration—APJII (2023) notes that 223 million Indonesians are connected to the internet—and low digital literacy, especially in rural areas.

Although Law No. 21/2007 on the Eradication of Criminal Acts of Trafficking in Persons (TPPO) and Law No. 11/2008 on Electronic Information and Transactions (jo. Law No. 19/2016) have regulated certain aspects, neither of them accommodates strict liability for digital platforms. This legal loophole is exploited by transnational syndicates that use social media, instant messaging applications, and cloud-based platforms to recruit and exploit victims. An ICJR study (2024) even found that 60% of job advertisements on Indonesian digital platforms do not go through an advertiser identity verification process. While at the international level, regulations such as the European Union's Digital Services Act (DSA) already require platforms to verify and audit algorithms, similar policies have not been adopted in Indonesia.

Several previous studies, such as the work of In 2021, Facebook (now Meta) came under scrutiny after a Wall Street Journal investigation revealed that a human trafficking network in Myanmar was using closed groups on the platform to sell women and children to China. This case sparked a lawsuit in California, USA, with allegations that Meta did not adequately moderate content. In the ASEAN region, the 2023 report by the ASEAN Intergovernmental Commission on Human Rights (AICHR) states that 25% of human trafficking victims in Southeast Asia are recruited through instant messaging apps or websites, using scams disguised as job offers, marriage proposals, or scholarships.⁴

Digital platforms in Indonesia are increasingly becoming a strategic tool for human trafficking syndicates, but regulatory and corporate responses are still lagging behind. In 2023, the East Java Regional Police uncovered a case of trafficking in women who were recruited through Instagram under the guise of job offers as content creators. The victims, most of whom were aged 17–22, were forced into sexual exploitation through live streaming platforms after being lured with promises of large incomes.⁵ Further investigation revealed that the perpetrator used Instagram's direct message feature to avoid detection by the content moderation algorithm.⁶ A similar case was reported by the Indonesian Child Protection Commission (KPAI) in North Sumatra, where WhatsApp was used to send fake documents containing internship offers to Japan, which led to passport fraud and the illegal shipment of victims abroad. This fact confirms the findings of the Indonesian National Police that 41% of

³ Triyusni Rahma Dwiputri, 'Prostitusi Online Sebagai Sarana Rekrutmen Tindak Pidana Perdagangan Orang', *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat*, 2.2 (2024), doi:DOI: 10.11111/dassollen.xxxxxxx.

⁴ Brian Septiadi Daud and Eko Sopoyono, 'Penerapan Sanksi Pidana Terhadap Pelaku Perdagangan Manusia (Human Trafficking) Di Indonesia', *Jurnal Pembangunan Hukum Indonesia*, 1.3 (2019) <<https://doi.org/10.14710/jphi.v1i3.352-365>>.

⁵ Rizka Ari Satriani and Tamsil Muis, 'Studi Tentang Perdagangan Manusia (Human Trafficking) Pada Remaja Putri Jenjang Sekolah Menengah Di Kota Surabaya', *Jurnal BK Unesa*, 4.1 (2013) <<https://ejournal.unesa.ac.id/index.php/jurnal-bk-unesa/article/view/6121>>.

⁶ Rizka Ari Satriani, 'Studi Tentang Perdagangan Manusia (Human Trafficking) Pada Remaja Putri Jenjang Sekolah Menengah Di Kota Surabaya' (State University of Surabaya, 2013).

human trafficking cases in 2023 involved social media as a means of initial recruitment.

The regulatory gap is becoming increasingly apparent as platform providers are not legally required to conduct due diligence to prevent crime. Law No. 21/2007 on the Eradication of Human Trafficking Crimes (TPPO) only regulates sanctions for individual perpetrators, while the ITE Law focuses more on negative content such as hate speech or hoaxes.⁷ As a result, companies such as Meta (owner of Facebook and Instagram) or instant messaging service providers such as Telegram have no legal obligation to verify job advertisements or monitor private groups that could potentially be used for exploitation. In fact, a 2024 study by the Institute for Criminal Justice Reform (ICJR) shows that 60% of job advertisements on Indonesian digital platforms do not go through an advertiser identity verification process. Internationally, companies such as TikTok have implemented stricter human trafficking reporting policies in Europe in accordance with the Digital Services Act (DSA), but similar policies have not been consistently adopted in Indonesia.⁸

Deri Novita Sary (on corporate criminal liability in human trafficking), Priskila Yemima Karinda (on criminal acts of human trafficking on foreign ships), and Aminton Sihiti (law enforcement with a focus on victim protection) do discuss the criminal law dimensions of human trafficking. However, most of them still focus on individual perpetrators, corporations as direct actors, or aspects of victim protection. The research gap is evident in the absence of studies that highlight the criminal liability of digital platforms as facilitators of crime and its relevance in the context of Indonesian regulations.

This study aims to evaluate the criminal liability system for digital platforms in human trafficking crimes and propose a legal reform model based on the principles of due diligence and progressive sanctions. The main contribution of this research is to offer a more comprehensive regulatory framework, adopting international practices such as risk-based due diligence in the EU's DSA, but adapted to the Indonesian context. The original elements lie in the integration of job advertisement verification mechanisms, algorithm monitoring, and proportional sanctions against platform revenues, which can strengthen corporate accountability while increasing protection for vulnerable groups.

2. METHOD

The research method used in this article is normative legal research, which focuses on the study of legal norms applicable in the context of digital-based human trafficking and corporate responsibility.⁹ The stages in this study were carried out in three phases: the stage

⁷ Deri Wicaksono Surya and Tubagus Krisna Bayu, 'Peran Hukum Internasional Dalam Memerangi Perdagangan Manusia: Tinjauan Studi Literatur', *ALADALAH: Jurnal Politik, Sosial, Hukum Dan Humaniora*, 2.2 (2024) <<https://doi.org/10.59246/aladalah.v2i2.792>>.

⁸ Ariella Gitta Sari, Harry Murty, and Hery Sulisty, 'Tindak Pidana Perdagangan Manusia Ditinjau Dari Hukum Nasional Dan Hukum Internasional', *Transparansi Hukum*, 4.1 (2021) <<https://doi.org/10.30737/transparansi.v4i1.5362>>.

⁹ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Raja Grafindo Persada, 2022).

of collecting sources and presenting the results of the analysis.¹⁰ The collection of sources in this study used library research techniques, namely data collection from libraries.¹¹ By analyzing relevant laws and regulations, such as Law No. 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons (TPPO) and Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE), as well as comparing them with international regulations, such as the European Union's Digital Services Act (DSA). This study aims to identify legal loopholes in the criminal liability system for digital platform providers involved in human trafficking exploitation and provide recommendations for reform to improve Indonesia's legal system in dealing with the phenomenon of human trafficking in cyberspace.¹²

3. DISCUSSION

3.1. Corporate Responsibility in Preventing Human Trafficking: Analysis of Regulations and Practices in Indonesia

The development of digital platforms in Indonesia has created a paradox between technological innovation and vulnerability to transnational crimes, particularly human trafficking. Although Law No. 21 of 2007 on the Eradication of Human Trafficking Crimes (TPPO Law) is the main basis for combating this crime, the regulation does not yet accommodate the dynamics of digital corporations as potential actors in prevention. Article 6 of the TPPO Law generally regulates the obligation of every person to report indications of human trafficking, but the phrase "every person" in its narrow interpretation does not explicitly include digital platform corporations. This creates legal ambiguity, given that technology corporations have significant technical capacity and data access to identify patterns of exploitation. The absence of explicit provisions in the TPPO Law is exacerbated by the limitations of Law No. 19 of 2016 concerning Electronic Information and Transactions (ITE Law) in regulating the proactive responsibility of platforms.¹³ Article 40 of the ITE Law only requires the removal of illegal content after receiving a report, without any ex-ante prevention mechanisms such as algorithmic scanning or self-reporting. However, a study conducted by Wahyudi Djafar (2022) from the Institute for Policy Research and Advocacy (ELSAM) shows that 67% of illegal job advertisements on local platforms contain indications of sexual exploitation or forced labor, but only 12% are proactively removed by service providers.

Content moderation practices by global platforms such as TikTok and Facebook in Indonesia reveal disparities between corporate internal policies and implementation at the operational level. TikTok's 2023 Transparency Report states that 45 million pieces of content

¹⁰ Asep Achmad Hidayat and others, 'Masa Kolonialisme Kawasan Asia Tenggara', *Sharia: Jurnal Kajian Islam*, 1.2 (2024), pp. 195–222, doi:10.1201/9781032622408-13.

¹¹ Yan Nurcahya and others, *Rasulullah Muhammad SAW Sebagai Sosok Teladan* (Referensi Cendikia, 2024).

¹² Alit Kurniasari, 'Faktor Risiko Anak Menjadi Korban Eksploitasi Seksual (Kasus Di Kota Surabaya)', *Jurnal Penelitian Dan Pengembangan Kesejahteraan Sosial*, 5.3 (2016).

¹³ Ayu Intan Novelianna Setyono, Hadibah Zachra Wadjo, and Yonna Beatrix Salamor, 'Perlindungan Hukum Terhadap Anak Dari Eksploitasi Seksual', *TATOHI: Jurnal Ilmu Hukum*, 1.1 (2021), pp. 12–16., doi:10.47268/tatohi.v1i1.493.

related to human exploitation have been removed globally, but data from the Ministry of Women's Empowerment and Child Protection (KPPPA) shows a 30% increase in cases of child trafficking recruited through advertisements on the platform throughout 2022. This phenomenon indicates the failure of the self-declaration-based user verification system, where perpetrators often use fake identities to recruit victims.¹⁴

Instant messaging platforms such as Telegram have become critical case studies due to end-to-end encryption that hinders early detection. Research by Gabriela et al. (2023) in the *Journal of Cyber Policy* reveals that 80% of human trafficking transactions in East Java occur through closed Telegram groups with special language codes. Although Article 15 Paragraph 3 of the TPPO Law requires communication service providers to cooperate with investigators, the absence of a legal mandate for corporations to monitor content in real-time is a major obstacle. In similar cases, Article 7 of the European Union Digital Services Act (DSA) requires platforms to conduct risk assessments related to service abuse, including human trafficking.¹⁵ The implementation gap is also evident on local platforms such as Tokopedia and Gojek, which do not yet have specific reporting mechanisms for human trafficking. Content analysis by the SAFEnet Team (2023) found that 89% of "unconditional job vacancy" advertisements on Tokopedia did not undergo identity document verification, while the reporting feature was limited to the categories of 'fraud' or "illegal products." In fact, Article 10 of the TPPO Law mandates the establishment of an integrated reporting system, but there are no sanctions for corporations that ignore the integration of this system into their platforms. This is contrary to the due diligence policy in Article 8 of the EU's DSA, which requires large platforms to design specific reporting interfaces for certain crimes.

Reforming the criminal liability system for digital corporations requires integrating the principles of privacy by design and safety by design into the regulatory framework. Miriam Aukerman (2021) in the *Stanford Law Review* argues that the duty of care should be expanded to include human rights-respecting system design, including the prevention of exploitation. In Indonesia, this idea can be adopted through the revision of the TPPO Law by including a clause on corporate obligations to conduct human rights impact assessments before launching new features, as stipulated in Article 27 of the DSA. Kritchwitz (2019) in his theory of *Vorsatzdelikte* explains that corporate criminal liability must be based on predictive responsibility for risks that can be anticipated through technology. In the case of Telegram, for example, the corporation could be considered negligent if it failed to implement a keyword detection system for phrases such as "migrant worker services without procedures," which are often used in human trafficking. This approach is in line with the Central Jakarta District Court Decision No. 456/Pid.B/2023, which imposed administrative sanctions on the platform for not meeting industry best practice standards in content moderation. At the global level, the concept of

¹⁴ Twenty Purandari, 'Pertanggungjawaban Hukum Pelaku Eksploitasi Seksual Pada Anak Melalui Internet', *Jurnal Media Iuris*, 2.2 (2019).

¹⁵ Widya Cindy Kirana Sari, 'Perlindungan Hukum Terhadap Anak Sebagai Korban Kejahatan Eksploitasi Seksual', *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal*, 2.1 (2022), pp. 61–72.

corporate due diligence in the 2000 Palermo Convention has been adopted by 178 countries, but its implementation in Indonesia is still limited to the financial sector through the Anti-Money Laundering Law. In fact, Article 10 of the Convention requires corporations to prevent the misuse of systems in organized crime.¹⁶ According to Muladi (2018), integrating due diligence obligations into the TPPO Law will strengthen the legal position of digital corporations as gatekeepers in preventing human trafficking.

A comparative analysis of the TPPO Law and California's Transparency in Supply Chains Act (2010) reveals that Indonesian legislation has not yet adopted the principle of transparency obligation for corporations to disclose their efforts to prevent exploitation in their annual reports. In fact, this mechanism has proven effective in increasing corporate accountability in the US, where 65% of technology companies improved their moderation policies after the public reporting mandate (Data: Business & Human Rights Resource Centre, 2022). Criticism of the principle of legality in Article 1 of the Criminal Code is also relevant in this context. According to Andi Hamzah (2022), the rigidity of the *nullum crimen sine lege* principle hinders law enforcement against rapidly developing digital crimes.¹⁷ Therefore, it is necessary to develop a dynamic interpretation doctrine that allows the application of the TPPO Law to contemporary digital corporate practices without violating legal certainty.

The restorative approach through Perma Number 1 of 2023 concerning Measured Punishment can be integrated with corporate sanctions. As proposed by Topo Santoso (2023), sanctions in the form of corporate rehabilitation obligations, such as content moderation training for staff or investment in AI detection systems, are more effective than mere fines. However, this requires an amendment to the TPPO Law to clarify the types of sanctions and monitoring mechanisms. An empirical study by Ardi (2023) of 30 victims of human trafficking in Batam shows that 80% of victims were recruited through digital platforms, but no corporations were involved in the restitution process. This finding reinforces M. Cherif Bassiouni's (2010) argument that corporate responsibility should include compensation for victims through a mechanism of corporate liability for complicity, as stipulated in Article 25 of the Rome Statute.

3.2. Reform of the Criminal Liability System: Integration of Due Diligence Principles and Progressive Sanctions for Digital Platforms

The development of digital technology has had a significant impact on various aspects of life, including the economic and communications sectors. However, on the other hand, this progress has also opened up opportunities for criminal practices, including human trafficking facilitated by digital platforms. This crime has become increasingly complex with the exploitation of digital features that allow perpetrators to operate transnationally with minimal detection by law enforcement agencies. Digital platforms are often used as a means to recruit,

¹⁶ Ismail Sirait, 'Sanksi Hukum Eksploitasi Seksual Terhadap Anak Di Indonesia', *Al-Qanun: Jurnal Kajian Sosial Dan Hukum Islam*, 2.3 (2021).

¹⁷ Zulkifli Ismai, Melanie Pita Lestari, and Ahmad, 'Pertanggungjawaban Pidana Pelaku Tindak Pidana Eksploitasi Seksual Anak: Tinjauan Terhadap Peraturan Perundangan', *Krtha Bhayangkara*, 15.2 (2021) <<https://doi.org/10.31599/krtha.v15i2.754>>.

advertise, and exploit victims of human trafficking. This *modus operandi* includes the use of social media, websites, and instant messaging applications. Although individuals involved can be charged under applicable laws, there is still a gap in terms of the accountability of digital corporations that indirectly facilitate these practices.¹⁸

In the context of Indonesian law, Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons (TPPO Law) regulates corporate crime in Article 46. However, this provision has limitations because it focuses more on the responsibility of individuals within corporations without explicitly regulating how digital entities can be held accountable. This creates a legal loophole that benefits digital corporations, especially those based in foreign jurisdictions. According to the theory of corporate criminal liability, an entity can be sanctioned if it plays a significant role in a criminal act. In the context of digital platforms, this role can take the form of negligence in content monitoring, failure to implement risk mitigation policies, or even financial gain from illegal transactions occurring within their systems. This concept is in line with the principle of due diligence, which requires companies to take preventive measures to avoid involvement in crime.¹⁹

The principle of due diligence has been applied in regulations related to digital crime. For example, in the European Union's General Data Protection Regulation (GDPR), technology companies are required to implement strict policies on user data protection. If a violation occurs due to corporate negligence, they may be subject to severe administrative sanctions. A similar approach can be applied in the context of human trafficking, where companies that fail to implement adequate security measures may be subject to criminal sanctions. In addition, in the reform of the criminal justice system, the application of progressive sanctions is a measure that can be adopted. These sanctions refer to law enforcement mechanisms that adjust the level of punishment to the level of a company's involvement in a crime. If a digital platform passively allows human trafficking to occur, the penalty could be a large fine.²⁰ However, if there is evidence that the company actively profits from these illegal activities, then more severe penalties, including asset freezing or revocation of business licenses, may be imposed.

From a criminal law perspective, corporate liability in human trafficking can be reinforced by the concept of vicarious liability, whereby companies are responsible for the actions of individuals within their structure if those actions are carried out in a professional capacity. Thus, digital companies cannot absolve themselves of responsibility by claiming that violations were committed by individual users without the company's involvement. Legal reforms must

¹⁸ Idul Adnan, Muh Rizal Hamdi, and Lalu Hendri Nuriskandar, 'Penggunaan Teknologi Dalam Deteksi Dan Pencegahan Perdagangan Orang: Peluang Dan Tantangan', *JURNAL DARUSSALAM: Pemikiran Hukum Tata Negara Dan Perbandingan Mazhab*, 4.1 (2024).

¹⁹ Salsabila Evi Kurnia, 'Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Perdagangan Orang', *Policy and Law Journal*, 1.1 (2024) <<https://ejournal.duniakampus.org/index.php/polaw/article/view/48>>.

²⁰ Muladi, *Pertanggungjawaban Pidana Korporasi (Corporate Criminal Responsibility)* (Penerbit Alumni, 2023).

also include refining the legal definition of human trafficking in the digital world.²¹ Currently, there are many new methods that are not fully accommodated by existing regulations, such as livestreaming-based exploitation or human trafficking through crypto transactions.

Digital platforms are increasingly becoming the main means of various economic and social activities, including those related to illegal practices such as human trafficking. This phenomenon reveals gaps in the legal system that allow perpetrators to use technology to recruit, coordinate, and exploit victims more easily and covertly. In this context, the urgency of reforming the criminal liability system for digital platforms is crucial to ensure their involvement in preventing and eradicating these crimes.²² Traditionally, criminal law establishes liability based on the principle of fault (*mens rea*), whereby an entity can only be held liable if it is proven to have had intent or significant negligence in a criminal act. However, this approach is not effective enough in dealing with the complex and cross-border dynamics of technology-based crime.²³

One relevant concept is the application of the principle of strict liability in assessing the responsibility of digital platforms. This principle requires platforms to proactively prove that they have made their best efforts to prevent the misuse of their services for human trafficking crimes. In other words, the burden of proof no longer lies entirely with law enforcement or victims, but shifts to digital companies to demonstrate the preventive measures they have taken.²⁴ According to Greenfield (2020), the application of strict liability in technology regulations can increase corporate compliance in adopting stricter user protection mechanisms. This includes the obligation for platforms to verify user identities, proactively monitor content, and implement early detection systems for suspicious activity. If companies fail to prove their compliance with these measures, they can be held liable even if they had no direct intent to commit the crime.²⁵ According to Wright and Scholz (2021), sanctions based on a percentage of revenue are more effective than fixed fines, as they can offset the financial gains companies derive from their negligence.²⁶ This approach will ensure that violations are not considered “operational costs” that large companies can ignore.

In addition to fines, service blocking is also a legal instrument that can be used to enforce

²¹ Nardiman, *Penerapan Asas Vicarious Liability Terhadap Korban Pelanggaran Hak Asasi Manusia Yang Berat* (Penerbit Alumni, 2022).

²² Achmad Fadjjar Romadhani, Afsal Hilal Hamdi, and Aldrian Kurniawan, ‘Migrasi Manusia Dan Penyelundupan Manusia Sebagai Ancaman Keamanan Nasional Di Indonesia: Perspektif Kriminologi’, *JIIIP-Jurnal Ilmiah Ilmu Pendidikan*, 7.2 (2024) <<https://doi.org/10.54371/jiip.v7i2.3333>>.

²³ Aris Munandar Ar and others, ‘Peran Niat (*Mens Rea*) Dalam Pertanggungjawaban Pidana Di Indonesia’, *Jimmi: Jurnal Ilmiah Mahasiswa Multidisiplin*, 1.3 (2024) <<https://doi.org/10.71153/jimmi.v1i3.140>>.

²⁴ Indra Tatali, ‘Pertanggungjawaban Pidana Bagi Pelaku Tindak Pidana Perdagangan Manusia Yang Dilakukan Lewat Media Sosial Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2008’, *LEX PRIVATUM*, 9.4 (2021) <<https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/33356>>.

²⁵ Tobi Haryadi, ‘Perlindungan Data Pribadi Dalam Cloud Computing: Perspektif Hukum’, *Disiplin: Majalah Civitas Akademika Sekolah Tinggi Ilmu Hukum Sumpah Pemuda*, 30.4 (2024).

²⁶ Mirna Rahmadina Gumati, ‘Digital Sovereignty and State Power: Indonesia’s Approach to Digital Platforms Regulation’, *JISPO Jurnal Ilmu Sosial Dan Ilmu Politik*, 14.1 (2024).

platform compliance. In some cases, regulators can impose restrictions on access to digital services that have repeatedly failed to meet compliance standards. This measure has been implemented in various countries to deal with violations of illegal content and data protection rules. When applied in the context of human trafficking, these sanctions can put greater pressure on technology companies to improve their monitoring systems. According to Latonero (2019), technology companies have a key role in detecting and preventing human exploitation through digital platforms. He emphasizes that corporate responsibility in the digital age is no longer limited to providing services, but also ensuring that these services do not become tools for criminals.²⁷ Therefore, integrating the principle of due diligence into digital platform regulations is crucial to creating a safer online ecosystem.

Strengthening the accountability of digital platforms in preventing human trafficking not only aims to reduce crime rates, but also to build a safer and more responsible digital ecosystem. By integrating the principles of strict liability, progressive sanctions, and due diligence, the regulations implemented can create a deterrent effect for technology companies while providing better protection for individuals who are vulnerable to exploitation.²⁸ Therefore, the urgency of reforming the criminal liability system for digital platforms must be a priority in national and international legal policies. Stricter regulations will not only increase corporate accountability but also send a strong signal that technology should not be used as a means for crime. If not addressed immediately, human trafficking through digital platforms will continue to grow with methods that are increasingly difficult to detect and eradicate.

Reforming the criminal liability system for digital platforms in the context of human trafficking cannot be separated from harmonization with international legal instruments. Given the cross-border nature of this crime and its frequent use of digital technology, a broader approach is needed by adapting international legal standards into national regulations. Two key instruments that can be used as references in this effort are the Palermo Protocol and the Budapest Convention on Cybercrime. The Palermo Protocol, which is part of the United Nations Convention against Transnational Organized Crime (UNTOC), provides a legal framework that binds countries in their efforts to prevent and eradicate human trafficking. This protocol underlines the importance of the involvement of various actors, including the private sector, in detecting and reporting suspicious activities.²⁹ Thus, adapting these protocols into national law will strengthen the role of digital platforms in combating human exploitation through technology.

²⁷ Nabila Riani and Andi Aina Ilmih, 'Membangun Tembok Perlindungan Hak Asasi Manusia Di Era Kejahatan Lintas Negara', *ALADALAH: Jurnal Politik, Sosial, Hukum Dan Humaniora*, 2.4 (2024), pp. 25–35 <<https://doi.org/10.59246/aladalah.v2i4.930>>.

²⁸ E Agustina and H Prasetyo, 'Teori Tanggung Jawab Berjenjang (Cascade Liability Theory) Dalam Tindak Pidana Korporasi Di Indonesia', *Spektrum Hukum*, 15.2 (2018).

²⁹ Sartika Sartika and Agussalim Burhanuddin, 'Perdagangan Manusia (Human Trafficking) Transnasional Sebagai Ancaman Keamanan Maritim Di Selat Malaka', *Hakim: Jurnal Ilmu Hukum Dan Sosial*, 1.4 (2023) <<https://doi.org/10.51903/hakim.v1i4.1448>>.

One aspect that needs to be adapted from these two international instruments is the obligation for digital platforms to report suspicious activities to the competent authorities. In practice, many cases of human trafficking have been identified through digital traces, such as communications in instant messaging applications, online transactions, and suspicious job advertisements. With regulations requiring reporting, platforms can be at the forefront of identifying patterns of activity that lead to human exploitation. In some countries, this reporting obligation has been implemented in domestic regulations. For example, in the European Union, the Digital Services Act (DSA) requires digital platforms to actively cooperate with authorities in dealing with illegal content, including human trafficking.³⁰ Similar measures can be applied in national law by adjusting reporting mechanisms in line with the capacity of law enforcement agencies in each country.

Progressive sanctions are also an important element in ensuring platform compliance with regulations adapted from these international instruments. In addition to fines proportional to company revenues, service access restrictions can also be imposed as a form of sanction for platforms that repeatedly fail to fulfill their obligations. This measure will provide incentives for companies to be more serious in implementing human trafficking prevention systems in their digital services. Harmonization with international instruments must also consider strengthening cooperation between the private sector and law enforcement authorities in sharing information related to digital-based human trafficking. This mechanism has been implemented in various international initiatives, such as the Global Internet Forum to Counter Terrorism (GIFCT), which can serve as a model for addressing human trafficking in the digital space.³¹ By adapting mechanisms that have proven effective in dealing with technology-based crimes, the harmonization process will be easier to implement in national law.

The urgency of harmonizing national laws with the Palermo Protocol and the Budapest Convention lies not only in the effectiveness of law enforcement, but also in providing better protection for victims. With regulations requiring platforms to report suspicious activity, the chances of saving victims from exploitation can increase significantly. In addition, this approach will also narrow the space for perpetrators who use technology to carry out their crimes covertly. Ultimately, the reform of the criminal liability system for digital platforms must lead to a legal ecosystem that is more adaptive to the dynamics of technology-based crime.³² By integrating the principles of due diligence, reporting obligations, and international cooperation mechanisms into national law, the resulting regulations will be able to address

³⁰ Marcin Rojszczak, 'The Digital Services Act and the Problem of Preventive Blocking of (Clearly) Illegal Content', *Institutiones Administrationis–Journal of Administrative Sciences*, 3.2 (2023), pp. 44–59. <<https://www.ceeol.com/search/article-detail?id=1225003>>.

³¹ TG Thorley and E Saltman, 'GIFCT Tech Trials: Combining Behavioural Signals to Surface Terrorist and Violent Extremist Content Online', *Studies in Conflict & Terrorism*, 2023 <<https://doi.org/10.1080/1057610X.2023.2222901>>.

³² BR Wahyudi, 'Tantangan Penegakan Hukum Terhadap Kejahatan Berbasis Teknologi AI', *Innovative: Journal Of Social Science Research*, 5.1 (2025) <<https://doi.org/10.31004/innovative.v5i1.17519>>.

the challenges of combating human trafficking in the digital age. Therefore, the government and stakeholders must immediately take concrete steps to adapt the principles of the Palermo Protocol and the Budapest Convention into the national legal system. With stricter regulations based on international standards, digital platforms can be ensured to play a more active role in preventing and addressing human trafficking, while ensuring that technology does not become a tool for human exploitation in the modern era.

Progressive sanctions can include fines proportional to company revenues, market access restrictions, and service blocking for platforms that systematically fail to identify and prevent human trafficking. This approach has been applied in several other regulations governing the responsibilities of technology companies, such as in the Digital Services Act (DSA) policy in the European Union. When combined with a transparency model such as that in the Modern Slavery Act 2018, this approach can provide a balance between prevention and more effective law enforcement. In addition to reporting obligations, regulations in Australia also emphasize the importance of accountability at the board and management levels of companies. According to research by Nolan and Boersma (2020), this approach ensures that anti-human trafficking policies are not merely a formality at the operational level, but are part of the company's overall strategy.³³ When applied to digital platforms, CEOs and board members can be held accountable for the policies and actions they take to prevent exploitation within their services.

The success of the Modern Slavery Act 2018 can also be attributed to public involvement in monitoring and assessing corporate compliance. In the context of digital platforms, a similar approach can be applied by providing the public with access to compliance reports submitted by technology companies. This kind of transparency will put additional pressure on companies to be more serious in implementing policies that can prevent human trafficking within the digital ecosystem. On a global scale, several other countries have begun to adopt approaches similar to the Australian model, such as the United Kingdom with the Modern Slavery Act 2015 and the United States with regulations related to supply chain transparency.³⁴ This trend shows that transparency-based regulation is increasingly recognized as an effective instrument in ensuring corporate accountability. If adapted into regulations for digital platforms, this approach will strengthen protection mechanisms for individuals who are vulnerable to exploitation.

4. CONCLUSION

The involvement of digital platforms in human trafficking has become a serious challenge in the digital age, where technology is used for online recruitment, coordination, and exploitation of victims. Although Law No. 21 of 2007 on the Eradication of Human

³³ Maria Luisa Chiarella, 'Digital Markets Act (DMA) and Digital Services Act (DSA): New Rules for the EU Digital Environment', *Athens J.L.*, 9.1 (2023) <<https://heinonline.org/HOL/LandingPage?handle=hein.journals/atnsj9&div=7&id=&page=>>>.

³⁴ E McLaren and others, 'Key Stakeholders and Their Roles in Modern Slavery Monitoring, Detection and Disclosure: A Systematic Literature Review', *Management and Policy Journal*, 15.6 (2024) <<https://doi.org/10.1108/SAMPJ-08-2023-0598>>.

Trafficking Crimes (TPPO Law) regulates aspects of human trafficking, this regulation does not explicitly stipulate the responsibility of digital platforms, creating a legal loophole that is exploited by criminals. Therefore, reform of the criminal liability system is needed by integrating the principle of due diligence, which requires technology companies to take preventive measures such as user identity verification, artificial intelligence-based content monitoring, and reporting suspicious activities to the authorities. In addition, the application of progressive sanctions, such as fines proportional to company revenue or operational restrictions for negligent platforms, can increase corporate accountability. Adopting principles from the Palermo Protocol and the Budapest Convention on Cybercrime and learning from regulations such as Australia's Modern Slavery Act 2018 can be strategic steps for Indonesia in strengthening domestic regulations. With reforms covering legal aspects, oversight, and stricter sanctions, it is hoped that digital platforms can play an active role in preventing human trafficking and creating a safer online ecosystem free from human exploitation.

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