

*Research Article***Legal Qualification of the Ferienjob Program as Human Trafficking under Indonesian Law****Heni Siswanto^{1*}, Aisyah Muda Cemerlang¹, Haidir Anam², Febryani Sabatira³**¹**Department of Criminal Law, Faculty of Law, Universitas Lampung, Indonesia**²**Program of Forensic Science, Postgraduate School, Universitas Airlangga, Indonesia**³**Master Maritime Policy, University of Wollongong, Australia*****heni.siswanto@fh.unila.ac.id****ABSTRACT**

The Ferienjob program offers short-term employment opportunities for Indonesian students in Germany during academic breaks. However, its implementation has triggered serious issues related to manipulative recruitment, irregular placement procedures, debt bondage, and exploitative working conditions. However, legal studies examining in-depth whether the Ferienjob practice meets the elements of human trafficking (TPPO) as stipulated in Law Number 21 of 2007 are still very limited. This study aims to analyze the fulfillment of the legal elements of TPPO in the program and evaluate institutional governance during its implementation. By combining a normative juridical approach and case studies, this research utilizes primary and secondary legal materials, as well as public documents related to the Ferienjob case. The analysis focuses on three main elements of TPPO under Indonesian law: process, method, and exploitation. The study results indicate that the implementation of Ferienjob for Indonesian students has met all three elements. The process element is evident in the structured recruitment of 1,047 students from 33 universities and their placement in Germany. The method element is evident through fraud, debt bondage, and exploitation of victims' vulnerabilities. Meanwhile, elements of exploitation are reflected in harsh working conditions, wage cuts, and facts on the ground that are far from the initial promises. This research also found weak oversight and coordination between institutions in monitoring student recruitment. Based on the available evidence and the framework of Law No. 21/2007, this study concludes that the practice of Ferienjob can be legally qualified as human trafficking (TPPO). These findings expand the legal literature on human trafficking hidden within official mechanisms and emphasize the importance of tightening regulations on recruitment agencies, conducting due diligence by universities, and strengthening cross-border protection.

Keywords: Exploitation; Ferienjob Program; Human Trafficking**A. INTRODUCTION**

Human trafficking is a global issue that violates basic human rights. According to the Palermo Protocol, "human trafficking is the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of

a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (United Nations, 2000).

In this regard, trafficking in persons (TIP) continues to pose a threat to the rights of people across the world with its cases being noted in

post-COVID-19 era (Emeziem, 2023). TIP constitutes various forms of oppression and exploitation of human rights (Al-Anzi, 2024) not only concerning individual victims but as far as security and social stability in general (Mallia, 2023). TIP is considered by UNODC to be an issue of global nature requiring joint effort of all countries of the world (UNODC, 2022).

In Southeast Asia, the matter of human trafficking has been gaining significance as an urgent challenge facing both governments and regional organizations due to its far-reaching effects on society, economy, and security (Smith, 2019). To address this urgent problem, ASEAN member countries made the Declaration on Combating Trafficking in Persons Caused by Abuse of Technology at the 42nd ASEAN Summit in May 2023, demonstrating their readiness to increase the capacity of law enforcement agencies, ensure protection of victims, and develop preventive programs (ASEAN, 2023; Sundram, 2024).

One of the most significant cases that occurred recently happened in Indonesia in early 2024, which was associated with the Ferienjob program in Germany. In March 2024, Bareskrim, the Criminal Investigation Agency in Indonesia, uncovered evidence indicating possible human trafficking related to Indonesian students that were brought to Germany for internship via the Ferienjob program (Cpiet, 2024). This case was related to 33 universities, where about 1,000 students have been affected. Upon reaching Germany, many participants encountered working

conditions that differed greatly from what was expected at the time of recruitment, namely, a heavy workload, physically challenging tasks, many hours of work, and low payment compared to previous promises (Campbell et al., 2016; Utami & Nasrudin, 2024).

Formally, Ferienjob refers to a program of temporary work in Germany that is intended to provide students with the opportunity to engage in paid labor during holidays from their studies. As per the German Employment Ordinance (Beschäftigungsverordnung, or BeschV) and Article 14(2), in particular, the duration of participation is limited to ninety days for any year containing semester breaks. The workers involved in Ferienjob program are normally engaged in various professions in industries like logistics, manufacturing, restaurant, warehouses, and airport (Amir, 2024; Nurfajriana & Prasetyo, 2024). Hence, Ferienjob is viewed as a legal program of temporary employment.

While being organized within the boundaries of a legal framework, the Ferienjob involving Indonesian students attracted significant public attention due to the accusations of misleading recruitment, lack of clear contracts, excessive workload, lower pay, and the inequality of power between recruiters and participants. This demonstrates that the exploitation can also happen within a legitimate system of labor mobility managed through universities and legal recruitment channels. Consequently, the Ferienjob case cannot be discussed in terms of employment of foreign students but should be

considered within the scope of protection from exploitation, legality of institutional governance and the possible manipulation of legal labor mobility programs for exploiting purposes.

The increasing complexity of the modern day practice of human trafficking demonstrates that contemporary trafficking is not limited to the illegal recruitment and undocumented migrations. Exploitation is possible within legally acknowledged institutional frameworks that formally comply with all the official criteria but can hide the activities violating the labor protection and human rights intentions. For this reason, the Ferienjob case can be used as an example illustrating the interaction between legal labor mobility programs and the ban of trafficking in persons within the frames of both Indonesian and international law.

The present research is based on the legal framework related to trafficking in persons at international and Indonesian levels. As far as the international instrument is concerned, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol) serves as the main regulation document. According to it, trafficking is defined as the recruitment, transportation, transfer, harboring or receipt of persons through the means of threats, coercion, abduction, fraud, deception, abuse of power or of position of vulnerability or giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (United Nations, 2000). The protocol

highlights the three elements that constitute trafficking process, means and purpose forming the international standards of recognizing such crimes.

In accordance with this approach, Indonesia formulates its legislation on trafficking in persons using Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking. The same three interrelated elements of trafficking are mentioned in the legislation – the recruitment or movement process, the means of perpetrators and the aim of exploitation. In such way, for determining the nature of any activity as trafficking the complete analysis of the three elements from the legal point of view is necessary.

Finally, this research also applies the approach of the governance. As mentioned by Ridwan et al. (2025), the legitimacy of programs and institutions is ensured not only by the compliance with the statutory criteria but also by the transparency, accountability, meaningful participation and supervisory mechanism throughout the process of policy implementation. Although a program may formally satisfy the requirements of the policy it may result in outcomes contradicting the rule of law due to the poor supervision and weak protection of the participants.

The contemporary paper will consider the application of the criminal law theory in Indonesia to assess criminal responsibility of perpetrators in the presence of trafficking elements. Based on the concept proposed by Andi Hamzah, criminal sanctions may be viewed from three perspectives,

such as the absolute (retributive) theory that considers punishment as justified for unlawful behavior, the relative (preventive) theory that focuses on the issue of deterrence and crime prevention, and the combined theory that includes both retributive and preventive objectives (Daud & Sopoyono, 2019; Rivanie et al., 2022; Rozah, 2017). In the situation involving the cases of trafficking in persons, the latter two theories may be especially relevant, since criminal punishment is supposed to be not only a penalty but also an instrument to discourage future exploitation and protect potential victims (Putri & Arifin, 2019; Purwadi et al., 2024).

Further, the efficiency of criminal sanctions may be explained with the help of the deterrence theory that states that crime prevention is achieved not only by means of the severity of punishment but also due to its certainty and rapidity (Raskolnikov, 2020). In the context of transnational trafficking cases, the efficient implementation presupposes coordination between the obligations stated in the Palermo Protocol and procedures stipulated by domestic criminal law (Faisol, 2019).

The present paper relies on the theory of corporate criminal responsibility described in Faisol's (2019) work that claims the possibility of imposing criminal liability on legal entities that are involved in trafficking through their organizational or business activities. It is especially relevant for the present study because the recruitment and deployment of students occurred as a result of the actions of institutional and corporate organization.

Therefore, the discussion of criminal responsibility should cover not only individual perpetrators but also organizations or corporations that have committed institutional crimes contributing to meeting the elements of trafficking according to law.

On the whole, the theoretical background serves as the basis for analyzing the question of the compliance of the recruiting process, contract terms, institutional mechanism, and working conditions in Ferienjob with the legal elements of trafficking in persons under the Palermo Protocol and Law No 21 of 2007.

From the normative point of view, the Ferienjob is a legitimate short-term student employment scheme provided for in the German Employment Ordinance (Beschäftigungsverordnung or BeschV, in particular Article 14(2)), according to which employment may take place no more than 90 days during the period of official semester break. The purpose of the project is to ensure job opportunities without violations of labor standards, contractual certainty, and protection of participants' rights. On the Indonesian side, any employment abroad must be conducted in accordance with the requirements of Law No 21 of 2007 on the Eradication of the Crime of Human Trafficking and the Palermo Protocol.

Practically speaking, the Ferienjob program with the participation of Indonesian students demonstrates a number of phenomena and processes which do not match the intended normative framework of the project. According to

Bareskrim reports, 33 universities sent 1,047 participants for Ferienjob. There were claims about misleading recruitment, opacity in terms of contractual requirements, imbalance in negotiating position, excessive workload, physically hard working conditions, and payment which does not match the pre-departure agreements (Cpiet, 2024; Utami & Nasrudin, 2024). In turn, this leads to the question whether the formally authorized student employment program may correspond to legal requirements of the trafficking in persons.

Firstly, the difference between the legal framework of Ferienjob program and its implementation highlights the presence of juridical inconsistency. Though the program is created in the context of a legitimate student employment program, allegations of exploitation point to the fact that legal institutions may be used to cover trafficking operations under the guise of a proper compliance with administrative procedures. Therefore, the core question is not about violation of labor standards, but whether recruitment process, institutional procedures, and working conditions fit the definition of trafficking provided in Law Number 21 of 2007 and Palermo Protocol.

Secondly, the problem becomes even more complicated due to contradictions in the legal opinion of stakeholders. The representatives of Polri and Ministry of Education, Culture, Research, and Technology claim that Ferienjob case has signs of trafficking in persons and that the program is not an element of MBKM scheme. On the contrary, some other experts believe that

Ferienjob demonstrates the problems with labor laws but does not constitute trafficking because the participants were university students and not the vulnerable victims of trafficking (Aulia, 2024). These contradictory evaluations prove the absence of the proper juridical evaluation of the Ferienjob program according to Indonesian anti-trafficking legislation.

The research gap becomes evident in the previous literature review as well. Prior studies paid considerable attention to trafficking in informal recruitment, migrant workers, border areas, organized crime networks, technology-enabled trafficking, protection of victims, and enforcement by institutions. However, little attention was paid to the cases of trafficking which allegedly occur within formally recognized international student-employment programs conducted by educational institutions and licensed recruitment agencies. This means that the doctrinal analysis of the Ferienjob program in terms of whether it fits the legal elements of trafficking in persons under Indonesian legislation is scarce.

Thus, against the background of the normative, empirical, and scholarly gaps discussed above, the research is important to conduct a comprehensive juridical assessment of the Ferienjob program. The purpose of the study is to determine whether the formally recognized international student-employment program is able to be qualified as the trafficking in persons if its implementation meets the elements of

recruitment, method, and exploitation of Law Number 21 of 2007 and Palermo Protocol.

Hence, this study intends to evaluate if the Ferienjob program in Germany satisfies the legal elements of trafficking in persons based on Indonesian law through its aspects of process, means, and purpose in addition to how institutional governance impacts the implementation of the international student employment program which is formally authorized.

During the past decade, a lot of research work has been done concerning trafficking in persons, going beyond doctrine and legal analysis towards broader discussion on issues of victim protection, prevention measures, technology, institutional governance, and transnational law enforcement of trafficking. Though prior research has contributed greatly to the body of knowledge from a variety of perspectives, almost all of these papers are concerned with various aspects of trafficking in persons without examining the trafficking that is allegedly committed through an officially authorized international student employment program.

Nugroho and Roesli (2017) explain the multidimensional nature of the crime of trafficking in persons which involves recruitment, transport, harboring, and exploitation using coercion, fraud, or abuse of vulnerability. Their paper gives a detailed explanation on the juridical construction and legal elements of trafficking under Indonesian law. Nevertheless, they did not test whether those legal elements are applicable to trafficking in

persons which occurs through an officially authorized international student employment program. In this case, the current study follows their point of view by applying legal elements of trafficking in persons to the Ferienjob program in Germany.

The study by Susianawati and Faozi (2022) is centered on the implementation of Law Number 21 of 2007. They concluded that victim protection is still ineffective due to the deficiencies in rehabilitation, restitution, and institutional collaboration. Likewise, Macy et al. (2023) revealed that the response to trafficking in persons is constrained by ineffective victim identification system, lack of standardized assessment tools, and poor referral process. Both studies provide significant contribution to enhancing victim protection; however, none of them explores whether an officially recognized overseas employment program can be legally considered as trafficking in persons before victim protection is implemented. The current study contributes to addressing that issue by studying the legality of recruitment process, contractual agreement, and employment conditions of the Ferienjob program. From the aspect of prevention, Azizurrahman et al. (2023) emphasize that trafficking in persons occurs in border regions where informal recruiting process facilitates the exploitation of victims. Setlight and Pangemanan (2024) emphasize the role of the community and collaboration between local governments, CSOs, and law enforcement agencies in preventing trafficking in persons. Even though both studies

enhance prevention measures, they are more concerned with the trafficking in persons conducted in an informal recruitment process. The present study analyzes the risk of trafficking in persons which is embedded within an official international student employment program conducted by institutional channels.

Furthermore, studies on technology are increasingly attracting many scholars. Purwanegara (2020) demonstrates that digital platform has revolutionized the recruitment process and patterns of trafficking. Moreover, Suriyawong, Sinthupinyo, and Triukose (2026) propose the crime mapping models which utilize geographic information system with predictive analysis in order to improve trafficking detection and law enforcement. Both studies significantly contribute to trafficking detection and law enforcement capabilities; however, they do not examine whether the exploitation process conducted in a legally recognized labor mobility program constitutes the trafficking in persons. The current study contributes to filling up that gap through juridical analysis of the trafficking hidden behind lawful employment program.

Institutional and criminal justice perspectives are equally attracting many researchers. Cooper et al. (2024) find evidentiary challenges, complex jurisdiction, and lack of victim cooperation as the key obstacles to the prosecution of transnational trafficking cases. Setiyono (2020) argues that the problem of weak implementation, bad interagency collaboration, and poor institutional integrity continues to fuel

transnational organized crime while Siahaan (2020) stresses the importance of strengthening institutional collaboration in combating people smuggling and associated trafficking in persons. Despite the valuable insights provided by all these papers, they do not focus on the issue of whether the officially authorized international student employment programs are legally classified as trafficking in persons.

Additionally, labor protection and criminal law reform have been extensively researched. Santoso and Pati (2024) discuss the legal protection for migrant workers in crisis situation. Andre et al. (2025) analyze the changes in the evidentiary elements of unlawfulness under Indonesia's new Criminal Code. They provide important contribution to the labor protection and criminal law but they are not concerned with the problems of university students who engage themselves in an overseas employment program. Unlike them, the current study focuses on university students who are usually perceived as low-risk group instead of trafficking victims.

Generally, existing research related to trafficking in persons usually examines the issue from the perspectives of conceptual construction of the legal definition of trafficking, protection of victims, prevention measures, innovative technologies, law enforcement agencies, protection of migrant workers, and criminal law reforms. Research usually concentrates on trafficking related to informal recruiting procedures, economically disadvantaged migrant workers, border regions, technological platforms,

and organized criminal activities. Therefore, relatively little scholarship has been devoted to the trafficking practices that could possibly take place within formally recognized international student employment programs based on legitimate institutions.

The current research is intended to bridge this gap in knowledge through carrying out an exhaustive juridical normative analysis of the German Ferienjob program in relation to the legal standards established by the Palermo Protocol, Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking, and relevant German Employment Ordinance (BeschV). Unlike the majority of the previous research that mainly focuses on the problem of protecting victims after exploitation, this research analyzes whether the recruitment procedure, contracts, working conditions, and institutional mechanisms meet the legal requirements of trafficking in persons.

Therefore, the unique feature of this paper lies in extending the boundaries of trafficking scholarship through considering an alternative type of victims who are not typical for trafficking cases and unconventional recruitment methods used in trafficking in persons. This paper proposes a new juridical perspective on contemporary forms of transnational human trafficking by taking into account international, Indonesian, and German legislation regulating the matter of criminal liability.

B. RESEARCH METHODS

This research employs a normative juridical methodology of legal analysis to examine the legal framework and application of human trafficking law in the Ferienjob case involving Indonesian students. The research focuses on the analysis of laws and regulations, particularly Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking, to identify and examine the legal norms relevant to trafficking crimes. This normative approach is supported by the analysis of the documented Ferienjob case as a case study for the application of the relevant legal norms. Academic validity and practical relevance will be achieved as well (Nurfajriana & Prasetyo, 2024). The use of a case-based normative approach is appropriate for examining how legal norms can be applied to a concrete legal situation (Langbroek et al., 2017).

The research design includes doctrinal analysis of the law combined with a case-study methodology. Primary legal sources (laws and regulations), secondary sources (scientific articles, books and scientific publications indexed in databases), and tertiary sources (legal dictionaries for term consistency) will be employed (Prakken & Sartor, 2015). In addition, publicly available documentary materials concerning the Ferienjob case are used to establish and contextualize the factual circumstances relevant to the legal analysis. These materials include reports of investigation conducted by the Indonesian National Police and Kemendikbudristek; official documentation of the

cooperation of KemenPPPA, which include contracts of employment and payment terms; and news media and scientific publications regarding case studies (Cpiet, 2024; KemenPPPA, 2024; Nurfajriana & Prasetyo, 2024). These materials are treated as supporting documentary sources for the case analysis and not as primary empirical data or independent empirical findings.

Grammatical, systematic and teleological analysis is used to interpret the regulation content, relations between articles and legislation purpose (Taekema, 2021). The analysis is conducted by examining the relevant legal provisions and applying them to the documented circumstances of the Ferienjob case, particularly in relation to the elements of human trafficking, exploitation, vulnerability, criminal responsibility, and the protection of victims. The consistency of the analysis is maintained by comparing relevant legal provisions and supporting documentary materials from different sources. Since this research does not involve primary field research, no interviews or surveys were conducted. The absence of interviews is also consistent with the consideration of ethical issues in research concerning ongoing criminal investigations (Archibald, 2016). All identifiable personal information contained in the documentary materials was anonymized.

C. RESULTS AND DISCUSSION

1. The Phenomenon Of Human Trafficking In Indonesia

Human trafficking can be described as a serious danger to world security and wellbeing due to its character of a transnational crime (Khan et al., 2023). In order to address this problem, the international community created the United Nations Convention against Transnational Organized Crime (UNTOC) in 2000 which set out basic guidelines on how to fight transnational crime in the countries signed the agreement (Boister, 2016). Within the above-mentioned framework, Indonesia presently receives a rating of Tier 2 in the US Department of State's Trafficking in Persons Report, meaning that although the country did not satisfy minimum standards required to combat trafficking, it has undertaken significant efforts in this regard (U.S. Department of State, 2024). The TIP Report evaluates countries' performance through three criteria namely: prevention, law enforcement, and victim protection, which make up a good basis for analyzing the Ferienjob incident.

It is worth saying that all the above-mentioned systemic problems facilitated emergence of the Ferienjob trafficking scheme and its functioning. One of the reasons for the Tier 2 ranking of Indonesia is related to difficulties in prosecution of human trafficking offenders (Farrell et al., 2019). Vulnerabilities in the human trafficking chain recognized by the Indonesia Anti-Trafficking Task Force (2015-2019) include small budgets that prevent proactive monitoring, insufficient public awareness that results in deceitful recruitment in universities, poor inter-agency cooperation that prevents timely detection

(Anwary, 2022), inadequate data system that fails to trace movement of students, and ineffective cross border monitoring, the issue especially important for cases of overseas trafficking such as Ferienjob (Johannes et al., 2023). In this regard, the study entitled "Development of Online System Applications as an Effort to Handle Cases of Violence and Human Trafficking" confirms that the lack of inter-agency cooperation, slow reporting, and inadequate integrated data on victims are the main causes of perpetuation of human trafficking that even includes transnational cases such as Ferienjob (Widyawati et al., 2022). According to the authors of the study, development of online-based system applications is necessary to improve reporting, monitor and coordinate actions of law enforcement agencies, and provide better protection to victims. All these issues have direct relation to the Ferienjob case as a result of ineffective monitoring system, insufficient information exchange between educational institutions, government, and law enforcement authorities, and lack of integrated digitalization of the process. Therefore, digitalization of human trafficking handling system will be helpful not only as an administrative measure but also as a preventive and repressive tool for modern forms of trafficking that involve international movement, digital tools, and educational institutions as means of exploiting people. Despite increase in investigations and prosecution, there were no proper legal procedures in place (Magistri, 2020). Inadequate resources and training prevented effective case

management, and penalties failed to reflect severity of the crime and served as enough deterrent (Raskolnikov, 2020).

There has been ample discussion regarding this matter in the literature of Indonesian law. For example, according to Yusitarani (2020), the state's responsibility lies not only in prosecuting offenders but also in protecting victims. Faturohman, Suhartini, and Adawiyah (2024) discuss how human rights approaches need to be taken into account while dealing with criminals. Finally, Sumaya (2024) evaluated the efficacy of Law Number 21 of 2007 and found important discrepancies between its intentions and execution in practice. Thus, the legal framework of Indonesia is rather strong theoretically; however, its implementation suffers from lack of resources and training of the personnel. All the problems mentioned above could be seen on the example of Ferienjob case when exploitation happened through educational channels which traditional enforcement systems did not monitor efficiently (Resa & Jaya, 2021).

Thus, after describing the enforcement issues related to this topic, we will analyze the legal framework of defining human trafficking in Indonesia. It is vital for strengthening law enforcement against human trafficking in this country (Basuki, 2017). According to Article 1(1) of Law Number 21 of 2007, human trafficking is described as a series of actions committed against people in harmful and dangerous ways. These actions include recruiting, transporting, housing, delivering, transferring, or receiving

persons using actions which include threats or actual violence, kidnapping, and detention. The statute also addresses forgery, fraud, and abuses of power and exploitation of vulnerability positions (Greenbaum et al., 2017). Through these actions, the offender imposes debt bondage on victims and pays for getting the consent of people controlling the victims (Yanti & Putri, 2024). These actions can be domestic or abroad and their goal is to exploit the victims themselves or other people (Rahmania & Nirmala, 2024).

According to Law Number 21 of 2007, this framework complies with international standards but it takes into account the realities of Indonesian law. It gives priority to victim protection along with prosecuting the offenders and combines law enforcement, victim services, and preventive programs (Purwanti, 2017). However, as stated by Susianawati and Faozi (2022), there are several serious problems with victim protection such as shortage of shelters, poor reintegration services, and difficulties in providing compensation. These deficiencies acquire special significance in relation to Ferienjob case when the victims of trafficking were students, and thus had risks to face legal problems connected with visa or contract breach (Pinilih et al., 2022).

Protection gaps are further aggravated by structural weaknesses in the Indonesian legal protection system for migrant workers abroad. Legal scholarship shows that despite the development of a comprehensive set of laws regarding the rights of migrant workers, their implementation is far from perfect due to the lack

of enforcement mechanism, poor legal literacy among migrant workers, language barriers, and lack of access to legal and consular services (Kusuma et al., 2025). In practice, Indonesian migrant workers and participants in the foreign employment programs have problems comprehending the terms of employment, receiving necessary medical services and legal aid, as well as getting timely consular protection in case of exploitation. Such risks become even more acute in the case of irregular or procedural employment programs abroad, when victims fear reprisal and legal consequences in the host country. Moreover, the literature points out that the effectiveness of protection should include not only normative legal guarantees but also efficient institutional response, timely consular assistance, increased cooperation between countries, and complaint channels for the protection of the rights of Indonesian citizens abroad (Kusuma et al., 2025). In the context of the Ferienjob incident, such systemic flaws may be considered the main reason for student vulnerability to deceit and abuse.

In order to solve such problems with enforcement and protection, the Indonesian National Police created the Anti-Trafficking in Persons Task Force (Satgas TPPO) on June 5, 2023, which is aimed at monitoring and reporting trafficking cases on a regular basis throughout Indonesia. Based on the analysis of enforcement data, there is a clear rise in activity after Satgas TPPO establishment. Table 1 presents this remarkable trend: the number of reported cases

and identified victims has increased significantly during the period from 2022 to 2023, more than sixfold (from 145 to 1,061) and more than quadruple (from 668 to 3,363) correspondingly.

Table 1. National Comparison of Human Trafficking Cases 2022-2023

Year	Number of TPPO cases handled	Number of victims	Number of suspects
2022	145	668	172
2023	1,061	3,363	1,361

Source: (Tribrata, 2023a)

The increase in reported cases is attributed to stronger enforcement policies and improved reporting (UNODC, 2024). Geographical distribution data illustrate the variation in the number of TPPO cases and the level of enforcement across different regions. As revealed by the Coordinating Ministry for Human Development and Culture of the Republic of Indonesia (Kemenko Human and Cultural Development), the regions with the largest number of victims in 2024 (January-July) are

Nusa Tenggara Barat with 171 victims, East Java with 139 victims, and Aceh with 68 victims.

According to the data provided by the Pusiknas Bareskrim Polri system, the West Java Regional Police handled the largest number of cases during the first half of 2023, being responsible for 66 cases, 84 victims, and 81 suspects. Analysis of the modes of trafficking during the initial stage of operation of Satgas TPPO (June 5 – August 9, 2023) indicated that offenders exploited the victims through fraudulent recruitment (see Table 2).

The problems faced by Indonesian police correspond to the general regional trends. Transnational trafficking is viewed as an organized crime by Darmayanti et al. (2022) and requires joint efforts of several states. International aspects of transnational trafficking cases are discussed in the work by Sitania and Soponyono (2020).

Table 2. Human Trafficking Modus Operandi (June 5 - August 9, 2023)

Rank	Exploitation Mode	Number of Cases	Percentage
1	Illegal Migrant Workers / Domestic Helpers (PRT)	514	57.3%
2	Commercial Sex Workers (PSK)	219	24.4%
3	Child Exploitation	59	6.6%
4	Ship Crew (ABK)	9	1.0%
5	Others	99	11.0%
Total		900	100%

Source: (Tribrata, 2023b)

Analysis of trafficking patterns highlights the fact that economically vulnerable individuals remain the main target of traffickers who lure them through deceptive job offers. There is a discrepancy between the number of victims and police report cases in some countries highlighting challenges in victim identification, encouragement to report, and increasing the capability of police in dealing with such cases (Indarti, 2022). It is necessary to coordinate actions of various organizations to detect the patterns of trafficking. Arafah and Triadi (2025) highlighted the importance of coordinating actions of different agencies for effective handling of cases that involve cross-border cases and more than one perpetrator (Arafah & Triadi, 2025). The organized manner in which trafficking takes place as illustrated in Table 2 highlights the fact that there cannot be any agency that alone will be able to counter all the activities of the traffickers without any proper coordination mechanism. According to Sutiyono (2025), the capability of law enforcement should be continuously increased to match with changing ways used by the traffickers (Sutiyono, 2025). The change in target from economically vulnerable groups to educated students, as illustrated in the case of Ferienjob, highlights this point (Cockbain & Bowers, 2019).

2. Patterns and Elements of the Crime of Human Trafficking in the Ferienjob Case

In addition to the methods described in Table 2, one of the most disturbing cases occurred in 2024 when Indonesian students were subjected to exploitation within the German

program Ferienjob. It is clear that trafficking organizations have started to target their victims not only from economically disadvantaged groups but also educated people who are deceived by means of institutions. In order to determine whether this case is consistent with the definition of trafficking in persons, it is important to be aware of the legal aspects of the Ferienjob program and their violation.

First of all, Germany is known worldwide for the effectiveness of its labor practices which are ensured by an appropriate policy which is based on protection of workers' rights and promoting work-life balance (Yang, 2020). According to the IMD Business School, Germany has the world's most qualified labor force; thus, many people come here for employment opportunities (Alfani, 2024). That is why such programs as Ferienjob become even more popular. The regulatory framework for foreign student employment is mainly aimed at the protection of workers as well as control of the migration process. As is claimed by Arafah and Triadi (2025), the international cooperation is necessary for fighting transnational human trafficking since it is vital to enable the movement of the people across the borders and prevent their exploitation at the same time. Regarding student work programs, there is a need for cooperation of labor, immigration, and education authorities from both source and destination countries. Junaidi and Khikmah (2024) investigate the legal protections for Indonesian workers abroad and find out some deficiencies such as lack of pre-

departure information, weak monitoring of foreign employers, and poor consular protection (Junaidi & Khikmah, 2024). As is shown by Arafah and Triadi (2025), the above-mentioned vulnerabilities were found for low-skilled migrant workers and student participants in the Ferienjob program. The information concerning the Ferienjob program can be obtained from the official website of the Indonesian Embassy in Berlin (The Embassy of The Republic of Indonesia in Berlin, 2020):

- 1) According to Article 14, Paragraph (2) of the German Employment Ordinance (BeschV), a Ferienjob is considered a temporary or part-time job which is provided for the students during the semester break period. Students from Indonesia will have their semester breaks mid-year. Ferienjobs are usually physically related such as logistics, packaging, washing dishes in restaurants or working as an airport porter.
- 2) A Ferienjob does not belong to any bilateral cooperation between governments and is irrelevant to academic activities or abilities of the students. The main aim of the Ferienjob program is to solve the lack of physically involved labor in German companies and provide students with the opportunity to work and earn some additional money during the semester breaks. Cultural exchange or the development of German language skills are not the main goals of the Ferienjob program. The employers require from the Ferienjob participants the same performance and commitment like those from permanent workers.
- 3) A Ferienjob cannot be prolonged and lasts no more than 90 days per year during the official semester breaks in the participants' home country. Knowing German language is highly desirable in order to avoid possible conflicts at work.
- 4) In March 2022, the German Federal Employment Agency provided Ferienjob program opportunity for students from non-EU countries, such as Indonesia. Many students from Indonesia who are studying in Germany have already joined this program in order to spend their semester breaks actively and earn some additional money, knowing that Ferienjob is not related to the academic activities.
- 5) According to the ZAV (Zentrale Auslands- und Fachvermittlung) of the Bundesagentur für Arbeit, future Ferienjob participants are advised to contact directly with employers to get clarifications about the type of job, salary, payment method, duration of employment, providing accommodation and transport, travel tickets, etc. All these data must be stated in the employment contract written in understandable language and signed by the participant before leaving his or her home country. The employment contract must contain all necessary information: type of work, duration and salary. Participants can terminate contracts if employers do not fulfill their obligations.

- 6) The participants in the Ferienjob project are required to arrange for international health insurance prior to coming to Germany because they are not under the German insurance scheme. The purpose of the insurance is to ensure financial cover in case of medical costs that could arise should participants fall sick during their stay in Germany.
- 7) In case of any workplace issue, the participant is first advised to try negotiating the matter with the employer, who, if fails to resolve the matter, can get in touch with the ZAV in line with the German Employment Ordinance provisions. Further labor rights information can be obtained from the Helpline of the German Ministry of Labor and Social Affairs.
- 8) Indonesian students who are already in Germany are advised to register their presence and contact the Indonesian representative offices in case of any trouble.
- 9) The Indonesian representative offices in Germany did not have any part in the selection and sending of participants from Indonesia in the Ferienjob project. Some Indonesian students participated in the Ferienjob project during times other than holidays thinking that it is an internship related to academics. This, however, does not conform to Ferienjob project guidelines.
- problems that occurred in the program include (Mahfud et al., 2022; Utami & Nasrudin, 2024):
- 1) Agreement documents given by recruitment agencies were written in German language without being translated to the language comprehensible by Ferienjob participants.
 - 2) Nature of work and workplace was unknown until the departure from Indonesia.
 - 3) Employment agreement between participants and employers was not given until they reached Germany.
 - 4) Differences between the job description and the first information from recruitment agencies.
 - 5) There were delays in placing the participants with the employer without giving any time line for them to start working.
 - 6) Termination of employment agreement unilaterally.
 - 7) Bad management of accommodation.
 - 8) The lack of transparency about the problems and risks that the participants would experience in Germany.
 - 9) Salary payment problem.
 - 10) Visa duration did not match the departure and return dates which created legal problems for students.
 - 11) Poor health condition due to overload.
 - 12) Discrimination against participants who have certain religious attribute.
 - 13) Problem with agency fee in Indonesia and Germany.

Though the Indonesian Embassy in Berlin provided information about the Ferienjob program and issued warnings to the participants, the

The described violations point to system errors in the protective mechanisms, aimed at

ensuring safety of victims. It is essential to take into consideration the victimological aspects outlined by Nurillah et al. (2025), which are crucial for understanding why students, irrespective of their educational background, become vulnerable to exploitation based on the principle of information asymmetry, economic motivation, and trust in the institutional system (Nurillah et al., 2025). Victimological aspect in this case means that it should be acknowledged that victims in cases of trafficking are not necessarily people who belong to a traditionally vulnerable group, but any person who becomes structurally vulnerable by means of deceit and coercion (Khasanah et al., 2023). Victimology is of great importance in development of the protection framework considering the specific needs of an educated victim and difficulties associated with his or her unwillingness to report about trafficking due to embarrassment, stigma, and disbelief.

In order to address the problem, the Directorate General of Higher Education, Research, and Technology of the Ministry of Education, Culture, Research, and Technology of the Republic of Indonesia adopted Circular No. 1032/E.E2/DT.00.05/2023, recommending the higher education institutions in Indonesia to stop participating in the Ferienjob program both in current activity and future intentions due to some violations of the rights of students (Alfani, 2024). Furthermore, the Ferienjob program was found to make little contribution to the learning process and does not correspond to the criteria set by the MBKM initiative. In this way, it can be seen that

the representatives of Indonesia in Germany are taking measures for protecting Indonesian citizens abroad (Nurfajriana & Prasetyo, 2024). All citizens of Indonesia are advised to study carefully any program they plan to attend abroad and to prepare properly for avoiding problems, including being stuck abroad.

Expanding on the existing framework for the law governing trafficking in persons from above, namely the definition and the elements of human trafficking as stated in Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking, this part will examine how the actual acts performed in connection with Ferienjob qualify as material elements (*actus reus*) of human trafficking (Cockbain & Bowers, 2019). The discussion does not aim at repeating the general definition, but at reconstructing the sequence of acts perpetrated against Indonesian students and assessing the qualification of those acts in terms of Indonesian legislation against human trafficking.

The place of commission of human trafficking crimes (*locus delicti*) could be located fully within the territory of one state, or in different territories. According to Rahmania and Nirmala (2024), Indonesian courts are allowed to take jurisdiction on crimes partially committed abroad where the harmful results of such crimes or its intended exploitation happen on the territory of Indonesia, which means that domestic legislation in the sphere of human trafficking takes into account the international nature of human trafficking crime (Rahmania & Nirmala, 2024). As

far as the “Ferienjob” case goes, the acts of recruitment and signing of contracts happen in Indonesia, while exploitation happens in Germany, which means that the *locus delicti* is located in the territory of both countries. This reconstruction relies on the official statement about the “Ferienjob” case made by the Indonesian National Police and the Ministry of Women's Empowerment and Child Protection, according to which there is trafficking network using apparently legal student employment scheme through Indonesian universities, Indonesian middlemen and German employers (KemenPPPA, 2024; Rahmawaty, 2024).

Regarding the problem of national legal development, the problem of human trafficking should be perceived not just as a common crime, but as a sign of failure of the legal system to provide comprehensive protection of human rights. According to the literature published in the Indonesian Journal of Legal Development, the effectiveness of the law is not only determined by the presence of certain norms, but also by legal culture and the capacity of the institutions to implement them. In particular, Nugroho and Suteki (2020) claim that the legal development process should be oriented towards development of the legal culture, which should respond to the dynamics of the modern crime and especially to the increasingly complicated and international nature of human trafficking. From this point of view, cases like “Ferienjob” show the gap between legal norms and social reality, when protection mechanisms fail to react to new types

of crimes exploiting the formal mechanisms of institutions like universities and international student exchanges programs. Hence, legal development in Indonesia should be aimed at the strengthening of the integration of regulation, law enforcement and public legal awareness.

The criminal policy aspect of the JPHI framework stresses the necessity of developing criminal law to meet the emerging ways of committing crimes. As illustrated by Putra and Sutanti (2020), national criminal law is currently limited in dealing with crimes that have transnational and organizational features. This applies to the issue of human trafficking that is taking place in schemes such as Ferienjob due to the exploitation of regulatory gaps in labor, education, and immigration sectors. Rinaldi and Tutrianto (2023) state that the criminal law policy should involve issues of substantive justice and the protection of the victims besides punishing the criminals. Hence, the harmonization of criminal law policy with other social policies is necessary to tackle the root causes of human trafficking that are related to poverty, poor knowledge of law, and a lack of regulation of the activities of labor intermediaries or recruitment agencies.

In terms of the dimension of legal development in the globalized world, it is important to stress the need for improving international cooperation and aligning domestic legal norms with the international standards. Wardhana and Sularto (2022) in their comparative study note that the legal system of Indonesia should use the experience of other countries to

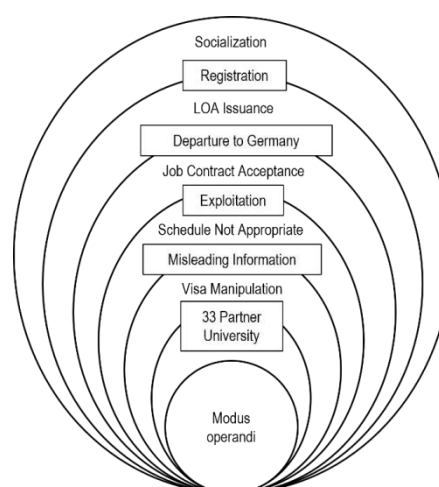
increase the effectiveness of law enforcement concerning transnational crimes, including human trafficking. This is confirmed by the statement of Aryani (2021) who says that the development of national law must consider geopolitical and global security dimensions due to the role of Indonesia in the movement of people in the international environment. In this regard, the Ferienjob case demonstrates the need to improve the mechanisms of mutual legal assistance, protect Indonesians abroad, and regulate the international mobility program based on education. Therefore, in the future, the legal development of Indonesia must be progressive and cooperative and focused both on victim protection and increasing the capacity of the state to deal with transnational crimes.

The reconstruction of the acts of trafficking refers to the methodological tools developed for analyzing complex transnational crimes. According to Nugroho (2018), state responsibilities in dealing with trafficking involve not only criminal actions but also prevention, protection, and international cooperation (Nugroho, 2018). As for cases that imply citizens being exploited abroad, the government of the source country must use diplomatic protection and ensure repatriation and accountability of domestic actors (Azhar & Suhartoyo, 2022). Resa and Jaya (2021) analyze the difficulties in implementing anti-trafficking laws in Indonesia and find that the obstacles include unclear legal definitions, conflicts in jurisdictions, and a lack of resources for transnational investigation (Resa &

Jaya, 2021). In the Ferienjob case, the implementation of the legislation faces additional problems because the crimes were committed beyond the jurisdiction of Indonesia and require cooperation with foreign authorities for gathering evidence and providing help to victims (Thalib et al., 2017).

Through the Ferienjob program implementation, the acts (*actus reus*) that offenders committed against student victims are represented in Figure 1.

Figure 1. The Acts (*Actus Reus*) Committed by the Offenders Against the Student Victims



Source: (Aulia, 2024; KemenPPPA, 2024; Nurfajriana & Prasetyo, 2024; Rahmawaty, 2024; Santoso, 2024; The Embassy of The Republic of Indonesia in Berlin, 2020)

The *modus operandi*, which has been found to follow a systematic process indicative of an organized crime group involved in human trafficking activities, can be summarized as follows:

- 1) Socialization at university campuses and financial extortions initially

The process was initiated by conducting socialization at the universities in Indonesia involving PT CVGEN and PT SHB companies as part of promotion for Ferienjob internship/international work program among students. At the time of enrollment, students had to make payments of IDR 150,000 to PT CVGEN company and additional 150 euros to PT SHB for getting the Letter of Acceptance (LOA).

- 2) Consecutive payments and creation of debts
After issuance of LOA, students were made to pay another 200 euros to PT SHB for the German government's approval or work permit, which took usually one to two months. In addition, they were encouraged to borrow money up to about IDR 30 to 50 million, presented as loan to be paid back through monthly deductions in wages in Germany, making it a clear case of debt bondage.
- 3) False representation of Ferienjob as an internship program
In the course of criminal activity, offenders have misled students about the Ferienjob program being part of the academic internship program as per Indonesian higher education policy, despite it being, legally, a short-term work program in the open labor market in Germany. This is because Ferienjob is not an internship program and neither is part of MBKM program
- 4) Non-Procedural and Illegal Employment Practices in Germany

The students in Germany were placed in employment settings using methods that did not comply with the official procedures required in Indonesia and Germany for student internships and foreign employment. The key organizations Bareskrim Polri and KemenPPPA point out that the students were employed in a non-procedural manner and that employment was not related to their fields and did not constitute a part of any internship programs. This meant that instead of "internship", the students ended up in irregular and low-skilled employment.

- 5) Exploitative Working Conditions and Wage Deductions

The students noted that a large portion of wages was deducted from them as loans repayment, accommodation, and transportation expenses, thus leaving very little income remaining. This was dictated unilaterally by the employers through payroll system, together with loans that tied students to their employment setting and organizers in exploitative working conditions.

- 6) Time Discrepancy from Indonesian Academic Calendar

The students participated in Ferienjob in October-December 2023 during the German semester break and not in June-July academic break in Indonesia, which meant that students practically left academic activities in Indonesia, experiencing disruption in education process and other consequences associated with that.

7) Inadequate and Misleading Information to Universities and Students

The universities and students did not receive full and accurate information regarding the legal status of Ferienjob program, German labor framework, or lack of recognition of the program as an official MBKM scheme. The authorities Kemendikbudristek and KemenPPPA confirmed that Ferienjob is not an MBKM activity and was previously rejected because of its incompatibility with the academic calendar of Indonesia.

8) Misapplication of Visa Categories

According to the police statements, the offenders used inappropriate visa categories that do not fit the actual job, such as holiday or short-stay visa instead of work authorization visas, seeking to avoid the closer inspection and hasten the employment deployment (Ninage & Diamantina, 2022).

9) Forced Signing of Contracts in Foreign Language

As soon as the students reached Germany, they were shown employment contracts and work permits written in German that students could hardly understand. With the considerable amount of debts that the students owed and having come to a foreign country, students were effectively forced to sign these papers at night or at last minute.

10) Allocation of costs to students through contractual agreements

Contracts stated that students will be responsible for paying costs incurred for

accommodation and transportation in Germany, which were subsequently subtracted from wages. These two factors contributed significantly to exploiting students' already dwindling wages further.

11) Misleading information provided about academic credit and MBKM classification

PT SHB entered into memorandums of understanding with universities describing Ferienjob as MBKM program and promising conversion into maximum 20 semester credit hours (SKS). In Indonesian credit system SKS (Sistem Kredit Semester) means total academic workload in higher education institutions. Clarification by Kemendikbudristek and KemenPPPA explicitly states that Ferienjob is not an MBKM program and doesn't qualify as an accredited international internship.

12) Academic manipulation towards students

Students have been led to believe that participating in Ferienjob will give them 20 SKS points and contribute to their academic careers, while in fact they have been prevented from participating in formal education and have been exposed to great legal, financial and psychosocial risks. The evidence of academic deception is provided in the official statements and academic analysis of the case.

13) Irrelevance of the work to study programs in Indonesia

The work done in Germany, which mostly consists of low-skilled manual labor (for

example, factory and warehouse work), had nothing in common with students' study programs or curriculum in Indonesia. Both Indonesian Embassy in Berlin and KemenPPPA emphasize that Ferienjob is a part of the German labor market and not of the educational exchange and practice.

14) Abandonment and inadequate protection mechanisms in the destination country

Some of the students have reported that they have been abandoned when faced with various problems, like poor assistance of the organizers with accommodation, unpaid wages, or disputes in the workplace, which forced them to seek help of the Indonesian Embassy in Berlin. Uncovering of the case started with complaints of students to the Indonesian Embassy in Berlin.

15) Size of recruitment and involvement of the higher education institutions

The official sources report at least 33 Indonesian universities as involved in recruiting students for Ferienjob program, and around 1,047 students have been recruited in Ferienjob. It shows that the modus operandi was implemented in a very large scalei through higher education institutions, and not through marginal ways.

The transnational aspect of the Ferienjob case requires the creation of regional cooperation models beyond bilateral cooperation. In his study of comparative analyses of ASEAN anti-trafficking legislation, Yusran (2018) shows that while all member states have applied the Palermo

Protocol, there remain substantial differences in the aspect of implementation, capacity for enforcement, and cooperation among the states. The study indicates that successful regional response requires harmonization in the definition of laws, mutual recognition of trafficking indicators, as well as extradition and mutual legal assistance. The Ferienjob case, where Indonesian students become victims of exploitation in Germany, takes place outside ASEAN, yet it represents similar problems: source countries should control and regulate recruitment agencies, while destination countries should protect the rights of laborers from the source countries even if they are students and hold various types of visas.

However, the Ferienjob case also reveals structural problems of Indonesia's legal development approach in the response to new forms of human trafficking which exploit the formal system of institutions. It is impossible to apply the law to the Ferienjob case without taking into account the difficulty of proving the elements of exploitation through formal documents. In this context, from the progressive legal point of view, law enforcement in connection with the crime of human trafficking should be able to see beyond administrative formalities and discover the true essence of the problem. According to studies on criminal policy, the compliance between international and domestic laws (Palermo Protocol and Law No. 21 of 2007) in cases of human trafficking often faces the obstacle of

officials' misunderstanding of new schemes which exploit educational programs (Oktavian, 2024).

3. Criminal Liability in the Ferienjob Cases from the Perspectives of Indonesian and German Law

From a comparative perspective, the Ferienjob program relates to German and European Union standards regarding labor exploitation and undocumented work. In light of the 2016 reform that brought Directive 2011/36/EU on trafficking in human beings into the national legislation, the German Criminal Code features crimes related to human trafficking for labor exploitation and labor exploitation in which a victim suffers deprivation of liberty. According to Section 233 of the German Criminal Code, it is a crime to exploit the helpless situation or the predicament of a person caused by their location in a foreign country by placing them into slavery, servitude, bonded labor, or working conditions that noticeably differ from comparable workers, the penalty for which is six months to ten years of imprisonment (Broad & Turnbull, 2019). The EU directive uses the same definition as the Palermo Protocol and adds the rule that victim's consent to exploitation is immaterial where any of the means listed in Article 2 and 3 are involved (Article 2 and 3, Directive 2011/36/EU). Moreover, the European Union Employer Sanctions Directive 2009/52/EC imposes on the Member States the obligation to ban employment of illegally staying third-country nationals and provides measures and sanctions to address the

situations of severe labor exploitation (Broad & Turnbull, 2019).

In this regard, Indonesian students participating in Ferienjob program were third-country nationals who had the right to engage in temporary employment in Germany based on their compliance with the immigration and labor laws. Official guidelines of the Indonesian Embassy in Berlin and German institutions note that Ferienjob is temporary employment in academic breaks unrelated to any internships tied to curriculum and that students have to hold proper residence permits and written agreement with specified wages and working hours prior to going to Germany in a language they understand (The Embassy of The Republic of Indonesia in Berlin, 2020).

The facilitation of trafficking schemes via the digital environment entails further challenges regarding regulation. In this regard, Purwanegara (2020) investigates digital-era challenges in the framework of trafficking law enforcement, pointing out that perpetrators employ online resources, social media, and digital money transfers to recruit victims and avoid traditional law enforcement means (Purwanegara, 2020). In this way, the use of campus socialization in the Ferienjob case along with digital communication and online signing of the contract and money transfers creates the evidence chain scattered across multiple jurisdictions and platforms. This study calls for adaptive regulation that includes developing capacities in digital forensics, making international agreements on cross-border data

sharing, and training law enforcement to detect digital traces of trafficking. At that, the interaction of legitimate technological platforms of education with manipulative recruiting practices requires a well-balanced regulatory response that would protect the rights of those who seek to move across borders while detecting potential traffickers (Berliani et al., 2019; Ndraha, Jaya, & Pujiyono, 2019).

Claims about the physical labor that Indonesian students were asked to perform with low pay and significant unexplained cuts together with the conclusion of contracts only in German after their arrival indicate that the factual pattern is close to the threshold of labor exploitation in accordance with Section 233. This point of view is confirmed by the comparison of the Ferienjob scheme, which indicates that it is characterized by the signs of trafficking and severe labor exploitation in accordance with both Indonesian and German/EU laws.

From the perspective of human trafficking under the Law of the Republic of Indonesia No. 21 of 2007 on the Eradication of the Crime of Human Trafficking, these actions can be investigated in accordance with the statutory elements of human trafficking. The facts that are presented in Figure 1 prove that the material elements of the act and legal elements of human trafficking in the legislation of Indonesia are satisfied. These elements are specified in Articles 2, 4, and 6 of Law No. 21 of 2007:

1) The **procedure** of human trafficking consists of a chain of actions which includes the

recruiting, transporting, harbouring, transferring, or receiving of the person.

- 2) The **technique** used for human trafficking is the use of deceit, coercion, exploitation, or abuse of vulnerability.
- 3) The **motive** of human trafficking is the exploitation of people regardless of the consent of the victims. Exploitation includes forcing the victims to do labor or provide services, exploiting the physical capacities, or using their labour or skills for personal gain.

The criminal conduct carried out by offenders meets all three requirements of human trafficking namely; process, method, and motive (Johannes et al., 2023). Moreover, the meeting of the three requirements makes the perpetrators of human trafficking offences to be classified as having committed illegal acts with malice and culpability (Musa et al., 2024; Retnowinarni, 2017), since:

- 1) There is actus reus that does not have legal justification under articles of the Law on the Eradication of the Crime of Human Trafficking.
- 2) The actus reus is illegal.
- 3) The actus reus is not justified and not legally defended
- 4) The human trafficking offender (mens rea) is one who possesses element of culpability such that the human trafficking offender can be criminally liable. There is mental culpability or malice that is either intentional or by negligence.

From the perspective of criminal responsibility, the fulfillment of *actus reus* and *mens rea* establishes the basis for imposing criminal liability on the parties who actively participated in recruiting, transporting, placing, and exploiting the students. The *actus reus* is reflected in the series of recruitment, placement, and exploitative working conditions, while the *mens rea* may be assessed from the perpetrators' knowledge and intention concerning the recruitment mechanism and the resulting exploitation suffered by the victims. Therefore, the conduct cannot merely be regarded as an administrative or labor violation when the elements of trafficking under Law Number 21 of 2007 are proven. In accordance with the theory of criminal responsibility, criminal liability requires not only the existence of a prohibited act but also culpability attributable to the perpetrator. This approach is relevant to the Ferienjob case because the established pattern indicates that the exploitative consequences were not entirely separated from the conduct and decision-making of the organizers. Accordingly, the criminal law analysis should assess both the objective elements of the offense and the subjective responsibility of the actors involved.

Furthermore, the application of the theories of punishment provides an additional basis for assessing the consequences of criminal liability in the Ferienjob case. The retributive theory emphasizes that punishment constitutes a proportionate response to the wrongful conduct and harm inflicted upon the victims, whereas the

preventive theory emphasizes the function of punishment in preventing similar conduct in the future. These perspectives are particularly relevant because the Ferienjob scheme allegedly involved a systematic recruitment mechanism that used institutional and educational structures to reach potential victims. Therefore, criminal punishment should not only respond to the individual wrongdoing of the perpetrators but also serve a preventive function by discouraging the use of legitimate educational or employment arrangements as instruments for trafficking. This is consistent with a combined theory of punishment, which seeks to balance proportionality in responding to criminal wrongdoing with the broader objective of preventing the recurrence of trafficking and strengthening protection for potential victims.

One possible objection to the above claim would be that the students have seemingly consented to their travel and to entering into the employment relationships, having paid the registration fees, participating in campus socialization and signing the cooperation agreements or employment contracts. Nonetheless, the Palermo Protocol and the Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking clearly indicate that the element of means in case of which the consent of the victim cannot serve as a defense includes deception, coercion and exploitation of vulnerability. Article 26 of the Law Number 21 of 2007 specifically stipulates that in case any means specified in the article have been used,

the consent cannot negate the crime. Indonesian scholarly literature has consistently interpreted the provision as doctrinal exception for negating the trafficking in the case of economic dependence and informational asymmetry (Panjaitan, 2022).

In the case of Ferienjob, the promises of academic credits, good earnings and internship abroad have been combined with significant initial payment and loan financing, thus putting the students into the vulnerable position. In terms of Indonesian law on trafficking, this will be sufficient reason to dismiss the formal consent expressed in the visa applications and employment contracts.

Speaking about the psychological aspect, the behavior patterns of company directors and intermediaries show the presence of either intention or at least *dolus eventualis* (Suganda et al., 2022). The organizers negotiated and approved the memorandum of understanding with academic institutions and made Ferienjob an indispensable part of the curriculum. Complex fees were arranged together with the loans to be paid via wage deductions, and at the same time the company sent the students overseas despite of their complaints about unpaid wages and poor working conditions (Utami & Nasrudin, 2024).

These practices reflect a business model involving recruiting large numbers of students into low-skill and poorly regulated employment in Germany, while at the same time protecting those organizing from any financial risks. From the perspective of Indonesian criminal law on

trafficking, these practices are an example of proving *mens rea* of those people, since they either wanted this exploitative result or they knowingly ran a significant risk that students will end up under exploitative conditions to gain some financial profit (Handono & Setiyono, 2023).

Aside from individual liability, Ferienjob practice also involves corporate liability provisions set forth in the Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking. Corporations as participants in trafficking have been increasingly researched recently. Article 13 clearly states that when trafficking in persons is committed by or on behalf of a corporation, criminal proceedings and penalties could be imposed on both the corporation and/or its management (Gerry et al., 2018; Ndraha et al., 2019). In accordance with Indonesian doctrinal research on the issue of corporate criminal liability in trafficking cases, corporations may be deemed criminals when they commit the offense as part of their business activities and obtain benefits from it, as well as when vicarious liability of managers involved in designing, approving or tolerating any exploitation and recruitment takes place (Faisol, 2019).

The systemic approach used in recruitment, collecting of fees, issuing loans and placing students across the border with the involvement of over one thousand students makes it possible to prove the hypothesis that there was involvement of relevant companies in committing the act of trafficking as part of their corporate business model. The finding confirms

the argument presented by comparative literature suggesting that the concepts of restitution and other remedies should be treated as forms of corporate criminal liability in trafficking cases in order to make it possible to use corporate assets for victim compensation and deterrence of perpetrators of similar crimes (Pujiono, 2016; Nababan et al., 2019; Purwanti, 2017). The challenge of proving corporate criminal liability in trafficking cases includes two issues, namely establishment of institutional knowledge and intent, and proper definition of intent. Planitzer and Katona (2017) examine the criminal liability of corporations for trafficking in human beings, including conceptualization of the liability and attribution of corporate responsibility in trafficking-for-labour-exploitation cases (Planitzer & Katona, 2017). In the Ferienjob case, the systemic approach used in recruitment through formal university partnerships, standard contracts and extensive placements shows that this was a corporate decision rather than an activity of rogue employees.

Panjaitan (2022) examines the implementation of the Palermo Convention in Indonesian national law showing that corporate liability provisions correspond to international requirements that stipulate states to establish responsibility of legal persons involved in organized crime (Panjaitan, 2022). Furthermore, Farrell et al. (2019) provide additional support to the idea that institutional trafficking networks should be prosecuted within the framework of integrated criminal justice systems (Farrell et al.,

2019). Therefore, it can be concluded that the offenders have committed human trafficking and may be punished under the Law on the Eradication of the Crime of Human Trafficking. Exploitation in the Ferienjob case was systemic in nature, as it included participation of multiple institutions and complex mechanism of deception, which demonstrates the advanced evolution of the trafficking techniques that exploit the legal education system (Angela et al., 2024; Yang, 2020).

This discrepancy raises a necessity to analyze how institutionalized formal frameworks might be misused for committing trafficking without being detected in accordance with existing approaches. From the perspective of criminal policy, the uncertainty about legal qualification of trafficking in cases when it takes place within legally institutionalized systems brings many challenges to law enforcement especially in the aspect of deterrence and legalization of exploitation. Therefore, it is crucial to have a clear doctrine of the Law Number 21 of 2007 concerning elements of trafficking to establish a coherent strategy for prosecuting offenders and protecting victims in the context of contemporary forms of trafficking.

Considering the limitations of the present study in terms of evidentiary and analytical capacity, it is vital to enhance the interaction between empirical and doctrinal elements in the process of substantiation of trafficking indicators. In addition to using secondary narratives, there is a need to use primary documentary evidence like

employment contracts, visa documents, documentation of wages or, at least, to reconstruct the clauses of this documentation. Also, anonymized qualitative narratives of victims should be included as an important part of evidence of coercion, deception, and manipulation of vulnerabilities. It is necessary to analyze Ferienjob case in the context of comparative law by considering legislation of Germany and EU on labor and migration issues to highlight regulatory gaps that create conditions for exploitation within legal schemes.

D. CONCLUSION

Through examination of the three elements comprising the legal definition of trafficking in persons under Law Number 21 of 2007, it has been concluded that the Ferienjob case in Germany, which involves Indonesian students, meets all elements of human trafficking in Indonesia.

First, the process element is met through the systematic recruiting from 33 universities with 1,047 students, transportation through well-planned visa processes, and placement in German workplaces through non-systematic procedures that violate laws in Indonesia and Germany. Second, the method element is met by the acts of deception (representation of Ferienjob as an academic internship program which can become 20 SKS), debt bondage (borrowing of 30 to 50 million Indonesian rupiah repayable through wage deductions), and exploitation of vulnerability (signing only German contract on arrival to

Germany). Finally, the purpose element is met by the exploitation in terms of physical labor unrelated to the academic programs, many working hours, wages that are much lower than promised through unilateral deductions, and working conditions that differ significantly from those of other workers.

Thus, meeting of all three elements proves the *actus reus* and *mens rea* required for the crime of human trafficking. According to Article 26 of Law Number 21 of 2007, consent given by the students is irrelevant since such consent was given under the condition of deception and exploitation of vulnerability. The fact that systematic recruitment took place allows for the establishment of individual liability under Articles 2, 4, and 6, and corporate liability under Article 13.

The theoretical contribution of the paper lies in the illustration of how a legitimate institutional framework can be used for trafficking. In terms of practical value, the research gives frameworks for the prosecution and calls for the following policy interventions: (1) licensing and registration of the student recruitment agencies with the grounds for revocation; (2) due diligence of the universities and registration of international cooperation agreement; (3) signing of standardized bilingual contract pre-departure; (4) certified pre-departure briefing on the rights of students and the forms of exploitation; and (5) embassy rapid response protocol with hotlines and systematic cooperation with local authorities.

Therefore, the Ferienjob case qualifies as a crime of human trafficking in accordance with Indonesian Law Number 21 of 2007 since it meets all requirements.

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- German Employment Ordinance (Beschäftigungsverordnung/BeschV)
- Indonesian Law No. 18 of 2017 on Protection of Indonesian Migrant Workers
- Indonesian Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking
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