



doi DOI: 10.46924/jihk.v8i1.477

Defining the Limits of Aiding and Abetting in Human Trafficking Offenses: A Victim Protection Perspective on High Court Decision No. 52/Pid.Sus/2024/PT Mam

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How to cite

Kanaishia, Indy., & Hutabarat,
Rugun Romaida. 2026. Defining
the Limits of Aiding and Abetting
in Human Trafficking Offenses: A
Victim Protection Perspective on
High Court Decision No.
52/Pid.Sus/2024/PT Mam. *Jurnal
Ilmu Hukum Kyadiren* 8(1), 309-323.
[https://doi.org/10.46924/jihk.v8i
1.477](https://doi.org/10.46924/jihk.v8i1.477)

Original Article

Abstract

Human trafficking is a transnational organized crime that poses a serious threat to human rights and frequently involves multiple actors with varying degrees of participation, including accomplices (medeplichtigheid). However, the legal interpretation of aiding and abetting and the corresponding scope of criminal liability continue to present challenges in law enforcement practice. This study aims to analyze the legal determination of aiding and abetting in human trafficking offenses under Indonesian criminal law and to formulate the limits of criminal liability for individuals who fulfill this element, while emphasizing victim protection as a primary objective. The study employs a normative legal research method using statutory, conceptual, and case-based approaches. The findings indicate that aiding and abetting in human trafficking requires the existence of actual assistance, intentional participation, and a functional connection between the assistance provided and the exploitation of the victim. Criminal liability should therefore be assessed based on the degree of culpability and the extent of an accomplice's contribution to the trafficking network. The study concludes that clearer legal standards regarding aiding and abetting can strengthen efforts to combat human trafficking while enhancing the protection, recovery, and fulfillment of victims' rights.

Keywords: *Human Trafficking, Aiding and Abetting, Criminal Liability, Victim Protection*

Abstrak

Tindak pidana perdagangan orang (TPPO) merupakan kejahatan transnasional terorganisasi yang mengancam hak asasi manusia dan sering melibatkan berbagai pihak dengan tingkat keterlibatan yang berbeda, termasuk pelaku yang membantu (medeplichtigheid). Namun, batasan unsur membantu dan pertanggungjawaban pidananya masih menimbulkan permasalahan dalam praktik penegakan hukum. Penelitian ini bertujuan untuk menganalisis penentuan unsur membantu dalam TPPO berdasarkan hukum pidana Indonesia serta merumuskan batasan perlindungan hukum terhadap pelaku yang memenuhi unsur tersebut dengan menempatkan perlindungan korban sebagai orientasi utama. Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Hasil penelitian menunjukkan bahwa unsur membantu mensyaratkan adanya bantuan yang nyata, kesengajaan, dan hubungan fungsional dengan tujuan eksploitasi korban. Pertanggungjawaban pidana terhadap pelaku pembantu harus didasarkan pada tingkat kesalahan dan kontribusinya dalam jaringan TPPO. Disimpulkan bahwa pengaturan yang jelas mengenai unsur membantu dapat memperkuat pemberantasan TPPO sekaligus meningkatkan perlindungan dan pemulihan hak-hak korban secara lebih efektif.

Kata kunci: *Tindak Pidana Perdagangan Orang (TPPO), Pertanggungjawaban Pidana, Perlindungan Korban*

1. INTRODUCTION

Human trafficking is a serious crime that has attracted significant international attention because it constitutes a direct violation of human rights and undermines human dignity. Beyond depriving individuals of their liberty, human trafficking subjects victims to various forms of exploitation for the economic benefit of perpetrators and other involved parties.¹ Every individual is entitled to fundamental rights, including the right to life, personal security, freedom from slavery, and protection from inhumane or degrading treatment. Consequently, human trafficking represents a grave violation of the humanitarian principles that underpin democratic societies governed by the rule of law.

In Indonesia, the protection of human rights is constitutionally guaranteed under the 1945 Constitution of the Republic of Indonesia and reinforced through various statutory regulations designed to safeguard citizens, particularly vulnerable groups.² Despite these legal protections, human trafficking remains a persistent and evolving challenge. Perpetrators increasingly employ sophisticated methods and operate through organized networks that extend across regions and national borders. This development indicates that existing legal frameworks have not fully adapted to the changing dynamics and complexity of trafficking practices, which continue to evolve alongside social and technological advancements.

Human trafficking has developed into a form of organized transnational crime involving multiple actors with varying degrees of participation. Trafficking networks commonly include recruiters, intermediaries, shelter providers, document facilitators, transporters, and individuals who profit from the exploitation of victims.³ The forms of exploitation experienced by victims are diverse, encompassing sexual exploitation, forced labor, modern slavery, organ trafficking, and child exploitation.⁴ As a result, victims suffer not only economic harm but also severe physical, psychological, and social consequences, accompanied by a profound loss of human dignity.

The urgency of combating human trafficking is reflected in the increasing number of cases identified by law enforcement authorities. Indonesia faces particularly complex

¹ Muhammad Owairan, "Undang - Undang No. 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Manusia," *Jihad: Jurnal Ilmu Hukum Dan Administrasi* 4, no. 2 (2022): 36–42, <https://doi.org/10.58258/jihad.v4i2.4164>.

² Rayhan Fiqi Fansuri dan Juan Matheus, "Enforcement of Human Rights through Criminal Law Against Environmental Destruction Due to Batik Industry Activities," *Indonesian Journal of Criminal Law Studies* 7, no. 2 (2022): 291–316, <https://doi.org/https://doi.org/10.15294/ijcls.v7i2>.

³ Apriana M. Bouk, Rudepel Petrus Leo, dan Darius Antonius Kian, "Modus Operandi, Upaya Penanggulangan Serta Hambatan Tindak Pidana Perdagangan Orang Khususnya Anak di Wilayah Hukum Kepolisian Daerah Nusa Tenggara Timur," *Jurnal Syntax Admiration* 4, no. 8 (2023): 1365–80, <https://doi.org/10.46799/jsa.v4i8.674>.

⁴ Eric Corthay, "The Identification of Victims of Human Trafficking: Definition, Challenges and States' Obligations," *Indonesian Journal of International Law* 16, no. 2 (2019): 235–72, <https://doi.org/10.17304/ijil.vol16.2.752>.

challenges because it functions simultaneously as a country of origin, transit, and destination for trafficking victims. Structural factors such as poverty, unemployment, limited educational opportunities, and the rapid expansion of digital technologies that facilitate victim recruitment through social media have significantly increased societal vulnerability to trafficking-related crimes.

As part of its commitment to combating human trafficking, the Indonesian government enacted Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking. Nevertheless, the implementation of this legislation continues to encounter several challenges, particularly with regard to determining the criminal liability of individuals who assist in the commission of trafficking offenses. Although Article 10 of Law No. 21 of 2007 imposes equivalent criminal sanctions on accomplices and principal offenders, the interpretation of the element of assistance remains subject to differing views in legal practice.

This issue is particularly significant because accomplices constitute an integral component of the human trafficking chain. Ambiguity regarding the nature and extent of their involvement may hinder effective law enforcement and reduce victims' opportunities to obtain justice, restitution, and adequate legal protection. Accordingly, examining the legal determination of aiding and abetting in human trafficking offenses is essential for strengthening anti-trafficking efforts, enhancing victim protection, and promoting a criminal justice system grounded in justice, legal certainty, and respect for human rights.

Research on human trafficking has expanded considerably within the fields of criminal law and human rights. Existing studies have primarily focused on victim protection, the underlying causes of trafficking, the effectiveness of law enforcement mechanisms, and the implementation of Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking.

Research by Retno Andriany Susilo demonstrates that legal protection for child victims of human trafficking remains inadequate despite the existence of various legal instruments. The primary challenge lies in ensuring the fulfillment of victims' rights, particularly with respect to rehabilitation and compensation.⁵ Similarly, Aviandro Silalahi examined the legal protection afforded to female victims of human trafficking and found that mechanisms for restitution, compensation, and the prosecution of offenders are normatively available.⁶ However, the study did not address the criminal liability of individuals who facilitate or assist in the commission of trafficking offenses.

⁵ Retno Andriany Susilo, *Kebijakan Perlindungan Hukum Bagi Anak Korban Trafficking Dalam Peraturan Perundang-Undangan Di Indonesia*, 2013, 1–27.

⁶ Aviandro Silalahi, "Kajian Hukum Tindak Pidana Perdagangan Orang Yang Dilakukan Secara Bersama-Sama Ditinjau Dari Undang-Undang No. 21 Tahun 2007: Studi Putusan Nomor 1118/Pid.Sus/2018/PN-Mdn" (Universitas Medan Area, 2022), <https://repositori.uma.ac.id/jspui/bitstream/123456789/18449/2/158400147%20-%20Aviandro%20Silalahi%20-%20Fulltext.pdf>.

Using a comparative analysis of Indonesia and Malaysia, Eko Budi S. emphasized the importance of an integrated victim protection framework supported by the harmonization of legal systems.⁷ Likewise, Okta Rifo Fauziyah and Yana Indawati found that victim protection has been implemented through interagency coordination and rehabilitation programs, although significant institutional and resource-related constraints persist.⁸ Another study conducted by Adi Purwo Nugroho et al. identified poverty, limited educational attainment, and weak social supervision as major contributing factors to child trafficking.⁹

Furthermore, Damayanti et al. observed that judicial decisions continue to prioritize the punishment of offenders rather than the rehabilitation and recovery of victims.¹⁰ Akhirudin and Ariawan Gunadi argued that although Law No. 21 of 2007 provides a relatively comprehensive legal framework for combating human trafficking, its implementation remains hindered by weak law enforcement and insufficient interinstitutional coordination.¹¹ Similarly, Adelia Elvizar Ramadhani and Herma Setiasih demonstrated that legal protection for women and child victims has been regulated through both preventive and repressive measures; however, their study did not examine the legal construction of accomplice liability in trafficking offenses.¹²

A review of the existing literature indicates that research on human trafficking has predominantly focused on victim protection, criminogenic factors, and the effectiveness of anti-trafficking policies. In contrast, scholarly attention to the concept of aiding and abetting (*medeplichtigheid*) in human trafficking offenses remains limited. This gap is significant because accomplices play a critical role in sustaining trafficking networks and often create challenges for effective law enforcement. The novelty of the present study lies in its examination of the relationship between the legal construction of aiding and abetting under Law No. 21 of 2007 and the effectiveness of victim protection, particularly regarding the fulfillment of victims' rights to restitution, rehabilitation, and victim-centered justice.

⁷ Eko Budi S, "Perlindungan Hukum Terhadap Korban Tindak Pidana Perdagangan Orang Dalam Perspektif Sistem Peradilan Pidana Indonesia Dan Malaysia," *Wancik Wancik* 4, no. 2 (2020): 261–75, <https://doi.org/10.33087/wjh.v4i2.246>.

⁸ Okta Rifo Fauziyah and Yana Indawati, "Perlindungan Hukum Terhadap Korban Tindak Pidana Perdagangan Orang: Studi Kasus Di Polrestabes Surabaya," *Referendum: Jurnal Hukum Perdata Dan Pidana* 2, no. 3 (2025): 49–60, <https://doi.org/10.62383/referendum.v2i3.1083>.

⁹ Adi Purwo Nugroho et al., "Perlindungan Hukum Terhadap Anak Korban Tindak Pidana Perdagangan Orang," *Bacarita Law Journal* 3, no. 2 (2023): 92–102, <https://doi.org/10.30598/bacarita.v3i2.8628>.

¹⁰ Army Damayanti et al., "Perlindungan Hukum Bagi Korban Anak Dalam Tindak Pidana Perdagangan Orang: Studi Putusan Nomor 1824/Pid.Sus/2023/PN Mdn," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 8, no. 3 (2025): 1–19, <https://doi.org/10.29103/jimfh.v8i3.21842>.

¹¹ Akhirudin Akhirudin and Ariawan Gunadi, "Tinjauan Hukum Mengenai Tindak Pidana Perdagangan Orang," *Jurnal Hukum Lex Generalis* 5, no. 10 (2024): 1–11, <https://doi.org/10.56370/jhlg.v5i10.1015>.

¹² Adelia Elvizar Ramadhani and Herma Setiasih, "Perlindungan Hukum Korban Perdagangan Perempuan Dan Anak Menurut Undang-Undang Nomor 21 Tahun 2007," *Jurnal Hukum Dan Keadilan* 12, no. 2 (2023): 32–52, <https://doi.org/10.55499/judiciary.v12i2.211>.

Accordingly, this study aims to analyze the legal determination of aiding and abetting (*medeplichtigheid*) in human trafficking offenses under Indonesian criminal law and to delineate the scope of criminal liability applicable to individuals who satisfy this element. Furthermore, the study seeks to formulate a clearer legal framework for accomplice liability within human trafficking networks in order to strengthen anti-trafficking enforcement efforts and enhance the comprehensive protection of victims' rights.

2. RESEARCH METHODOLOGY

This study employs a normative legal research method with prescriptive and applied characteristics. The normative approach was selected because the research focuses on the examination of legal norms, legal principles, legal doctrines, and the construction of criminal liability concerning aiding and abetting (*medeplichtigheid*) in human trafficking offenses.¹³ The study seeks to evaluate the adequacy and effectiveness of existing legal regulations governing accomplice liability from the perspective of victim protection.

To achieve these objectives, the study adopts a statutory approach, a conceptual approach, and a case approach. The statutory approach involves an examination of legislation relating to human trafficking, criminal participation, victim protection, and human rights. The conceptual approach is employed to analyze relevant legal theories and doctrines, including the concepts of criminal participation, criminal liability, legal protection, victimology, and restorative justice. In addition, the case approach entails a review of judicial decisions concerning the application of aiding and abetting provisions in human trafficking cases.

The study relies on primary, secondary, and tertiary legal materials collected through an extensive literature review. Primary legal materials consist of statutory regulations and judicial decisions, while secondary legal materials include scholarly articles, legal commentaries, and academic literature relevant to the subject matter. Tertiary legal materials are used to support and clarify legal concepts and terminology.¹⁴

All legal materials were analyzed qualitatively using normative legal analysis techniques, including the identification, classification, systematization, interpretation, and evaluation of legal norms.¹⁵ Legal interpretation was conducted through grammatical, systematic, historical, and teleological methods in order to determine the meaning, scope, and legal implications of aiding and abetting under Indonesian positive law. The findings were subsequently synthesized through prescriptive legal reasoning to formulate criteria for determining the element of aiding and abetting and to define

¹³ Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi*, 19 ed. (Jakarta: Prenada Media Group, 2019).

¹⁴ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

¹⁵ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 1984).

the limits of criminal liability applicable to accomplices, while maintaining victim protection as the central objective of human trafficking law enforcement.

3. RESEARCH RESULT AND DISCUSSION

3.1. Determining the Element of Aiding and Abetting in Human Trafficking under Indonesian Criminal Law

Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking was enacted as a *lex specialis* legal instrument designed to address the full spectrum of organized human trafficking activities. Unlike conventional crimes, which are typically committed by a single offender or a limited number of perpetrators, human trafficking is characterized by complex criminal networks involving multiple actors who perform distinct functions. Consequently, the legislature formulated the constituent elements of the offense broadly in order to encompass all parties who contribute to the process of human exploitation.

Pursuant to Article 2 of Law No. 21 of 2007, the legal construction of human trafficking consists of three principal dimensions: the act element, the means element, and the purpose element.¹⁶ The act element includes the recruitment, transportation, harboring, transfer, sending, or receipt of a person. The means element encompasses threats, violence, coercion, deception, abuse of power, abuse of a position of vulnerability, and other forms of manipulation. The purpose element is directed toward exploitation, including sexual exploitation, forced labor, contemporary forms of slavery, organ trafficking, and other exploitative practices that violate human dignity.¹⁷

The broad formulation of the act element under the Anti-Trafficking Law indirectly extends criminal liability to individuals who may not directly exploit victims but who provide support that facilitates the commission of the offense. In practice, such actors may include field recruiters, informal placement agents, providers of fraudulent documents, transportation facilitators, operators of temporary shelters, and individuals who supply communication services or financial resources to trafficking networks. Although these actors are not always classified as principal offenders, their contributions frequently play a crucial role in enabling trafficking operations.¹⁸

¹⁶ Nuripansah, Jauhari D. Kusuma, dan Ika Yuliana Susilawati, "Penegakan Hukum Terhadap Tindak Pidana Perdagangan Orang Di Tinjau Dari Undang-Undang Nomor 21 Tahun 2007 Tentang Pemberantasan TPPO (Studi Di Wilayah Polres Lombok Tengah)," *Unizar Recht Journal (URJ)* 2, no. 4 (29 Desember 2023): 563–73, <https://doi.org/10.36679/urj.v2i4.155>.

¹⁷ Fajar Dimas Nur Islam, Galang Vergiawan, dan Fedro Hans Nobuala Zaluchu, "Upaya Penanggulangan Perdagangan Orang di Indonesia: Tinjauan terhadap Kebijakan dan Kinerja Pemerintah," *JIIP - Jurnal Ilmiah Ilmu Pendidikan* 7, no. 2 (6 Februari 2024): 1961–71, <https://doi.org/10.54371/jiip.v7i2.3332>.

¹⁸ Christina Imelda Simbolon dan Roida Nababan, "Implementasi Perlindungan Hukum terhadap Korban Perdagangan Orang Berdasarkan Undang-Undang Nomor 21 Tahun 2007," *Judge : Jurnal Hukum* 6, no. 07 (2026): 2093–2100, <https://doi.org/10.54209/judge.v6i07.2095>.

From the perspective of general criminal law, aiding and abetting constitutes a form of criminal participation (*deelneming*). Under Article 20 of the Indonesian Criminal Code, an individual may be held criminally liable if he or she directly commits the offense, orders another person to commit it, jointly participates in its commission, or intentionally induces another person to commit the offense. Furthermore, Article 21 of the Criminal Code regulates accomplice liability (*medeplichtigheid*), which applies to individuals who intentionally provide assistance before or during the commission of a criminal act.

The determination of aiding and abetting in human trafficking cases cannot be based solely on the existence of physical assistance. Rather, it requires the establishment of a functional nexus between the assistance provided and the commission of the trafficking offense. In this regard, three essential elements must be proven. First, there must be assistance in the form of facilities, opportunities, information, resources, or other forms of support. Second, the provider of such assistance must possess the requisite criminal intent (*opzet*) to facilitate the offense. Third, a causal connection must exist between the assistance rendered and the occurrence of the trafficking crime.

In law enforcement practice, significant challenges remain in distinguishing between joint perpetrators (*medeplegers*) and accomplices (*medeplichtigen*). In certain human trafficking cases, field recruiters who actively identify and recruit victims have been categorized as accomplices, despite the fact that their level of involvement demonstrates close cooperation with principal offenders and may more appropriately be classified as co-perpetration.¹⁹ Conversely, individuals who merely provide facilities or services without knowledge of the intended exploitation have, in some instances, been prosecuted as trafficking offenders. Such ambiguity in classification creates the potential for inconsistency in the application of criminal law.

Accordingly, the principal criterion for determining accomplice liability should be based on both the degree of contribution and the qualitative nature of an individual's involvement within the overall trafficking network. The more substantial the contribution to the successful exploitation of the victim, the stronger the basis for attributing criminal responsibility as part of the trafficking enterprise.²⁰ Therefore, establishing the element of aiding and abetting requires more than proof of assistance alone; it also necessitates proof that the accused possessed knowledge of, or awareness

¹⁹ Vicariya Retnowati Boong and Mariana Mugiono, "Penerapan Unsur Kesengajaan Pasal 2 UU TPPO Terhadap Perekrut Sebagai Dasar Pertanggungjawaban Pidana," *Journal of Contemporary Law Studies* 2, no. 4 (2025): 403–12, <https://doi.org/10.47134/lawstudies.v2i4.4811>.

²⁰ Lourensy Varina Sitania dan Eko Suponyono, "Akomodasi Pemberantasan Tindak Pidana Perdagangan Orang Dalam Aspek Hukum Internasional dan Nasional," *Jurnal Pembangunan Hukum Indonesia* 2, no. 1 (2020): 38–54, <https://doi.org/10.14710/jphi.v2i1.38-54>.

regarding, the exploitative purpose underlying the trafficking operation, which constitutes the core element of the offense of human trafficking.²¹

This finding is consistent with the argument advanced by Aviandro Silalahi, who emphasized that the effectiveness of victim protection largely depends on the successful prosecution of all actors involved in human trafficking offenses.²² It also supports the view of Eko Budi S., who highlighted the importance of legal system harmonization in ensuring comprehensive protection for trafficking victims.²³ Nevertheless, the present study differs from previous research by focusing specifically on the legal construction of aiding and abetting (*medeplichtigheid*), an issue that has received limited scholarly attention within the existing human trafficking literature.

Furthermore, this study complements the findings of Akhirudin and Ariawan Gunadi, who identified weaknesses in the implementation of Indonesia's anti-trafficking legal framework.²⁴ While previous studies have generally concentrated on the overall effectiveness of law enforcement, the present research demonstrates that one of the underlying causes of ineffective anti-trafficking enforcement is the absence of clear normative parameters distinguishing principal offenders, co-perpetrators, and accomplices within trafficking networks. This ambiguity frequently creates difficulties in attributing criminal responsibility and contributes to inconsistencies in judicial practice.

The concept of *medeplichtigheid* in human trafficking cases should therefore be interpreted through a progressive and contextual approach. Given the organized and transnational nature of human trafficking, any form of intentional assistance may contribute to the exploitation of victims and the continuation of trafficking operations.²⁵ Consequently, the interpretation of aiding and abetting should not be confined to the narrow understanding commonly applied in conventional criminal offenses. Instead, it should be aligned with the broader objectives of anti-trafficking legislation, namely the dismantling of trafficking networks and the disruption of the entire chain of exploitation.²⁶

The findings of this study indicate that aiding and abetting in human trafficking constitutes a form of criminal participation that requires the existence of actual

²¹ Ismaidar Ismaidar dan Arnovan Pratama Surbakti, "Politik Hukum Pidana di Dalam Pelaksanaan Pemberantasan Tindak Pidana Perdagangan Orang (Human Trafficking) di Indonesia," *Innovative: Journal Of Social Science Research* 4, no. 1 (2024): 6517–6533, <https://doi.org/10.31004/innovative.v4i1.8603>.

²² Aviandro Silalahi, "Kajian Hukum Tindak Pidana Perdagangan Orang Yang Dilakukan Secara Bersama-Sama Ditinjau Dari Undang-Undang No. 21 Tahun 2007: Studi Putusan Nomor 1118/Pid.Sus/2018/PN-Mdn."

²³ Eko Budi S., "Perlindungan Hukum Terhadap Korban Tindak Pidana Perdagangan Orang Dalam Perspektif Sistem Peradilan Pidana Indonesia Dan Malaysia."

²⁴ Akhirudin Akhirudin and Ariawan Gunadi, "Tinjauan Hukum Mengenai Tindak Pidana Perdagangan Orang."

²⁵ Rina Susanti et al., *Tindak Pidana Perdagangan Orang (TPPO): Perspektif Hukum Nasional Dalam Penegakan Undang-Undang Nomor 21 Tahun 2007* JPM, 2, no. 1 (2025): 1–12.

²⁶ Okky Chahyo Nugroho, "Tanggung Jawab Negara dalam Penanganan Tindak Pidana Perdagangan Orang," *Jurnal Penelitian Hukum De Jure* 18, no. 4 (10 Desember 2018): 543–60, <https://doi.org/10.30641/dejure.2018.V18.543-560>.

assistance, criminal intent, and a direct nexus between the assistance provided and the exploitation of the victim. Accordingly, the determination of accomplice liability should be based on an assessment of the nature, extent, and significance of an individual's contribution to the trafficking network rather than solely on formal involvement in a criminal act. A more precise application of the concept of aiding and abetting will strengthen anti-trafficking enforcement, expand the scope of criminal accountability to encompass all relevant actors, and promote more effective legal protection and remedies for victims of human trafficking.

3.2. The Limits of Legal Protection for Individuals Who Fulfill the Elements of Aiding and Abetting in Human Trafficking Offenses

The concept of criminal liability for individuals who aid and abet human trafficking offenses must be understood within the broader framework of victim protection and the comprehensive dismantling of trafficking networks. From the perspective of modern criminal law, criminal liability serves not only to impose sanctions on offenders but also to facilitate the restoration of victims' rights and to prevent the recurrence of similar offenses.²⁷ Accordingly, the limits of legal protection afforded to accomplices should be formulated proportionately by taking into account the degree of culpability, the nature of participation, and the extent of their contribution to the exploitation of victims.

An individual cannot be held criminally liable solely on the basis of an association with a criminal act. As argued by Chairul Huda, criminal responsibility requires both the fulfillment of the legal elements of the offense and the existence of culpability attributable to the offender.²⁸ This principle reflects the doctrine of *geen straf zonder schuld* (no punishment without fault), which constitutes a fundamental principle of criminal law.²⁹ In the context of human trafficking, an accomplice may only be held criminally responsible where it can be established that he or she possessed knowledge of, intent regarding, or awareness of the exploitative purpose underlying the trafficking activity.

The determination of the limits of legal protection for accomplices is particularly important in distinguishing individuals who knowingly benefit from trafficking activities from those whose involvement results from coercion, economic dependency, social

²⁷ Gabriel Gloria dan Jeane Neltje, "Analisis Yuridis Pertanggungjawaban Hukum Penyelenggara Perdagangan Melalui Sistem Elektronik Terhadap Barang yang Tidak Sampai," *Jurnal Hukum Adigama*, 3, no. 2 (2020): 944–66.

²⁸ Chairul Huda, *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan*, 1st ed. (Kencana Prenada Media Group, 2006).

²⁹ Annisa Hafizah, Madiasa Ablisar, dan Rafiqoh Lubis, "Asas Legalitas dalam Hukum Pidana Indonesia dan Hukum Pidana Islam," *Mabadi: Indonesia Journal of Law* 1, no. 1 (2023).

pressure, or manipulation by principal offenders.³⁰ Human trafficking cases frequently involve individuals occupying subordinate positions within trafficking networks, including former victims compelled to recruit new victims, administrative personnel who lack knowledge of the exploitative objectives of the operation, and family members who become involved due to threats or intimidation. Treating all such individuals as equivalent to principal offenders without considering their level of culpability and the circumstances surrounding their involvement would undermine the objectives of victim protection and substantive justice.

The debate between monistic and dualistic theories of criminal liability is particularly relevant to determining accomplice responsibility in human trafficking cases. The monistic approach regards the criminal act and culpability as inseparable components of a single legal construct, whereas the dualistic approach distinguishes between proof of the offense and proof of the offender's culpability.³¹ In the context of human trafficking, the dualistic approach is more appropriate because it enables courts to assess the degree of culpability attributable to each participant within the trafficking network more comprehensively.³² Under this framework, law enforcement authorities are required not only to establish an individual's involvement in the criminal conduct but also to evaluate the level of intent, motivation, and benefit derived from the offense.

This perspective is illustrated by Decision No. 52/PID.SUS/2024/PT MAM. Based on the facts established during the proceedings, the defendant, Fatmawati, did not function as the principal offender responsible for controlling the overall process of placing migrant workers abroad. Nevertheless, she played an active role as a recruiter by identifying prospective migrant workers, connecting victims with placement networks, facilitating document processing, and obtaining financial benefits from each successful recruitment. These facts demonstrate that the defendant was not merely a passive participant lacking awareness of the unlawful objectives of the activity; rather, she formed an integral part of a sequence of actions that enabled the exploitation of victims.

The imposition of criminal liability on accomplices plays a strategic role in strengthening victim protection mechanisms. Local recruiters often serve as the initial point of contact through which victims enter trafficking networks. Without recruitment activities, the subsequent stages of transportation, harboring, transfer, and exploitation could not occur. Consequently, prosecuting recruitment actors is essential to disrupting trafficking operations at their earliest stages. In this regard, the imposition of

³⁰ Yayatul Mu'awanah et al., "Tindak Pidana Perdagangan Orang: Analisis Filosofis, Yuridis, dan Sosiologis dalam Perspektif Hukum Indonesia," *Jurnal Ilmu Multidisiplin* 3, no. 2 (2025): 367–77, <https://doi.org/10.53935/jim.v3.i2.64>.

³¹ Prayitno Iman Santosa, "Pertanggungjawaban Tindak Pidana Korupsi Menurut Ajaran Dualistis" (Universitas 17 Agustus 1945 Surabaya, 2012).

³² Natalia Natalia et al., "Criminal Liability and the Non Punishment Principle for Trafficking Victims in Indonesia," *Jurnal IUS Kajian Hukum Dan Keadilan* 14, no. 1 (2026): 107–21, <https://doi.org/10.29303/ius.v14i1.1820>.

imprisonment and financial penalties on the defendant reflects judicial recognition that the conduct of accomplices can make a substantial contribution to the exploitation and suffering experienced by victims.³³

This finding is consistent with the argument advanced by Aviandro Silalahi, who emphasized that the effectiveness of victim protection is significantly influenced by the successful prosecution of all actors involved in human trafficking offenses.³⁴ It also supports the findings of Okta Rifo Fauziyah and Yana Indawati, who argued that effective victim protection depends not only on rehabilitation and assistance mechanisms but also on the effectiveness of criminal prosecution against trafficking offenders.³⁵ Nevertheless, the present study offers a distinct perspective by extending the analysis beyond victim protection and examining the limits of accomplice liability as an integral component of a victim-oriented anti-trafficking framework.

Furthermore, this study complements the work of Eko Budi S., which emphasized the importance of an integrated legal protection model for victims of human trafficking.³⁶ Such an integrated framework cannot be achieved solely through victim rehabilitation, restitution, and compensation mechanisms. It also requires a clear and coherent legal framework defining the categories of individuals who may be held criminally liable within trafficking networks. The broader and more precise the scope of accomplice liability, the greater the opportunity for victims to obtain justice, restitution, and the restoration of their rights. Consequently, the limits of legal protection afforded to accomplices should be determined in accordance with the principles of proportionality, culpability, and victim protection.³⁷ Individuals who knowingly provide assistance, derive economic benefits, and possess awareness of the exploitative purpose of the trafficking activity should be subject to strict criminal liability. By contrast, individuals whose involvement results from coercion, intimidation, dependency, or other forms of vulnerability require a more nuanced assessment to avoid the criminalization of persons who may themselves be victims in need of legal protection.

The findings of this study demonstrate that criminal liability for individuals who satisfy the elements of aiding and abetting in human trafficking serves as a crucial instrument for strengthening victim protection. The limits of legal protection for

³³ Aldi Nuryasfa dan Lidia Rina, "Penerapan Sanksi Pidana Dalam Tindak Pidana Perdagangan Orang," *PESHUM: Jurnal Pendidikan, Sosial dan Humaniora* 4, no. 3 (26 Maret 2025): 4027–36, <https://doi.org/10.56799/peshum.v4i3.8514>.

³⁴ Aviandro Silalahi, "Kajian Hukum Tindak Pidana Perdagangan Orang Yang Dilakukan Secara Bersama-Sama Ditinjau Dari Undang-Undang No. 21 Tahun 2007: Studi Putusan Nomor 1118/Pid.Sus/2018/PN-Mdn."

³⁵ Okta Rifo Fauziyah and Yana Indawati, "Perlindungan Hukum Terhadap Korban Tindak Pidana Perdagangan Orang: Studi Kasus Di Polrestabes Surabaya."

³⁶ Eko Budi S, "Perlindungan Hukum Terhadap Korban Tindak Pidana Perdagangan Orang Dalam Perspektif Sistem Peradilan Pidana Indonesia Dan Malaysia."

³⁷ Pratolo Saktiawan et al., "Pembantuan Dalam Hukum Pidana Indonesia: Analisis Pasal 56 KUHP Dan UU No. 1 Tahun 2023," *Innovative: Journal Of Social Science Research* 5, no. 4 (2023): 8257–69, <https://doi.org/10.31004/innovative.v5i4.20843>.

accomplices should therefore be formulated on the basis of the degree of culpability, the nature and extent of participation, knowledge of the exploitative purpose, and the benefits obtained from the criminal activity. In this regard, the criminal justice system should function not only as a mechanism for imposing proportionate sanctions on offenders but also as a means of protecting victims, dismantling trafficking networks, preventing future exploitation, and advancing a human right-oriented conception of justice.

4. CONCLUSION

This study aimed to analyze the determination of aiding and abetting (*medeplichtigheid*) in human trafficking offenses under the Indonesian criminal law system and to define the limits of legal protection applicable to individuals who satisfy the elements of accomplice liability, while maintaining victim protection as the primary objective of law enforcement. The findings demonstrate that aiding and abetting in human trafficking constitutes a form of criminal participation that requires more than the mere provision of facilities, opportunities, information, or other forms of assistance. It also requires proof of criminal intent and the existence of a functional nexus between the assistance provided and the realization of the exploitative purpose underlying the trafficking offense. Given the organized nature of human trafficking, accomplices often occupy strategic positions within trafficking networks, making their criminal liability an essential mechanism for disrupting trafficking operations and enhancing the protection of victims.

The study further concludes that the limits of legal protection afforded to accomplices should be determined based on the degree of culpability, the nature and extent of participation, knowledge of the exploitative objective, and the benefits derived from the criminal activity. These findings contribute theoretically to the development of the doctrine of accomplice liability within Indonesian criminal law and provide practical guidance for law enforcement authorities in assessing criminal responsibility in a more proportionate and consistent manner.

Nevertheless, this study is limited by its reliance on a normative legal research approach and therefore does not examine the broader empirical implementation of accomplice liability in human trafficking cases. Accordingly, future legal reforms should focus on strengthening and harmonizing regulatory provisions concerning the evidentiary standards for proving aiding and abetting, while simultaneously enhancing mechanisms for victim restitution and recovery. Further research employing empirical and comparative methodologies is recommended to evaluate the effectiveness of the application of aiding and abetting provisions in judicial practice and to assess their impact on the protection and restoration of the rights of human trafficking victims.

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