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## PARTICIPANTS' PAPERS

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# ORGANIZING ISE-HTCA TECHNICAL TRAINING TO OPTIMIZE THE PERFORMANCE OF THE NATIONAL ACTION PLAN FOR HUMAN TRAFFICKING CRIMINAL ACTION ERADICATION (NAP-HTCA)

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## I. BACKGROUND

The presence of government in a country aims to realize security, convenience, and welfare for the people by providing and protecting people's rights<sup>1</sup> from various internal and external threats and disruptions, for example, the protection of rights from threats to wealth, life, and physical safety from each threatening crime including, in this case, protection of children<sup>2</sup> from human trafficking criminal action.

Human trafficking is an act highly contradictory to human dignity and value and violates human rights. This criminal action has widely spread in organized criminal networks threatening the norms of people's lives in a nation based on respect for human rights. Human trafficking is a transnational crime which has caused significant harm lately, for example, baby trafficking to other countries conducted by a syndicate; human trafficking conducted by a migrant worker from East Nusa Tenggara (NTT) who then committed suicide in Kuala Lumpur. Most of the trafficked persons are women and children. Trafficking is one of the five greatest crimes across the world which has to be overcome as it affects all life aspects from economic, political, and cultural aspects.<sup>3</sup>

The government has attempted to eradicate human trafficking criminal action by forming a task force as mandated by Presidential Regulation No. 69 of 2008 about the Task Force for Human Trafficking Criminal Action Prevention and Mitigation. The national human trafficking criminal action (HTCA) task force placed under the Ministry of Women Empowerment and Child Protection (MoWECP) has instructed the implementation of human trafficking case management and prevention in several provinces considered vulnerable.

The HTCA eradication task force has formed provincial task forces in 34 provinces and 196 task forces at the regency/municipal level. MoWECP has also formed community monitoring groups in 25 villages in 5 (five) regencies across Indonesia.

However, annual Task Force reports show that the performance of the National Action Plan for Human Trafficking Criminal Action has yet to be optimal, as indicated by the increasing occurrences of HTCA every year. Its causes include: 1) Numerous officers do not understand human trafficking indicators; 2) Anti-human

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<sup>1</sup> As stated in Article 28 G Section (1) of the 1945 Constitution of the Republic of Indonesia, "Every person shall have the right to protection of him/herself, family, honor, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not to do something that is a human right".

<sup>2</sup> As stated in Article 28 B Section (2) of the 1945 Constitution of the Republic of Indonesia, "Every child shall have the right to live, to grow, and to develop, and shall have the right to protection from violence and discrimination", and in Article 59 of Law Number 23 of 2002 about Child Protection, "Government and other state institutions are required and responsible to provide special protection to children in emergency situations, children dealing with law, children from minority and isolated groups, children economically and/or sexually exploited, children being trafficked, children as victims of the abuse of narcotics, alcohol, psychotropic, and other addictive substances (napza), children as victims of kidnapping and trafficking, children as victims of physical and/or mental violence, children with disability, and children as victims of mistreatment and neglect".

<sup>3</sup> Mahrus Ali and Bayu Aji Pramono, *Perdagangan Orang, Dimensi Instrumen Internasional dan Pengaturannya* Di Indonesia, (Citra Aditya Bakti, Bandung,) 2011, p. 1.

trafficking laws hamper proactive victim identification process measures on vulnerable populations and law enforcement measures; 3) Improper available data; 4) Improper information; 5) Low coordination among governmental institutions; 6) law and judicial enforcement authorities have low knowledge related to anti-human trafficking law and its coverage.<sup>4</sup>

Considering the above matters, ISE-HTCA (Education and Training of Institutional Synergy for Eradication of Human Trafficking Criminal Action Eradication) Technical Training needs to be designed and organized to enhance and improve the competencies and synergies among HTCA eradication institutions in preventing and mitigating HTCA.

## II. RESEARCH QUESTION

1. What is the modus operandi of HTCA in Indonesia?
2. How are the synergies among HTCA Prevention, Mitigation, and Eradication institutions built through ISE-HTCA training?

## III. PURPOSE

This paper aims to identify the modus operandi of HTCA and the concept of Human Trafficking Criminal Action eradication institution synergy training (ISE-HTCA).

## IV. DISCUSSION

### A. Human Trafficking Criminal Action

Human trafficking is all measures or actions related to the recruitment, transportation in or across borders, purchase, sale, transfer, delivery, or reception of a person through deception or intimidation including through threat or violence or abuse of violence or debt with the purpose to obtain or withhold the person, either being paid or not, to conduct unwanted jobs (domestic, social, or reproductive) under forced labour or work bond or in a slavery-like situation in a different environment from where they first lived at the time of deception or debt.<sup>5</sup>

According to Article 1, Section (1) of Law Number 21 of 2007, human trafficking is “the acts of recruitment, transportation, sheltering, delivery, relocation, or reception of a person through threat of violence, use of violence, kidnapping, confinement, forgery, deception, and abuse of power or vulnerable positions, debt or provision of payment or benefit, to obtain approval from those in charge of the person, either conducted domestically or internationally, with the purpose of exploitation or causing the person to be exploited”.<sup>6</sup> The above definitions mean that human beings become commodities, transferred arbitrarily, laden with various violations and crimes as well as arbitrariness based on power with the purpose to exploit workers for various interests which are harmful for the victims and advantageous for other parties. The victims of human trafficking are mostly children and women with the purpose to sexually exploit them or abuse them as sexual objects which destroys their lives.<sup>7</sup>

Indonesia is a country of origin, destination, and transit for human trafficking syndicates whose victims are mostly women and children for prostitution and exploitation.<sup>8</sup> The victims, either men, women, or children from Indonesia, are recruited as forced labourers and sexual commodities. Almost all provinces in Indonesia are the regions of origin and destination for human trafficking.

The government estimates around 1.9 million of the 4.5 million Indonesians working abroad are mostly women and most of them do not have documents or have overstayed. This situation is like an ice mountain

<sup>4</sup> <https://id.usembassy.gov/id/laporan-tahunan-perdagangan-orang-2017/>.

<sup>5</sup> Farhana, *Aspek Hukum Perdagangan Orang di Indonesia*, (Sinar Grafika, Jakarta, 2010), p. 15.

<sup>6</sup> Law Number 21 of 2007 about Eradication of Human Trafficking Criminal Action.

<sup>7</sup> Romany Sihite, *Perempuan, Kesetaraan, dan Keadilan Gender*, PT Raja Grafindo Persada, Jakarta, 2007, pg. 199.

<sup>8</sup> <http://www.kpai.go.id/artikel/temuan-dan-rekomendasi-kpai-tentang-perlindungan-anak-di-bidang-perdagangan-anak-trafficking-dan-eksploitasi-terhadap-anak/>, diakses pada tanggal 26 Januari 2015.

phenomenon and is highly vulnerable for those as human trafficking victims. The actual amount is far higher considering countless migrant labourers who hereditarily refuse completing the requirements of placement and permit to work abroad issued by government, due to the provocation from human traffickers.

Numerous Indonesians are exploited into forced labour and are saddled with debts in Asia and the Middle East, especially in the fields of household, factory, construction, and manufacturing work, including palm plantations in Malaysia and fishing vessels operating in the Indian Ocean and Pacific Ocean. Malaysia remains a primary destination for Indonesian migrant workers; the government estimates over 1 million of 1.9 million Indonesian workers with unofficial status are staying in Malaysia. Workers without official documents have higher risks to be human trafficking victims. The victims of Indonesian citizens are also found in Pacific Islands, Africa, Europe, and North America (including the United States). Women and girls from Indonesia become sexual trafficking victims, especially in Malaysia, Taiwan, and the Middle East.

Numerous Indonesian fishermen were recruited as forced labourers for Chinese and Taiwanese trawl vessels in 2016. Most of these vessels belong to a parent company in Thailand and operate under the monitoring of Thailand-Indonesia "offshore holding companies" using double flags and other illegal methods to avoid arrest by Indonesian security officers; the side-effect of the government's moratorium in 2014 about foreign fishing vessels.

Taiwanese companies cooperate with workers distributing agents in Myanmar, Indonesia, and Thailand to recruit fishermen by giving them identities as Thai citizens and forged working permit documents, and then force them to sail with long work hours in Indonesian waters and they receive low wages or no wage at all and often are subjected to physical violence. It also occurs in the waters around Benjina and Ambon. The offshore holding companies prohibit fishermen to leave their vessels and forbid them to report this violation with the threat to blow their fake identities to authorities or by imprisoning them in temporary prisons on land. Reports keep coming related to Indonesian fishermen becoming human trafficking victims in South Korean fishing vessels in the waters outside Indonesia's territory, in which similar coercion and deprivation measures are common. Non-governmental organizations (NGO) estimate that recruiters are responsible for over half of the Indonesian woman trafficked in other countries. Government and NGO records are in line with people's increasing awareness of human trafficking practice; human traffickers recruit more victims from the provinces in eastern Indonesian regions where the awareness remains low.

Migrant labourers often have great debts to domestic or international agents, making them vulnerable to debts. Most companies exploit this condition by retaining their documents and threatening violence so they (the migrants) remain working as forced labourers. Corruption among governmental officials has boosted practices contributing to human trafficking risks in tourism, hospitality, and worker recruitment industries.

According to the above explanations, we can see that the *modi operandi* of human trafficking in Indonesia are as follows:

- a. Exploitation of economic weakness, low levels of education, Indonesia's geographical position, countless governmental officers willing to receive bribery.
- b. Promising proper jobs with proper incomes, entangling victims with debts to prevent them from refusing HTCA players' malicious plans,
- c. Exploiting victims as sexual workers and low-wage workers.

## **B. Front Cluster Prevention and Handling of Human Trafficking Criminal Action: Between Hope and Reality**

Government efforts in dealing with human trafficking criminal action requires sufficient and long-term resources due to the fact that this criminal action is organized transnational criminal action; therefore, cross-border consolidation of various state organizers, even with other countries is required for the strategy, and steps on handling criminal action (HTCA) can work effectively. Government efforts in dealing with this problem include issued laws in order to protect the victims and law enforcement, as follows: 1) Law no 339 of 1999 concerning Human Rights; 2) Law number 13 of 2006 concerning witness and victim protection; 3) Law number 23 of 2002 concerning children protection; 4) Law number 21 of 2007 concerning Anti Human

Trafficking Criminal Action; 5) Presidential Decree No 88 of 2002 concerning the National Action Plan of Child Trafficking Eradication; 6) Presidential Decree of the Indonesian Republic number 69 of 2008 concerning Front Cluster prevention and handling of criminal action; 7) Government Regulation number 9 of 2008 concerning Procedure and mechanism of integrated services for witnesses or human trafficking criminal action; 8) Coordinating Ministry in Social Welfare Sector Regulation number 25/KEP/MENKO/KESRA/VIII/2009 concerning the national action plan of criminal action and child sexual exploitation eradication in 2009-2014; 9) Ministry of Women Empowerment and Child Protection regulation number 10 of 2012 concerning issuing instructions of Cluster Job of Prevention and Handling of Child Trafficking Criminal Action; 10) Ministry of Women Empowerment and Child Protection regulation number 11 of 2012 concerning instruction of prevention and handling of society and community-based human trafficking criminal action. In accordance with those several requirements, in order to execute the human trafficking criminal action eradication, every local government should establish a cluster job, and execute integrated services for protecting the witnesses and the victims of human trafficking criminal action.

Job Cluster Prevention and Handling of Human Trafficking Criminal Action (Job Cluster PHHTCA) is an institution for coordinating the prevention and handling of human trafficking criminal action whether at the national, province or regency/city level. Job Cluster Prevention and Handling of Human Trafficking Criminal Action has several jobs:

- a. Coordinating prevention and handling efforts of human trafficking criminal action problems;
- b. Executing advocacy, socialization, training, and collaboration both nationally and internationally;
- c. Monitoring the development of witness protection execution such as rehabilitation, return, and social reintegration;
- d. Monitoring the development of law enforcement; and
- e. Executing reporting and evaluation.

The membership of the Main Job Cluster consists of Leaders and Members. The leaders of the Main Job Cluster as referred to in Article 5, are as follows:

- a. Chairman: Coordinating Ministry in Social Welfare Sector;
- b. Executive Director: Ministry of Women Empowerment;
- c. Member: 1. Ministry of Home Affairs; 2. Ministry of Foreign Affairs; 3. Ministry of Finance; 4. Ministry of Religion; 5. Ministry of Justice and Human Rights; 6. Ministry of Transport; 7. Ministry of Labor and Transmigration; 8. Ministry of Social; 9. Ministry of Health; 10. Ministry of National Education; 11. Ministry of Cultural Affairs and Tourism; 12. Ministry of Communication and Information; 13. Ministry of National Development Planning/Head of Bappenas; 14. State Ministry of Youth and Sports; 15. Chief of the Indonesian National Police; 16. Attorney General of the Indonesian Republic; 17. Head of National Agency for the Protection and Placement of Migrant Workers; 18. Head of the National Intelligence Agency; 19. Head of the Central Statistics Body.

The members of the Main Job Cluster as referred to herein are the representatives of government, law enforcement, society organization, non-governmental organizations, professional organizations, and researchers/academics. The work mechanism of the Job Cluster is ensuring synergy and continuity of the integrated steps of human trafficking criminal action eradication. Main, Province, Regency/City Job Clusters coordinate and contact directly those related agencies and other related parties to prepare policies, programmes, and events in the form of National and Local Action Plans.

In order to guarantee the effectiveness of steps on prevention and handling of human trafficking criminal action, Main, Province, Regency/City Job Clusters coordinate, monitor and evaluate, and report periodically. The coordination of the Job Cluster consists of national coordination, plenary coordination, sub-job-cluster coordination, and specified coordination. National coordination is executed by the Main Job Cluster followed

by Province and Regency/City Job clusters. National coordination, as referred to in Paragraph (1), is done at least once each year. National coordination, as referred to herein, aims to monitor and discuss the problems and obstructions and synergize the national execution of the steps on the prevention and handling of the human trafficking criminal action. In national coordination, the representative of government, non-governmental organizations, professional organizations, and researcher/academic sectors always coordinate with the main agency/institution of each plenary coordination attached to all members of the Main Job Cluster. Plenary coordination as referred to in paragraph (1) is periodically conducted once every four months. Coordination of sub-job-clusters is followed by all members of the sub-job-cluster in the Main Job Cluster. Coordination of sub-job-clusters, as referred to herein, are periodically conducted once every two months.

This case requires specified handling in the prevention and handling of the human trafficking criminal action, so the Main Job Cluster can coordinate specifically. Specified coordination, as referred to herein, is followed by all members of the Main Job Cluster and can engage the Province and Regency/City Job clusters. Specified coordination as referred to herein aims to respond to the specified problems requiring fast and proper solutions.

The coordination result of the Main Job Cluster is considered as a reference for the duties to be executed by the Province and Regency/City Job. The duties executed by the Main, Province and Regency/City Job Cluster are conducted in a coordinated manner in one-unit policy for prevention and handling efforts of human trafficking criminal action.

The coordination result, as referred to in Articles 17, 18, 19, 20, 21, 22, and 23, by each member of the Main Job Cluster is informed to each agency to be executed in accordance with its duty and function in compliance with the laws.

Monitoring, evaluation and reporting of the development of the duties to be executed by the Main Job Cluster are conducted periodically and anytime, whether through national, plenary, sub-job-cluster, and specified coordination, and direct monitoring to the field or using the existing communication facility. Evaluation of the duties to be executed includes yearly evaluation, mid-period evaluation, and end-period evaluation. Evaluation of the duties to be executed may be conducted internally and/or engage a third party. Evaluation of the duties to be executed as referred to in paragraphs (1) and (2) are referred by the Executive Director.

The Sub-Main-Job-Cluster reports the result of evaluation of duties to the Executive Director. Each of the Sub-Main-Job-Cluster reports as referred to herein is discussed in plenary coordination of the Main Job Cluster. The head of the Main Job Cluster reports his duties executed to the President and societies on an annual basis and every 5 years. The requirements regarding the work mechanism of the Main Job Cluster as referred to in this Presidential Regulation applies to the Province and Regency/City Job Cluster.

The budget of the Main Job Cluster is charged to the Amended State Budget cq. Ministry of Women Empowerment. The budget of the Province Job Cluster is charged to Amended Local Budget Province. The budget of duties execution of Regency/City Job Clusters is charged to the Amended Local Budget Regency/City. The coordination result of Main, Province and Regency/City Job Clusters, for which execution is the responsibility of both the Central and Local agency, and its expenses are charged to the budget of each related agency in compliance with the laws.

As explained above, prevention and handling of human trafficking is not done by a single institution. The execution of those duties requires high synergy among institutions and to build an effective team. According to the Annual Report of Job Cluster PHHTCA, the weak coordination among the institutions has contributed to the ineffectiveness and inefficiency of the action plan execution of HTCA eradication from year to year.

### **C. Optimization of Synergy between the Institutions in Implementing the National Action Plan for Eradication of HTCA through SIGAP-HTCA Training**

It has been found through the analysis written in point 2 that the effectiveness of the implementation of task forces for the prevention and handling of human trafficking criminal actions (HTCA) depends on the level of coordination in enhancing synergy between the institutions which are incorporated as the members

of the PHHTCA Task Force that should be effective and built upon joint commitment. This level of coordination can be developed through training. Training is a sequence of learning activities, both classical and non-classical, which is held effectively, efficiently and continuously for developing competence with regard to the type of the training being held.

1. Description

HTCA-SPRY Training is education for developing competence and synergy of human trafficking prevention and handling task force officers through classical and non-classical learning processes with a method that is suitable for adults.

2. Learning Outcomes

Basic competency / learning outcome of this training is that training participants will be able to perform their duties and functions effectively and efficiently, and to build a team that is deemed effective and synergistic in performing cross-sectoral duties to eradicate human trafficking.

3. Indicator of Learning Outcomes

Indicators of learning outcomes of this training are: 1) Training participants are able to explain their duties and functions; 2) Training participants are able to understand principles of effective teams; 3) Training participants are able to build effective teams. Training participants can reach these indicators through several instructional materials with regard to the following curriculum matrix.

4. Instructional Material

**Curriculum Structure  
HTCA-SPRY Training  
(For the Members of the Human Trafficking Prevention and Handling Task Force)**

NO	TRAINING SUBJECTS	SESSION	JP
1.	Programme Briefing	1	3
2.	Group Dynamics	3	9
3.	Government's Policy on Eradication of Human Trafficking Criminal Actions (HTCA)	1	3
4.	Technique of Prevention and Handling of HTCA	3	9
5.	Technique of Monitoring, Evaluating and Reporting HTCA	2	6
6.	System Thinking	3	9
7.	Team Building	2	6
8.	Commitment Building	2	6
	Total	17	41

5. Learning Method

The prevailing learning methods for those instructional materials are as follows:

- Lecture
- Brainstorming
- Role play
- Simulation
- Window Shopping
- Cases

6. Time

The training is held for 5 days.

7. Facilities and Supplies

Facilities and supplies used in the learning process include:

- Classroom

- Outbound Area
- LCD
- Flip Chart
- Mic
- Marker
- Paper
- Etc.

This design of training for building competence and synergy between the members of the PHHTCA Task Force, or a so-called HTCA-SPRY, is an initial idea that needs to be followed up by doing Training Needs Assessment to ensure that the programme will be arranged systematically and continuously for the staff involved in the membership of the PHHTCA, with the hope that this training will be held effectively and efficiently.

## V. CONCLUSION AND SUGGESTIONS

### A. Conclusion

Regarding the above analysis, it can be concluded that:

#### 1. Modus Operandi of HTCA in Indonesia

HTCA in Indonesia is a transnational crime which is organized systematically by professional syndicates. Making use of conducive geographical conditions, a considerable amount of residents with low levels of education and economic resources, and the plentiful amount of government corruption, the syndicate is free to perform its actions by:

- a) Offering jobs and better income to the victims;
- b) Ensnaring victims with debt they cannot repay in order to have them comply with the rules of the syndicate;
- c) Bribing officers to allow illegal labour/immigration;
- d) Abducting displaced children who are not monitored by their families;
- e) Employing victims as forced labourers with low salary or even unpaid work, plunging women into prostitution and selling body parts of the victims who are considered useless for making money.

#### 2. Enhancement and Development of Competence and Synergy between Institutions

Planning a system of prevention and handling of HTCA has been established by government through regulations by forming task forces as the coordinative executor of human trafficking eradication. But, to this day, the performance of these institutions is not optimal because of lack of coordination between officers/institutions, resulting in lack of competence and synergy optimization.

For enhancing coordination and developing competence and synergy of the members of these task forces, technical training (HTCA-SPRY) is needed. It is expected that, by holding this training, competence and synergy between institutions can be leveled up so that performance and productivity of institutions incorporated in the task forces at the national, province, and district levels are enhanced.

#### 3. Suggestions

Prevention and handling of human trafficking requires a strong commitment from the government, the people, and the private sector as a pillar of good governance. Implementation of the National Action Plan for eradicating HTCA requires intensive coordination. Therefore, it is the duty of the government to:

- a. Provide adequate budget;
- b. Enhance coordination between institutions;

- c. Enhance and develop competence of the executing members and build synergy between institutions that are incorporated in Task Force PHHTCA;
- d. MoUs in the form of joint rules between the institutions for the sake of the National Action Plan for eradicating HTCA are needed.