CHAPTER I
INTRODUCTION

A. Background

Human trafficking (trafficking in persons) is an act that degrades human dignity and has existed since ancient times this crime has existed since the dawn of humanity. However its types and forms have changed over time, in line with human development and location.[1] Today human trafficking has grown and become one of the most serious crimes in the modern world, fundamentally depriving its victims of their humanity and individual freedom. This transnational organised crime treats human beings as commodities to be bought and sold for profit, completely disregarding their human rights, dignity and integrity. Its hidden and complex nature makes it a major challenge for global law enforcement and victim protection efforts.[2] This crime not only leaves deep physical and psychological trauma on the victims, but also damages the social, economic and security order of a country.

The development of transnational law is an important context for understanding why cross-border human trafficking cannot be addressed solely through national law. Historically, transnational law has strengthened in line with increasing cross-border interactions in trade, migration and human mobility, which have created a need for legal norms and mechanisms capable of regulating events that transcend a single jurisdiction. In academic circles, Philip C. Jessup popularised this idea by defining transnational law as "all law which

[1] Henny Nuraeny, 2011, Tindak Pidana Perdagangan Orang: Kebijakan Hukum Pidana dan Pencegahannya, p. 352

[2] Paul SinlaEloE, 2024, Human Trafficking: Kajian Tindak Pidana Perdagangan Orang, Yogyakarta: Penerbit Andi, p. 1.

regulates actions or events that transcend national frontiers".[3] Within this framework, transnational issues are understood as a space of interaction between various national and international legal regimes that require coordination and common standards for effective prevention, protection, and law enforcement. In the realm of crime, this need has prompted the international community to develop more structured instruments to deal with cross-jurisdictional crimes, including human trafficking, so that transnational law in practice provides the conceptual basis for the creation of cooperation frameworks and binding rules which are then incorporated into international instruments.

To combat human trafficking, which is a global crime, the international community has developed a standardised and binding legal framework. This framework serves as the main foundation for all countries in their prevention and enforcement efforts. The legal boundaries of this crime are clearly defined in Article 3 of the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children), which was ratified in 2000.[4] This protocol is an important instrument that comprehensively regulates and criminalises human trafficking.

Based on the definition in Article 3 of the Palermo Protocol, human trafficking can be classified into three elements, namely act, means, and purpose.[5] The act element covers the entire process of

[3] Eric Stein, (1958), *Jessup: Transnational Law*, 56 Mich. L. Rev. 1039. Available at: https://repository.law.umich.edu/mlr/vol56/iss6/18

[4] Silva Petrosyan, Heghine Khachatryan, Ruzanna Muradyan, Serob Khachatryan, and Koryun Nahapetyan, 2011, *Human Trafficking: A Teachers' Guidebook (Revised Edition),* Bangkok: United Nations Office on Drugs and Crime (UNODC), Regional Office for Southeast Asia and the Pacific, p. 11

[5] United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, UN Doc. A/RES/55/25 (2000), Article 3

mobilising victims, from the recruitment stage to the reception stage. Meanwhile, the means element describes the coercive methods used by perpetrators, such as threats, violence, deception, or other forms of coercion that are used to ensnare victims. The culmination of this entire process is the purpose, namely exploitation, which can take the form of sexual exploitation, forced labour, slavery, or organ removal. Understanding these three elements in their entirety is very important in order to distinguish human trafficking, which involves coercion and exploitation, from human smuggling, which is generally based on voluntary participation and is considered complete when the victim reaches their destination.

The most decisive consolidation point came in 2000 through the Palermo Protocol, which comprehensively defined human trafficking with a structure of acts– means–purposes of exploitation and emphasised that the victim's consent becomes irrelevant when the element of "means" (such as coercion, deception, or abuse of vulnerability) is proven.[6] In contemporary developments, human trafficking has also adapted in line with the globalisation of migration and digitalisation, including an increase in trafficking patterns for "forced criminality" such as forcing victims to carry out online fraud, which shows that modes of exploitation continue to evolve in line with organised crime business models.

Transnational crime essentially refers to criminal acts that transcend the jurisdiction of a single country, either because they are carried out in more than one country or because their key elements (planning, control, perpetrators, or main impact) are connected across borders. therefore, an act is referred to as "transnational" not

[6] Lourensy Varina Sitania and Eko Suponyono, (2020), Accommodation of the Eradication of Human Trafficking in International and National Law, Indonesian Law Development Journal, Vol. 2 No. 1, p. 40.

simply because the perpetrator is a foreigner, but because its cross-border dimension requires coordination between authorities in more than one country for law enforcement.[7] Within the framework of the United Nations Convention against Transnational Organised Crime (UNTOC), a criminal act is considered "transnational in nature" if:

(i) it is committed in more than one country; or

(ii) it is committed in one country but a substantial part of its preparation, planning, direction or control takes place in another country; or

(iii) it is committed in one country but involves an organised criminal group that carries out criminal activities in more than one country; or

(iv) it is committed in one country but has a substantial impact in another country.[8]

Furthermore, UNTOC focuses on “transnational organised crime” when the criminal act is related to an organised criminal group, which is defined as a structured group of three or more persons, existing for a period of time, acting together to commit one or more serious crimes with the aim of obtaining financial gain or material benefit. Thus, a crime can be classified as "transnational organised crime" under the UNTOC if it has a transnational dimension (in accordance with the criteria in Article 3) and involves an organised criminal group (in accordance with the definition in Article 2). so that the cross-border nature and organisation of the perpetrators form the

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[7] Gucci, A. D. (2020). Implementasi mutual legal assistance (MLA) di Indonesia terhadap penyelesaian kejahatan yang diatur dalam United Nations Convention Against Transnational Organized Crime (UNTOC) [Skripsi, UPN Veteran Jakarta]. P. 3.

[8] Law of the Republic of Indonesia Number 5 of 2009 concerning the Ratification of the United Nations Convention Against Transnational Organised Crime

basis for the need for a regime of international cooperation in prevention, enforcement and prosecution.

Historically, transnational crime is not a new phenomenon. Practices such as piracy, smuggling, and criminal networks that exploit borders have long been known, but the term and agenda of "transnational (organised) crime" gained a much more systematic policy articulation and legal framework at the end of the 20th century. Advances in transportation and communication technology, intensified trade and migration flows, and global political changes have made it easier for criminality to operate across national jurisdictions, thereby highlighting the need for international law enforcement cooperation. In this context, organisations such as INTERPOL (established in 1923) reflect the early stages of institutionalising cross-border police coordination to assist with arrests, extraditions and the exchange of criminal information. A stronger conceptual and normative momentum then emerged in the 1990s, particularly through the World Ministerial Conference on Organised Transnational Crime in Naples (1994), which produced the Naples Political Declaration and Global Action Plan and is seen as an important stepping stone towards the formulation of more binding global instruments.

The peak of the regime's consolidation occurred when the UN General Assembly established a negotiating mechanism through the Ad Hoc Committee to draft a convention against transnational organised crime, which then gave birth to the United Nations Convention against Transnational Organised Crime (UNTOC), adopted on 15 November 2000, opened for signature in Palermo on 12–15 December 2000, and entered into force on 29 September

2003.[9] Thus, the "transnational history" in the study of crime can ultimately be understood as a shift from the recognition that crime can transcend national borders to the establishment of a structured regime of international legal cooperation for the prevention, prosecution and cross-jurisdictional collaboration against organised criminal networks.

Due to its cross-border nature and involvement of many countries, human trafficking has become a major concern for the international community and is classified as transnational organised crime. Globalisation, technological advances and economic disparities between countries have expanded the scope of organised criminal networks, making regulation and enforcement a major challenge for international law. Data from the United Nations Office on Drugs and Crime (UNODC) shows that the majority of human trafficking victims are women, with sexual exploitation being the most dominant form of exploitation. Meanwhile, the International Labour Organisation (ILO), Walk Free, and the IOM estimate that around 49.6 million people worldwide were living in conditions of modern slavery in 2021, including 27.6 million victims of forced labour and 22 million victims of forced marriage.[10] This situation underscores the urgency of strengthening international legal instruments through more integrative, evidence-based strategies and global collaboration in combating human trafficking.

This global phenomenon has prompted many regions to strengthen regional cooperation, one of which is Southeast Asia,

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[9] Neladi Frisilia Lilipaly, Popi Tuhulele, dan Dyah Ridhul Alrin Daties, 2023, "Pertanggungjawaban Pelaku Penyelundupan Migran Lintas Negara Ditinjau Dari Hukum Internasional," TATOHI: Jurnal Ilmu Hukum, Vol. 3 No. 7, p. 653.

[10] Tiara Ayu Lestari dan Dian Yulviani, 2023, "Legal Study of Human Trafficking Jurisprudence in the Millennial Era," International Journal of Business, Law, and Education 4, no. 2, p. 330.

known as a region with high vulnerability to human trafficking. In Southeast Asia, human trafficking remains a major and recurring problem. ASEAN notes that this region is one of the areas with the highest vulnerability to human trafficking practices, with an estimated hundreds of thousands of victims each year, most of whom are women (sex trafficking), children, and migrant workers.[11] Southeast Asia is seen as a region with the potential to be both a source and transit route for human trafficking.

The complexity of this issue is not only caused by weak law enforcement, but also by several structural factors such as poverty, economic inequality between countries, deep- rooted corruption, and Southeast Asia's strategic geographical position as an international trade route. These factors have made the region a "transit hub" and "destination hub" for human trafficking, where victims can be easily moved from one country to another by land, sea, or air. Human trafficking syndicates then exploit legal loopholes, overlapping regulations, and weak coordination between authorit ies to expand their networks. This situation shows that human trafficking is a multidimensional issue that encompasses legal, social, economic, and security aspects, and therefore cannot be resolved through national legal instruments alone. Efforts to address this issue require a comprehensive framework for international and regional cooperation, including the harmonisation of legislation, capacity building for law enforcement agencies, and integrated victim

[11] Ni Komang Desy Arya Pinatih, 2022, Perdagangan Orang di Asia Tenggara: Dinamika Regional dan Tantangan Penegakan Hukum, Jakarta: Prenadamedia Group, p. 234–244.

protection mechanisms, as has begun to be pursued through ASEAN mechanisms.[12]

Not only in Southeast Asia, the issue of human trafficking is also a major concern in the European Union. This region faces similar challenges, particularly in the context of labour migration and cross-border mobility. This region faces similar challenges, particularly in the context of labour migration and cross-border mobility. According to a 2023 report by the European Commission and Eurostat, approximately 10,793 people have been identified and recorded by member state authorities as victims of human trafficking. This figure represents an increase of almost 7 per cent compared to the previous year and is the highest number in the last decade. Of this total, 43.8 per cent involved sexual exploitation, while 36 per cent involved forced labour. This data shows that human trafficking in Europe is no longer limited to sexual exploitation, but also includes forced labour in informal sectors such as agriculture and the service industry.[13]

As a member state, Germany is relevant because it has a seasonal work scheme known as Ferienjob (in official terminology: Ferienbeschäftigung), which is temporary work that can be done by students enrolled (immatrikuliert) at foreign universities during the official semester break at their home institution, with a maximum limit of 90 calendar days within 12 months. The German labour authority (Bundesagentur für Arbeit through ZAV) stipulates in Article 14 paragraph (2) of the Labour Ordinance that fulfilment of these

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[12] Naufal Fikhri Khairi, 2021. “Upaya ASEAN Dalam Menangani Masalah Perdagangan Manusia di Asia Tenggara,” Journal of International Relations, Vol. 7, No. 2, p. 85-86.

[13] European Commission – Eurostat, 2025, “Trafficking in Human Beings in the EU: 10,793 Registered Victims in 2021”, Eurostat News, available at: https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20250403-1

requirements is the basis for confirming that holiday work can be carried out legally. It is important to emphasise that Ferienjob is not an "academic internship" (praktikum) and is not part of the curriculum, but rather a form of work in the job market that is paid and based on an employment contract.

This clarification is also confirmed in official information from the Embassy of the Republic of Indonesia in Berlin, which explicitly states that Ferienjob is not an internship and therefore should not be presented as an academic activity.[14] With this framework of understanding, the phenomenon of Ferienjob becomes an important "analytical bridge" in this thesis when a holiday work scheme is packaged or promoted as an academic/internship programme, when in substance it is short-term paid work, there is room for abuse, for example through non-transparent job information, non-accountable recruitment intermediaries, or abuse of vulnerability, which under certain conditions can lead to patterns of exploitation and give rise to the relevance of prevention, protection, enforcement, and cross-border cooperation obligations as emphasised in the anti-trafficking regime.

As has happened in Indonesia, this scheme can be considered human trafficking. This is because the perpetrators use it as a pretext for "academic internships" to recruit participants, then direct them into work situations that place them in vulnerable positions and are oriented towards the profits of certain parties.[15]

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[14] Embassy of the Republic of Indonesia (KBRI) Berlin, 6 December 2023, “FERIENJOB: Part-time Work During the Holidays— Ferienjob is Not an Internship, Ferienjob is Part of the Job Market”. https://indonesianembassy.de/news/ferienjob-kerja-paruh- waktu-dalam-masa-libur-ferienjob-bukan-kerja-magang-ferienjob-adalah-bagian-dari-job-market/.

[15] Sekar Nursyahidah Utami dan N. Nasrudin, 2024, “Tindak Pidana Perdagangan Orang (Human Trafficking) terhadap Mahasiswa Indonesia melalui

From the perspective of the Palermo Protocol, this construction is relevant because human trafficking is understood as a series of recruitment/placement actions carried out through prohibited means such as fraud or abuse of vulnerable positions for the purpose of exploitation. This pattern is reflected in the Indonesian context in cases uncovered by the authorities, when the "Ferienjob" programme was presented to a number of universities as a three-month "international internship programme" and accompanied by certain guarantees. For example, in the chronology published by UNJ and reported by the media, the parties that introduced the programme together with PT SHB and CV-Gen stated that the programme was an internship, socialised through seminars/presentations, and linked to the internationalisation agenda and campus performance indicators (e.g. student experience outside the campus). At this stage, the campus attempted to clarify the situation, including requesting guarantees through communication with the organisers, but then reports from students and confirmation of information from the government and relevant authorities emerged, prompting the campus to take mitigation measures such as sending lecturers for monitoring and assistance and holding a hearing with the Indonesian Embassy in Berlin.

From this hearing, the Indonesian Embassy stated that Ferienjob is not an internship but rather employment, resulting in a fundamental discrepancy between the narrative presented during the socialisation and the programme's characteristics as explained by the authorities. In line with this, the Ministry of Women's Empowerment and Child Protection's release (referring to the

Program Magang di Jerman", *Qanuniya: Jurnal Ilmu Hukum*, Vol. 1, No. 1, Juni 2024, p. 1.

Indonesian National Police's Criminal Investigation Unit's disclosure) described the recruitment pattern of as allegedly non-procedural.[16] Participants were charged a registration fee that was transferred to an account in the name of CV-Gen, paid a fee for the issuance of a Letter of Acceptance (LoA) to PT SHB, and according to Bareskrim, there were additional payments for processing work permits/approvals, as well as other financing schemes that were then linked to deductions from participants' earnings. This situation was exacerbated by the practice of signing documents/contracts in German, which participants did not always understand. This series of facts is important for the background of the research because it shows how the limitations of administrative verification and supervision of recruiters/agents in the pre- departure stage can open up space for the "disguise" of work programmes as academic activities, which under certain conditions has the potential to lead to indicators of TPPO such as fraud/information asymmetry and increased control over participants in the cross- border placement process.[17] not because of "working abroad" itself, but because of indications of misleading academic-based recruitment, non-transparent fee/debt schemes and contracts, and non-procedural job placements that, according to the authorities, this implies exploitation.

In addition to fulfilling the indicators of human trafficking, the "Ferienjob" case involving Indonesian students can also be classified as a transnational crime because the elements of the crime are

[16] detikcom ,2024, “Kronologi 93 Mahasiswa UNJ Ikut Ferienjob ke Jerman Ternyata Jadi Korban TPPO,” detikNews, 26 Maret 2024, https://news.detik.com/berita/d-7262371/kronologi-93-mahasiswa-unj-ikut-ferienjob-ke-jerman-ternyata-jadi-korban-tppo

[17] Media Indonesia, 2024, “UNJ Beberkan Kronologi Kasus Penipuan Ferienjob,” Media Indonesia, tersedia di: https://mediaindonesia.com/humaniora/662118/unj-beberkan-kronologi-kasus-penipuan-ferienjob.

directly related to more than one country or cross-border complexities and involve many aspects, ranging from social, economic, to legal.[18] In this case, the series of events published by the Indonesian authorities shows the cross-jurisdictional connection between the socialisation and recruitment processes and the transaction of fees taking place in Indonesia, while the work itself took place in Germany and the initial complaint was filed in Germany through the Indonesian Embassy. Even the police investigation indicated that there were suspects in Germany, which reinforced the transnational nature of both the implementation and control stages. Thus, the transnational nature of this case lies not only in the "work location abroad", but also in the series of recruitment-placement-implementation that crosses the jurisdictions of Indonesia and Germany, thereby normatively requiring an interpretation of UNTOC and emphasising the urgency of international cooperation in prevention, investigation, and prosecution, as also emphasised in the Palermo Protocol regime.

This context underscores the existence of governance issues that require normative analysis in both countries. On the one hand, Ferienjob/Ferienbeschäftigung in Germany is part-time work during holidays that falls within the job market. German authorities explain this scheme as feriens employment for foreign students, which can be confirmed by the relevant institutions if the requirements are met, while the Indonesian Representative in Germany explicitly states that Ferienjob is not an academic intership.[19]

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[18] Hetty Ismainar dkk, 2024, Kejahatan Transnasional dan Tindak Pidana Khusus, Bandung: Widina Media Utama, p. 226.

[19] Embassy of the Republic of Indonesia (KBRI) Berlin, op. cit.

However, when this work scheme is promoted as an "academic internship" in the cross-border recruitment process, a legal gap arises in Indonesia in the form of a blurred line between the education regime and the employment/job placement regime. This situation occurs when an activity that is essentially paid work/job placement is processed through education channels, such as being promoted as an "academic internship", "campus programme", or institutional cooperation, so that it is not strictly subject to the usual job placement and protection mechanisms. Overseas work is processed through education channels, such as being promoted as "academic internships", "campus programmes", or institutional collaborations, so that it is not strictly subject to the job placement and protection mechanisms that are normally attached to the labour regime. This ambiguity makes compliance inspection standards unclear. The programme is considered an academic matter, when in fact what is happening is a cross- border employment and placement relationship. As a result, the supervision and protection instruments that should be active in job placement activities may not function optimally, which implies weak due diligence. In the education channel, this occurs when overseas work programmes are presented through campus MoU with intermediaries (agencies/companies) and then promoted as "academic internships", when in fact they are paid work. In the context of Ferienjob, the Indonesian Embassy in Berlin has explicitly stated that Ferienjob is part-time work during holidays, part of the job market, and not an internship.

However, the Criminal Investigation Agency (Bareskrim) has revealed the existence of MoU that even include the narrative of Ferienjob as part of the MBKM and programmes, promising credit conversion, thereby potentially turning institutional legitimacy into a "stamp of approval" without adequate verification of the legality of the agency, the status of the employment relationship, and the actual working conditions. This verification gap is relevant because the Palermo Protocol views human trafficking as a recruitment/placement process that can be carried out through fraud or abuse of vulnerable positions for the purpose of exploitation, so that packaging work as an "academic programme" can function as a mode of deception that facilitates exploitative recruitment.

On the other hand, looking at the European Union shows that human trafficking remains a serious problem. Sexual exploitation and forced labour/services still exist, and it should be noted that the increase in registered cases may also be influenced by increased attention from institutions, which means that many victims may still go undetected. In line with this, the European Commission's progress report highlights an increase in victims of labour exploitation in 2023.[20] Therefore, the gap that needs to be highlighted is not only in Indonesia, but Germany as a European Union member state must also be effective in its monitoring and identification mechanisms as a destination country, as well as the quality of cooperation between Indonesia and Germany (information exchange, programme verification, and protection/enforcement responses) so that seasonal work schemes do not become a channel that facilitates exploitation.

The urgency of this research lies in the vulnerability of

[20] European Commission – Migration and Home Affairs (2025), “New data indicates an increase of victims of trafficking in human beings in the EU,” 7 April 2025,

administrative governance in cross- border seasonal student employment schemes, particularly when seasonal work in Germany, known as Ferienjob/Ferienbeschäftigung, is promoted as an "academic internship". Normatively, official sources from the Bundesagentur für Arbeit (Federal Employment Agency) confirm that Ferienbeschäftigung is holiday work for students enrolled in overseas universities, carried out during official semester breaks. The Indonesian Embassy in Berlin also explicitly states that Ferienjob is not an internship and is part of the job market. The problem is that when the label "academic" is used in the recruitment process, there is a risk of mislabelling that can obscure paid employment relationships, undermine the transparency of contracts and working conditions, and increase the chances of fraud or abuse of vulnerability, two indicators relevant to the construction of human trafficking according to the Palermo Protocol. [21] In this context, research is important because it aims to normatively examine the weaknesses in verification and supervision (e.g., agent/intermediary eligibility tests, programme information validation, and document/contract checks) that allow "academic-fronted" schemes to operate, while also mapping Germany's responsibilities as a state party to the Palermo Protocol to strengthen prevention and countermeasures, including through prevention policies and training of relevant officials (Article 9), protection and assistance

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[21] Office of the United Nations High Commissioner for Human Rights (OHCHR) (2000), “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime,” OHCHR, accessed 24 January 2026, https://www.ohchr.org/en/instruments- mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons.

for victims (Article 6), and cross-border cooperation (Article 10).[22] Thus, this research contribution is policy-relevant. It establishes operational legal parameters to distinguish legitimate seasonal work from recruitment schemes that lead to exploitation, and formulates recommendations for coordination between Indonesia and Germany so that administrative loopholes are not continuously exploited as channels for TPPO.

B. Research Questions

Based on the background described above, the author has decided that the research questions are:

1. What legal challenges does Indonesia face in implementing the Palermo Protocol to protect Indonesian students who are sent abroad throughwork or internship schemes disguised as academic activities?
2. What are the responsibilities of Germany and Indonesia as parties to the Palermo Protocol in the context of preventing and prosecuting human trafficking in the Ferienjob case?

C. Research Objectives and Benefits

Based on the above problem formulation, the objectives of this research are as follows:

1. To analyse the legal challenges Indonesia faces in implementing the Palermo Protocol, particularly in addressing work or "internship" schemes that are

[22] United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, UN Doc. A/RES/55/25 (2000), Articles 6, 9, 10.

presented as academic activities but may in practice lead to exploitation.

2. To identify and assess the alignment (harmonisation) between obligations under the Palermo Protocol and Indonesia's domestic legal framework in preventing and combating trafficking in persons in relation to cross-border work/internship programmes.
3. To formulate the legal responsibilities of Indonesia and Germany, as States Parties to the Palermo Protocol, with regard to prevention, victim protection, prosecution, and cross-border cooperation in cases linked to the Ferienjob context.
4. To develop an operational normative analytical framework to distinguish lawful seasonal work from recruitment schemes that meet indicators of trafficking in persons, to be applied in the case discussion.

The results of this research are expected to provide theoretical and practical benefits, as follows:

1. Theoretical Benefits

Theoretically, the results of this study are expected to enrich the development of international law, particularly in the study of the implementation of the Palermo Protocol on the phenomenon of human trafficking that exploits seasonal work programmes or programmes presented as academic activities. This research provides a more systematic understanding of the challenges of implementation and legal loopholes in terms of administrative oversight, verification of organisers, and prevention mechanisms which have resulted in suboptimal protection for students. Furthermore, this research strengthens the theoretical construct regarding the responsibility of states (countries of origin and destination) in preventing, prosecuting, and protecting victims of cross-border exploitation, so that the concepts of due diligence and international cooperation obligations can be understood in more operational terms. Thus, the findings of this research are expected to form a conceptual basis for the development of legal arguments that are more responsive and adaptive to the ever-changing patterns of transnational crime.

2. Practical benefits

In practical terms, this research is expected to serve as a reference for the government and related institutions in improving the governance of TPPO prevention in overseas student programmes, particularly through strengthening the verification and accountability mechanisms of agents/intermediaries, standardising programme information transparency, and developing document and contract review procedures that are understandable to participants. For universities, this research can encourage the implementation of institutional due diligence before facilitating or recommending programmes to students, including strengthening monitoring systems, complaint channels, and assistance when indications of irregularities arise. For law enforcement and protection agencies, this research provides an analytical framework that assists in the early identification of indicators of exploitation and strengthens cross-sector and cross-border coordination. Ultimately, this research is also expected to strengthen Indonesia-Germany cooperation in preventing and handling cases, so that seasonal work schemes such as Ferienjob are not misused as recruitment channels that lead to exploitation.

D. Originality of Research

1. Author	: NUR SAUPA YUTHIKA	
Title	: LEGAL PROTECTION FOR STUDENTS AS VICTIMS OF HUMAN TRAFFICKING CRIMES Disguised as Internships	
Category	: Thesis	
Year	: 2025	
University	: University of Borneo Tarakan	
Description	Previous Research	Research Plan
Issues and Problems	1. Legal protection for students who are victims of human trafficking disguised as internships through the Ferienjob Internship Programme in Germany. 2. Criminal liability of perpetrators regarding the Ferienjob Internship Programme in Germany.	1. What legal challenges does Indonesia face in implementing the Palermo Protocol to protect Indonesian students who are sent abroad throughwork or internship schemes disguised as academic activities? 2. What are the responsibilities of Germany and

		Indonesia as parties to the Palermo Protocol in the context of preventing and prosecuting human trafficking in the Ferienjob case?
Method	: Normative	Normative
Results and Discussion	: 1. The results of the study found that the legal protection provided by the Ministry of Education and Culture for Indonesian students who are victims of human trafficking disguised as overseas internship programmes is still very weak. Internship programmes such as Ferienjob in Germany are often exploited by certain parties for the purpose of exploitation. Students	

	are recruited with the promise of gaining work experience, but upon arrival in the destination country, they face working conditions that do not match the agreement, such as long working hours, low wages, and a lack of legal protection. The government and universities are considered to be suboptimal in their supervision, thus opening up opportunities for the misuse of overseas internship programmes. 2. The author also explains that the absence of specific regulations governing legal protection for overseas interns has	

	created a legal vacuum. Students are not included in the category of migrant workers as regulated in Law No. 18 of 2017, so their protection is not explicitly regulated in existing laws and regulations. This situation places students in a vulnerable position to human trafficking practices. Therefore, the researchers recommend the need for increased supervision, the establishment of specific regulations, and cooperation between the government, universities, and victim protection agencies to ensure the safety and rights of students	

participating in overseas internship programmes.	

2.	Author	: MUHAMMAD FARHAN	
Article Title	: A LEGAL REVIEW OF HUMAN TRAFFICKING CRIMES USING THE MODUS OPERANDI OF OVERSEAS INTERNSHIPS INVOLVING STUDENTS AS VICTIMS		
Category	: Thesis		
Year	: 2025		
University	: State Islamic University Syarif Hidayatullah Jakarta		
Description	Previous Research	Research Plan	
Issues and Problems	1. How are overseas internships (in Germany) arranged for Indonesian students? 2 . What is the legal responsibility of the Ministry of Education and Culture for human trafficking offences committed under the guise of overseas internships (Germany)?	1. What legal challenges does Indonesia face in implementing the Palermo Protocol to protect Indonesian students who are sent abroad throughwork or internship schemes disguised as academic activities?	

		2. What are the responsibilities of Germany and Indonesia as parties to the Palermo Protocol in the context of preventing and prosecuting human trafficking in the Ferienjob case?
Method	: Normative	Normative
Results and Discussion	: **1.** The results of this study indicate that overseas internship programmes participated in by Indonesian students are often misused by certain parties as a cover for labour exploitation. Students are recruited with the promise of training and work experience, but upon arrival in the destination country, they face excessive working hours ,	

	wage deductions, and working conditions that do not comply with the agreement. The elements of human trafficking are fulfilled due to the recruitment, transfer, and exploitation of students. This study also shows that government oversight, particularly by the Ministry of Education, remains weak. There is no effective mechanism to monitor internship organisers and ensure the safety of students abroad. In addition, regulations regarding overseas internships do not yet have a strong legal basis. Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons does not yet cover the protection of students because their status is not that of	

	migrant workers. As a result, there is a legal vacuum that leaves students vulnerable to exploitation. Therefore, this study emphasises the importance of inter-agency supervision and cooperation between Indonesia and destination countries, such as Germany, so that overseas internship programmes can run in accordance with the law and guarantee the protection of students' rights.	

E. Theoretical Basis

1. Theoretical Basis of Legal Challenges in the Implementation of the Palermo Protocol for Victim Protection

a. Legal Protection Theory

Legal protection theory explains that the law has the primary function of providing a sense of security, justice, and certainty to every individual.[23] According to this theory, the state has an obligation to protect the rights of its citizens from all forms of violation, including exploitation and abuse of power. In the context of this study, legal protection theory is used to assess the extent to which the Indonesian legal system is able to protect students who participate in overseas work or internship programmes, particularly against the risk of exploitation arising from weak governance and supervision. Students abroad are often in a vulnerable position because they are not classified as migrant workers, so legal protection for them remains inadequate. Based on this theory, the law should be adaptive to social changes and responsive to evolving trafficking patterns, including those that exploit weak cross-border oversight.

b. Palermo Protocol Norms (2000)

The Palermo Protocol (2000) clearly regulates the definition of human trafficking, which consists of three main elements, namely act, means, and purpose.[24] The element of act covers all forms of recruitment, transportation, transfer, harbouring, or receipt of a person. The means element describes the means used to carry out these acts, such as threats or use of violence, deception, abuse of power, or the vulnerable position of the victim. Meanwhile, the purpose element focuses on the aspect of exploitation, which can take the form of sexual exploitation, forced labour, slavery,

[23] I Dewa Gede Atmadja dan I Nyoman Putu Budiartha, 2018, Teori-Teori Hukum, Malang: Setara Press, p. 165–169.

[24] See United Nations, 2000, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime, op.cit. Article 3.

organ removal, or other forms of human rights violations. It is this element of "exploitation" that is the most fundamental distinguishing factor between human trafficking and human smuggling, because human trafficking involves coercion and the victim's lack of free will.

In the context of digital technology development, the norms in Article 3 can be interpreted broadly to cover increasingly complex recruitment and placement schemes. For example, recruitment practices, deceptive job offers, or fictitious “international internship” programmes may be categorised as human trafficking if they satisfy the three elements set out in the Palermo Protocol. Exploitation in this context may take the form of manipulation of information, falsification of employment contracts, misuse of personal data, and even forced labour under inhumane conditions after the victim has been recruited. This demonstrates the Palermo Protocol’s capacity to respond to evolving trafficking patterns, while emphasising that the essence of the offence is not merely cross-border movement, but the exploitation of human beings as the ultimate purpose of the entire process.

c. The concept of the rule of law

The concept of the Rule of Law emphasises that every action taken by state officials must be based on applicable law, guaranteeing legal certainty, justice, and the protection of human rights, and that there should be no difference in the legal treatment of citizens so that all citizens have the same standing before the law.[25] The concept of the Rule of Law in this study is understood through three most relevant elements, namely the supremacy of law, equality before the law, and due process of law. The supremacy of law places the law as the highest authority so that the protection of citizens should not be subject to the interests of certain parties. In the context of recruitment for overseas work programmes such as Ferienjob, which can be 'packaged' as academic activities, this principle requires strict verification and supervision standards for agents/organisers and clarity on the status of the programme to prevent information manipulation. Equality before the law affirms that every citizen is entitled to equal protection, so that students should not be in a 'grey area' of protection simply because they are not formal migrant workers; the state remains obliged to ensure proportional protection against the risk of exploitation in cross-border work/internship schemes. Meanwhile, due process of law requires legitimate, transparent, and accountable procedures in the prevention and handling of cases, including complaint mechanisms, investigations, and objective law enforcement if there are indications of programme concealment or exploitation. Thus, these three elements of the rule of law serve as analytical tools to assess whether Indonesia's governance is strong enough to prevent 'academic-disguised' work programmes from developing

[25] Fajlurrahman Jurdi, 2016, Negara Hukum: Kepastian, Keadilan dan Kemanfaatan Hukum, Malang: Setara Press, p. 14.

into situations that increase students' vulnerability to cross-border exploitation practices.

d. The Concept of Transnational crime

According to Romli Atmasasmita, transnational crime is crime that has cross-border elements, whether in terms of its impact, perpetrators, or methods used, thereby transcending the territorial boundaries of a country.[26] The most authoritative theoretical framework for this concept is the United Nations Convention against Transnational Organised Crime (UNTOC), which stipulates that a criminal act is transnational in nature if, among other things, it is committed in more than one country, or it is committed in one country but a substantial part of its preparation, planning, direction or control takes place in another country, or it is committed in one country but involves an organised criminal group operating in more than one country, or it has a substantial impact in another country. UNTOC also focuses on the 'organised' dimension by defining an organised criminal group as a structured group of three or more persons, existing for a period of time, and acting together to commit one or more serious crimes for financial gain or material benefit.[27]

In the context of this study, the UNTOC framework is important because the Palermo Protocol (which is the

[26] Romli Atmasasmita, Tindak Pidana Narkotika Transnasional dalam Sistem Hukum Pidana Indonesia, Bandung: Citra Aditya Bakti, 1997,. 39.

[27] United Nations, 2014. Conference of the Parties to the United Nations Convention against Transnational Organized Crime, Working Group of Government Experts on Technical Assistance, *CTOC/COP/WG.2/2014/2*.

main instrument of the thesis) is a protocol that complements the UNTOC and applies to the prevention, investigation, and prosecution of transnational crimes involving organised groups. Thus, the concept of transnational crime serves as an 'analytical tool' to explain why the Ferienjob case cannot be understood solely as a domestic issue, but rather as a cross-jurisdictional event (country of origin country of destination) that requires prevention, law enforcement, and structured cooperation between countries in accordance with the UNTOC Palermo regime.

2. Theoretical Basis of State Responsibility and Implementation of the Palermo Protocol through International Cooperation between Indonesia and Germany

a. Theory of State Responsibility

State responsibility is a fundamental principle in international law which affirms that every state has an obligation to comply with and implement agreed international legal norms. This obligation arises when a state commits a violation or fails to fulfil its international responsibilities, whether arising from a treaty or from international custom.[28] This principle also emphasises that states are responsible not only for their own actions, but also for their failure to prevent violations that cause harm to others.

This theory forms the basis for assessing the responsibility of Indonesia and Germany as parties to the Palermo Protocol. Both countries are obliged to implement prevention, law enforcement and protection measures for victims of human

[28] Andrey Sujatmoko, Tanggung Jawab Negara Atas Pelanggaran Berat HAM Indonesia, Timor Leste dan Lainnya, Grasindo Gramedia WidiasaranaIndonesia, p. 28

trafficking. Indonesia has a duty to protect its citizens from the risk of exploitation through overseas work programmes, while Germany is obliged to enforce the law against perpetrators and ensure protection for victims within its territory. Through the principle of state responsibility, it can be seen to what extent both countries carry out their international obligations consistently and fairly in handling Ferienjob cases.

b. Legal Positivism Theory

The theory of legal positivism emphasises that law originates from written rules made by legitimate authorities. Laws are considered valid because they are formally established, not because of moral values or justice outside the text. This view emphasises the importance of legal certainty and obedience to applicable norms.[29] Based on this theory, every country that ratifies an international agreement is obliged to transpose the provisions into its national law. Therefore, Indonesia and Germany are obliged to transpose the norms of the Palermo Protocol into their respective legal systems: Indonesia through legislation on human trafficking, and Germany through labour and criminal law, so that their implementation has legal force and can be effectively enforced

c. International Cooperation Theory

International cooperation is a form of relationship between countries that is carried out to achieve common goals, including in the field of law enforcement against transnational crimes. In the context of international law, this cooperation is

[29] Bernard L. Tanya, dkk., 2013, Dasar-Dasar Ilmu Hukum, Yogyakarta: Genta Publishing, p. 261–269.

important because criminal acts such as human trafficking cannot be handled by one country alone, but require cross-border coordination through mutually agreed legal mechanisms. Concrete forms of such cooperation include extradition agreements, mutual legal assistance (MLA), and information exchange between law enforcement agencies.[30]

In Indonesia, the principle of international cooperation in criminal matters is regulated by Law No. 1 of 2006 on Reciprocal Agreements in Criminal Matters, which forms the legal basis for the implementation of mutual legal assistance between Indonesia and other countries.[31] Through this law, Indonesia can cooperate with destination countries, including Germany, to conduct investigations, prosecutions, and victim protection in human trafficking cases. Based on the theory of international cooperation, the relationship between Indonesia and Germany as parties to the Palermo Protocol reflects a shared responsibility to prevent, prosecute, and protect victims of cross-border human trafficking crimes.

d. The 3P Approach Concept (Prevention, Prosecution, Protection)

The 3P Approach concept, or prevention, law enforcement, and victim protection, is the main principle in the 2000 Palermo Protocol, which serves as a measure of a

[30] Ministry of Law and Human Rights of the Republic of Indonesia, West Nusa Tenggara Region, 2023, "What is Mutual Legal Assistance (MLA) in International Law", Ministry of Law and Human Rights of the Republic of Indonesia, West Nusa Tenggara Region, available at: https://ntb.kemenkum.go.id/artikel-layanan/apa-itu-mutual-legal-assistance-mla-dalam-hukum-internasional

[31] See Law of the Republic of Indonesia Number 1 of 2006 concerning Reciprocal Agreements in Criminal Matters.

country's responsibility in handling human trafficking. This approach requires each party country to not only prosecute perpetrators but also prevent crimes and protect victims comprehensively. In relation to the second issue, Indonesia and Germany have complementary responsibilities. Indonesia plays a role in preventing and protecting its citizens who participate in overseas work programmes , while Germany is obliged to enforce the law against perpetrators and ensure the protection of victims within its territory. This principle is also in line with Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons, which emphasises the balance between prevention, enforcement and victim protection.[32]

F. Framework

The conceptual framework of this study stems from the phenomenon of cross-border human trafficking that occurs through seasonal work or internship programmes abroad, one of which is the Ferienjob programme in Germany participated in by Indonesian students. In practice, this programme has opened up opportunities for labour exploitation and human rights violations, where students are placed in working conditions that do not comply with regulations and without adequate legal protection.

These conditions indicate that there are still gaps or weaknesses in national legal norms in providing protection for students working abroad. There are no regulations governing the protection of students working abroad, so they do not receive the protection they deserve. On the other hand, Indonesia, as a party to

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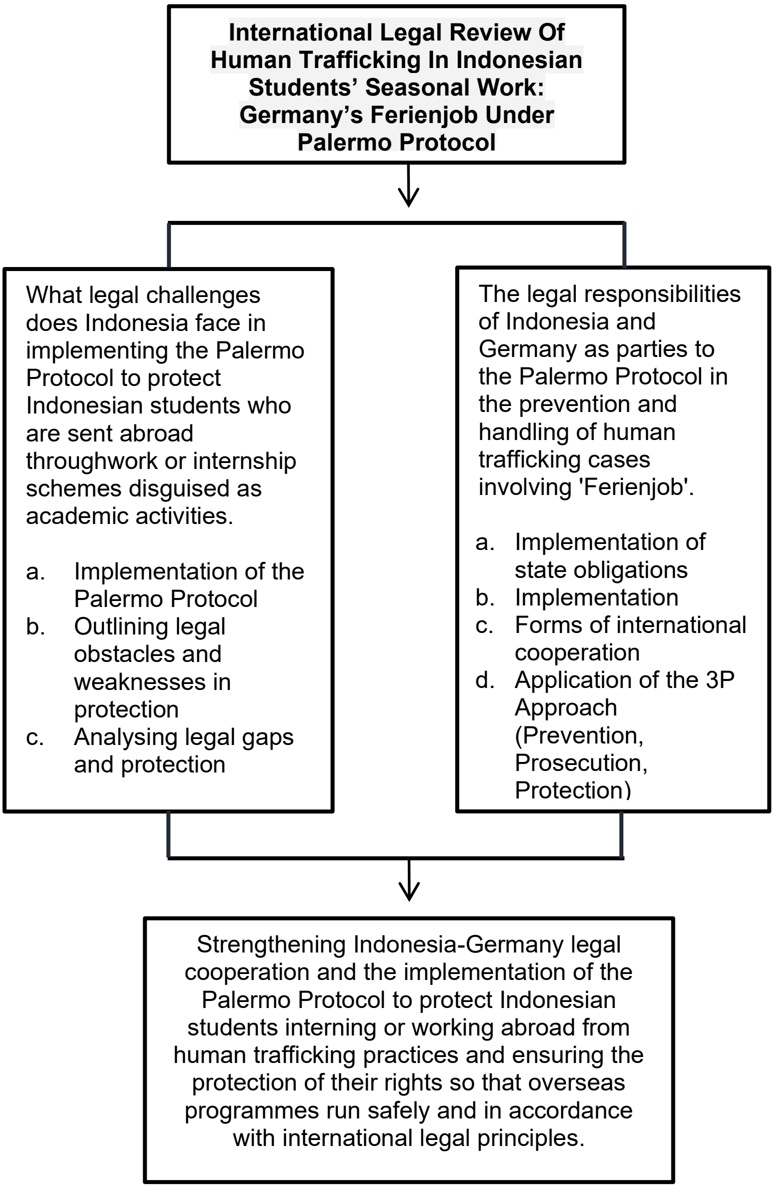
[32] See Republic of Indonesia, Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons, State Gazette of the Republic of Indonesia Year 2007 No. 58. op.cit.

the 2000 Palermo Protocol, has an obligation to prevent and eradicate all forms of human trafficking, including those that occur through education or internship schemes.

Based on these issues, this study seeks to explore and analyse the implementation of the Palermo Protocol in the context of legal protection for Indonesian students who are victims of cross-border human trafficking in Germany. The analysis was conducted by reviewing the extent to which the state has fulfilled its obligations and the effectiveness of international cooperation in protecting its citizens abroad.

Thus, the research framework illustrates that efforts to eradicate human trafficking must be accompanied by strengthening legal protection for Indonesian students abroad. This study is expected to provide an understanding and recommendations regarding the legal steps that need to be taken by the government to prevent similar cases in the future.

1.1 Framework Chart



CHAPTER II
RESEARCH METHOD

A. Research Types and Approaches

This type of research uses the normative legal research method.[33] Normative research is understood as research that aims to examine an applicable legal norm or provision. This research was conducted by reviewing literature or secondary data to find the principles, concepts, and legal rules that govern a particular issue.[34]

In addition, this study is also supported by empirical data in the form of documents as supporting material for analysis, without conducting field research. The empirical data is used in a limited manner to construct facts and clarify the context of the case, thereby helping to identify the gap between normative provisions (das sollen) and practice (das sein) in the protection of Indonesian students in work schemes or 'internships' that are disguised as academic activities. Within this framework, the author analyses the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol 2000) and its relationship with Indonesian national law, particularly Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons, to assess the challenges of implementation and the form of protection that should be provided.

This research is descriptive-analytical in nature, meaning that the author attempts to describe and explain the applicable legal

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[33] Kadarudin, S.H., M.H., CLA., 2021, Penelitian di Bidang Ilmu Hukum (Sebuah Pemahaman Awal), Semarang: Formaci, p. 154.

[34] Irwansyah, Legal Research: Method Selection and Article Writing Practices, (Yogyakarta: Mirra Buana Media, 2020), p. 42

rules while analysing their application in the German Ferienjob case, in which Indonesian students were victims of alleged human trafficking under the guise of a seasonal work programme. Using this method, the author seeks to identify any similarities, differences, and legal loopholes that may exist between international provisions and national law.

B. Types and Sources of Legal Materials

1. Primary Legal Materials

Primary legal materials are legal materials that have binding force, such as:

i. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol 2000);

ii. United Nations Convention against Transnational Organised Crime (UNTOC);

iii. Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims.

iv. Charter of Fundamental Rights of the European Union (2000), Article 5 paragraph (3).

v. Law No. 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons;

vi. Law No. 1 of 2006 on Mutual Assistance in Criminal Matters;

vii. Law No. 14 of 2009 concerning the Ratification of the Palermo Protocol;

viii. Ministry of Education, Culture, Research and Technology Regulation No. 63 of 2024 concerning the Implementation of Student Internships.

2. Secondary Legal Materials

Secondary legal materials are materials that provide explanations of primary legal materials, such as legal textbooks, scientific journals, previous research results, in Germany used as supporting secondary legal materials to strengthen analysis, reports from international organisations such as UNODC and ILO, and the views of relevant legal experts.

C. Legal Material Collection Techniques

The technique for collecting legal materials in this study was conducted through library research. The author searched through various legal literature and scientific sources related to the research topic, both in print and digital form. Data collection was carried out by reading, recording, and reviewing legal documents, international conventions, journals, and relevant academic books.[35]

The main source of legal material collection came from the Hasanuddin University Faculty of Law Library, which has a collection of national and international legal literature. In addition, the author also utilised online sources relevant to the research issue. Through these various sources, the author sought to obtain the latest and most relevant legal material for scientific analysis.

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[35] Amiruddin dan Zainal Asikin, 2006, Pengantar Metode Penelitian Hukum, Jakarta: Raja Grafindo Persada, hlm. 18.

D. Analysis of Legal Materials

The analysis of legal materials in this study uses a descriptive-qualitative method, which, according to Sugiyono, is a type of research that aims to describe data as it is and explain it through qualitative descriptions. The qualitative descriptive data analysis technique was carried out by developing a theory that emerged from the field findings, thereby producing an in-depth description of the object being studied. The legal materials, data, and documents obtained were then analysed through a process of discussion, examination, and categorisation into specific categories so that they could be processed into information that was relevant and useful for the study.[36] It also connects relevant national and international legal norms with cases of human trafficking in the Ferienjob programme in Germany. The analysis was conducted to assess the extent to which the 2000 Palermo Protocol has been implemented by Indonesia and Germany as signatory countries, as well as how it has been implemented in protecting Indonesian students who have become victims of exploitation under the guise of overseas internships

[36] Sugiono, 2005, Memahami Penelitian Kualitatif, Bandung: ALFABETA, hlm. 27