



Law Enforcement in Indonesia for the Prevention of Human Organ Trafficking from a Pancasila Perspective

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ABSTRACT

From the perspectives of human rights and Pancasila, this article presents a comprehensive analysis of illegal human organ trafficking as one of the most serious crimes against humanity in the contemporary global context. The illegal trade in human organs continues to expand alongside the increasing medical demand for organ transplantation, which is not proportional to the availability of legally obtained organs, thereby encouraging the commodification of the human body and the exploitation of vulnerable groups. From a human rights perspective, illegal human organ trafficking constitutes a serious violation of the right to life, the right to bodily integrity, personal liberty, and the prohibition of torture and cruel, inhuman, or degrading treatment. In positive law, this practice is strictly regulated and sanctioned under Law No. 1 of 2023 on the New Criminal Code, particularly Article 345 in conjunction with Article 79 paragraph (1) letters d and f, which note that perpetrators of organ or human tissue trafficking may face imprisonment of up to seven years and a maximum category VI fine of IDR 2 billion. In addition, the Health Law Article 33 paragraph (2), strengthened by Government Regulation No. 28 of 2024, affirms the obligation to protect the human body and prohibits the illegal exploitation of human organs. This article argues that illegal human organ trafficking must not be understood merely as a medical or criminal issue, but rather as a profound moral, ethical, and ideological crisis that directly contradicts Pancasila as the philosophical foundation of the state. Therefore, this study emphasizes the importance of firm law enforcement grounded in the values of Pancasila and human rights to ensure that the human body is not commodified, but instead respected as an integral expression of human dignity.

Keywords: Human Rights, Illegal Human Organ Trafficking, Pancasila, Criminal Law Policy, Law Enforcement, Health Regulation

INTRODUCTION

Illegal human organ trafficking constitutes one of the most serious forms of crimes against humanity in the context of medical globalization and human rights violations. This practice not

only threatens the right to life and the right to bodily integrity but also directly undermines human dignity as a fundamental value universally recognized. Human organs, which should be understood as integral parts of human existence, are instead reduced to illegal economic commodities, with the primary victims originating from socially and economically vulnerable and marginalized groups.

From a Pancasila perspective, illegal human organ trafficking fundamentally contradicts the core values that serve as the foundation of national and state life in Indonesia. The most evident violations are found in the First Principle, Belief in the One and Only God, and the Second Principle, Just and Civilized Humanity. The First Principle affirms that human beings are God's creation, possessing intrinsic value and the sanctity of life that cannot be commodified. Therefore, the commercialization of human body parts negates the recognition of spiritual values and the sacredness of human life itself. Meanwhile, the Second Principle demands humane, just, and civilized treatment of every individual, which is clearly violated when the human body is treated as an object of exploitation for economic gain.

Furthermore, illegal organ trafficking is inconsistent with the third principle, the Unity of Indonesia, as it encourages social fragmentation and deepens the gap between powerful groups and vulnerable communities. The fourth principle, which emphasizes deliberation and wisdom in decision-making, is disregarded because such practices occur outside legitimate legal and ethical mechanisms. In addition, the fifth principle, Social Justice for All People, is violated through structural injustice that positions poor and vulnerable populations as sources of organs, while economically advantaged groups become the primary beneficiaries.

From a human rights perspective, illegal human organ trafficking constitutes a serious violation of the right to life, the right to bodily integrity, personal liberty, and the prohibition of torture and cruel, inhuman, or degrading treatment. The Universal Declaration of Human Rights (1948) affirms that human rights are inherent from birth and cannot be revoked by anyone. Donnelly (2013) emphasizes that human rights violations do not occur solely through physical violence but also when individuals lose control over their own bodies. In the practice of illegal organ trafficking, consent is often not the product of genuine freedom but rather the result of economic pressure, social vulnerability, or coercive circumstances, thereby nullifying the principle of free and informed consent.

Under positive law, illegal organ trafficking is strictly regulated and sanctioned under Law No. 1 of 2023 concerning the New Criminal Code, particularly Article 345 in conjunction with Article 79 paragraph (1) letters d and f, which stipulates imprisonment of up to seven years and a maximum category VI fine of IDR 2 billion for perpetrators of organ or human tissue trafficking. In addition, Article 33 paragraph (2) of the Health Law, strengthened by Government Regulation No. 28 of 2024, affirms the obligation to protect the human body and prohibits the illegal exploitation of human organs.

Previous studies have tended to focus on the criminal aspects or the positive legal regulation of organ trafficking without fully integrating philosophical perspectives and the foundational values of the state. In fact, Pancasila, the philosophical foundation of Indonesia, provides a strong ethical and normative framework to assess this practice as a form of dehumanization

that cannot be justified. Therefore, this study aims to analyze illegal human organ trafficking from a Pancasila perspective by integrating human rights values to affirm that the protection of the human body constitutes a concrete manifestation of respect for human dignity.

This study is expected to emerge with a more comprehensive and humane understanding of the relationship between law, ethics, and Pancasila values in addressing illegal human organ trafficking. This research is not only relevant for the development of legal scholarship and health policy but also provides a normative contribution to law enforcement efforts grounded in the values of humanity and social justice.

METHOD

This study employs a normative-juridical approach (doctrinal legal research) combined with conceptual and normative-philosophical approaches. The primary focus of the research is to analyze the practice of illegal human organ trafficking through the framework of Pancasila values as the philosophical foundation of the state and human rights principles as universal moral standards.

The conceptual approach is used to examine the meaning of human dignity, the sanctity of life, and social justice as reflected in the five principles of Pancasila, particularly the first and second principles. This approach positions human beings as dignified subjects who cannot be reduced to instruments or commodities. Thus, Pancasila is viewed not only as a source of values but also as a normative benchmark for assessing the moral and legal legitimacy of illegal organ trafficking practices.

This research is qualitative in nature, using a descriptive-analytical method and relying primarily on secondary data sources. Primary legal materials included Law No. 1 of 2023 concerning the new criminal code, particularly Article 345 in conjunction with Article 79 paragraph (1) letters d and f, which imposes penalties of up to seven years' imprisonment and a maximum category VI fine of IDR 2 billion for perpetrators of human organ or tissue trafficking; Article 33 paragraph (2) of the Health Law, strengthened by Government Regulation No. 28 of 2024; as well as the *Universal Declaration of Human Rights* (1948), the *International Covenant on Civil and Political Rights* (1966), and the *Palermo Protocol* (2000). Secondary legal materials consisted of books on Pancasila, human rights literature, academic journals by Donnelly and Caplan, and relevant reports from international institutions. Tertiary legal materials included legal encyclopedias, scholarly articles, and publications from credible media sources.

Data collection techniques were conducted through library research and analysis of legal documents. The data were analyzed qualitatively and interpretively using a deductive method by assessing illegal organ trafficking practices as violations of the right to life and human dignity that contradict Pancasila values. The analysis was carried out through content analysis of national and international legal norms as well as human rights literature to demonstrate that illegal organ trafficking is not merely a legal violation but also a denial of the humanitarian values that constitute the moral foundation of a just legal system.

RESULTS AND DISCUSSION

For decades, international law has sought to suppress the practice of illegal human organ trafficking through the establishment of firm legal norms and instruments. Through the *Palermo Protocol* (United Nations, 2000), the United Nations classifies human organ trafficking as part of the crime of trafficking in persons, which constitutes a serious violation of international law. In addition, the *World Health Organization* (WHO, 2010) emphasizes that organ donation and transplantation systems must be based on principles of ethics, transparency, accountability, and free and informed consent.

Although many countries have adopted policies prohibiting the commercialization of human organs, illegal practices persist owing to weak oversight, corruption, lack of transparency, and the high economic value of human organs (Ambagtsheer & Weimar, 2016; Rosen, 2019). This indicates that the problem of organ trafficking is not merely related to gaps in normative law but also reflects a moral and value crisis within global legal and health governance systems.

From a human rights perspective, any act that harms and degrades human dignity, including the exploitation of the human body for the benefit of others, constitutes a violation of non-derogable rights, particularly the right to life and the right to bodily integrity (Nowak, 2012; Donnelly, 2013; Ziegler, 2018). Therefore, illegal human organ trafficking is not simply a medical or criminal issue but a fundamental violation of humanitarian values, as guaranteed in the *Universal Declaration of Human Rights* (United Nations, 1948) and the *International Covenant on Civil and Political Rights* (United Nations, 1966).

In Indonesia, the practice of illegal organ trafficking is regulated and strictly sanctioned under Law No. 1 of 2023 concerning the new Criminal Code, particularly Article 345 in conjunction with Article 79 paragraph (1) letters d and f, which threatens perpetrators of trafficking in human organs or tissues with imprisonment of up to seven years and a maximum category VI fine of IDR 2 billion. In addition, Article 33 paragraph (2) of the Health Law, strengthened through Government Regulation No. 28 of 2024, affirms the state's obligation to protect the human body and prohibit illegal organ exploitation. These provisions strengthen the position of national law in effectively addressing organ trafficking practices in line with the principles of human rights protection and the values of Pancasila.

Examined through the values of Pancasila, illegal organ trafficking substantively contradicts all five of its principles. The First Principle affirms that human life and the human body are gifts from the Almighty God, possessing sanctity and intrinsic value. Illegal organ trafficking transforms the human body into an economic commodity, thereby erasing respect for life as a divine creation.

The most evident violation resulting from illegal organ trafficking is reflected in the second principle, *Just and Civilized Humanity*. The exploitation of the human body, particularly targeting vulnerable groups, constitutes a form of extreme dehumanization that negates human dignity. This practice treats human beings as instruments or means for the interests of others and demonstrates substantive injustice.

Illegal organ trafficking also creates social inequality, erodes solidarity, and undermines collective unity, thus contradicting the third principle. Practices that develop within closed

governance systems with minimal public participation are inconsistent with the principles of democracy and deliberation reflected in the fourth principle. Meanwhile, structural injustice that positions poor communities as sources of organs and wealthy groups as primary beneficiaries indicates a violation of the fifth principle, *Social Justice for All Indonesian People*.

Constitutionally, Pancasila and national law position human life as a dignified subject that must be protected. The practice of illegal human organ trafficking contradicts the moral and spiritual foundations of the Indonesian nation and violates the state's obligation to guarantee legal protection and the welfare of all citizens (Articles 28A and 28G of the 1945 Constitution). Thus, within the framework of a rule-of-law state grounded in Pancasila, the practice of illegal human organ trafficking cannot be tolerated. The state is obligated to prohibit such practices normatively and ensure that legal systems, health policies, and medical oversight operate in harmony with the values of divinity, humanity, and justice. The protection of the human body and human life constitutes a concrete manifestation of the state's responsibility to establish a legal order that is just, civilized, and dignified in accordance with Indonesia's national identity (Beauchamp & Childress, 2019; Caplan, 2020; Ambagtsheer & Weimar, 2016; Rosen, 2019; United Nations, 1948; United Nations, 1966).

Conclusion

This study affirms that illegal human organ trafficking, including transnational practices, constitutes a serious violation of human rights and the values of Pancasila. Such practices cannot be understood merely as issues of cross-border crime, administrative violations, or failures of medical governance, but rather reflect a profound normative and moral crisis within legal and governance systems at both the national and global levels. In this context, international law often fails to balance the dominance of economic logic, political interests, and claims of state sovereignty, resulting in human dignity not being upheld as the highest non-negotiable value.

Based on international legal instruments, illegal organ trafficking clearly violates non-derogable rights, particularly the right to life and the right to bodily integrity, as guaranteed in the UDHR (United Nations, 1948), ICCPR (United Nations, 1966), and the Palermo Protocol (United Nations, 2000). Various reports and official communications from United Nations human rights mechanisms indicate the existence of forced organ harvesting practices targeting vulnerable and minority groups (Amnesty International, 2017; OHCHR, 2021; UNHRC, 2022). Such practices not only violate positive international law but may also be classified as gross human rights violations and crimes against humanity.

From the perspective of Pancasila, illegal organ trafficking fundamentally contradicts all five of its principles. The most profound violations are reflected in the first two principles, namely, *Belief in the Almighty God*, which upholds the sanctity of human life as a divine gift, and the Second Principle *Just and Civilized Humanity*, which affirms humans as dignified subjects rather than objects of exploitation. The structural inequalities inherent in these practices also conflict with the value of unity (third principle), democratic principles requiring wisdom and moral responsibility in public policymaking (fourth principle), and the fifth principle, *Social Justice for All Indonesian People*, because the suffering of vulnerable groups becomes a prerequisite for the

survival and welfare of economically powerful groups. This phenomenon demonstrates the absence of social justice in global health governance.

Within the context of national law, the Indonesian state has established firm sanctions against human organ trafficking practices. Law No. 1 of 2023 on the Criminal Code, Article 345 in conjunction with Article 79 paragraph (1) letters d and f, threatens perpetrators of organ or human tissue trafficking with imprisonment of up to seven years and a maximum category VI fine of IDR 2 billion. In addition, Article 33 paragraph (2) of the Health Law, strengthened by Government Regulation No. 28 of 2024, affirms the state's obligation to protect human organs and prohibit illegal exploitation. This legal framework serves as an important instrument for prevention, supervision, and law enforcement to ensure that human dignity is consistently safeguarded.

Therefore, preventing illegal human organ trafficking requires a paradigm shift from mere procedural compliance toward moral and substantive accountability in law enforcement and public policymaking. Placing human dignity at the center of legal orientation ensures that law functions not only as an administrative or technical instrument but also as a guardian of humanitarian values and civilization amid increasingly complex global challenges. The protection of the human body and human life constitutes a concrete manifestation of the state's responsibility to establish a legal order that is just, civilized, and dignified in accordance with Indonesia's national identity.

REFERENCES

- Ambagtsheer, F., & Weimar, W. (2016). *A criminological perspective on organ trafficking*. Springer.
- Amnesty International. (2017). *China: End the use of organs from prisoners*. Amnesty International.
- Beauchamp, T. L., & Childress, J. F. (2019). *Principles of biomedical ethics* (8th ed.). Oxford University Press.
- Caplan, A. L. (2020). *The ethics of organ transplants: The current debate*. Georgetown University Press.
- Creswell, J. W., & Creswell, J. D. (2018). *Research design: Qualitative, quantitative, and mixed methods approaches* (5th ed.). SAGE Publications.
- Donnelly, J. (2013). *Universal human rights in theory and practice* (3rd ed.). Cornell University Press.
- Nowak, M. (2012). *Introduction to the international human rights regime*. Martinus Nijhoff Publishers.
- Rosen, B. (2019). China's organ transplant reform: Progress and challenges. *Asian Bioethics Review*, 11(3), 235–249.
- United Nations Human Rights Council. (2021). *Press release on organ harvesting allegations in China*. United Nations.
- United Nations Office on Drugs and Crime. (2020). *Global report on trafficking in persons*. United Nations.
- United Nations. (1948). *Universal Declaration of Human Rights*. United Nations General Assembly.

- United Nations. (1966). *International Covenant on Civil and Political Rights*. United Nations.
- United Nations Office on Drugs and Crime. (2000). *Protocol to prevent, suppress and punish trafficking in persons, especially women and children (Palermo Protocol)*. United Nations.
- World Health Organization. (2010). *Guiding principles on human cell, tissue, and organ transplantation*. WHO Press.
- Yin, R. K. (2018). *Case study research and applications: Design and methods* (6th ed.). SAGE Publications.
- Ziegler, K. S. (2018). *Human rights and international law: Legal and ethical perspectives*. Cambridge University Press.
- Office of the United Nations High Commissioner for Human Rights (OHCHR). (2021). *China: UN human rights experts alarmed by 'organ harvesting' allegations*. United Nations.
- United Nations Human Rights Council. (2022, April). *Joint letter from 65 civil society organisations to UN Special Rapporteurs on forced organ harvesting in China*. United Nations.
- Republic of Indonesia. (2023). *Law Number 1 of 2023 concerning the Criminal Code*.
- Republic of Indonesia. *Health Law* (Article 33 paragraph 2).
- Republic of Indonesia. (2024). *Government Regulation Number 28 of 2024 concerning Implementing Regulations in the Health Sector*.