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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Baby Trafficking as a Form of Human Trafficking in Indonesia

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Abstract. *Baby trafficking is a form of transnational organized crime (organized crime) that is complex and radically reduces human rights. This practice shifts the position of children from legal subjects who hold absolute rights to objects of economic commodification for financial gain. This study aims to analyze the legal regulations regarding baby trafficking in the Indonesian legal system, examine the forms of criminal liability of perpetrators, and analyze legal protection efforts for children as victims. The research method used is normative legal research with a statute approach, conceptual approach, and case approach. The technique of collecting legal materials is carried out through literature studies analyzed qualitatively using descriptive-analytical methods. The results of the study indicate that baby trafficking has substantially fulfilled the material elements of a crime in Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (UU TPPO), which includes the elements of action (act), the element of means (abuse of vulnerability), and the element of purpose (purpose) of economic exploitation. Despite adequate regulations, substantial gaps in law enforcement have been identified due to inconsistent application of the rules, weaknesses in the evidentiary system, and a suboptimal legal protection framework and holistic remedies for child victims. Therefore, comprehensive reconstruction of criminal law formulation and reform of population administration law centered on human dignity are necessary.*

Keywords: *Dignity; Humanity; Law; Protection; Trade.*

1. Introduction

Human trafficking is a complex and organized transnational crime. One form of it is baby trafficking, which is carried out through various methods, such as illegal adoption, document forgery, and even recruiting pregnant women to hand over their babies to certain parties in exchange for money. This phenomenon demonstrates that babies, as the most vulnerable group, are often victims of exploitation and trafficking carried out systematically by certain

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networks.¹Baby trafficking is a form of human trafficking that is not only a criminal offense but also a serious violation of human rights. Babies, who should receive protection from birth, are instead used as objects of transactions for economic gain. This practice deprives children of their right to life, growth, development, and protection from all forms of violence and discrimination. Therefore, baby trafficking cannot be viewed as an ordinary crime, but rather as a crime that threatens human dignity and the future of the nation's generations.²Children, who should receive protection from the state, are instead positioned as objects of transactions, bought and sold for economic gain. This situation demonstrates that baby trafficking is not only a violation of criminal law but also a form of human exploitation that demeans the dignity and worth of children as legal subjects.³

The phenomenon of baby trafficking in Indonesia demonstrates that children remain a highly vulnerable group to various forms of exploitation. In practice, baby trafficking involves various methods, including selling by biological parents for economic reasons, using intermediaries to seek financial gain, using intermediaries to find potential buyers, and even organized networks that exploit loopholes in the population administration and child adoption systems.⁴This condition shows that baby trafficking is no longer seen as an ordinary crime, but rather as a criminal act of human trafficking that requires comprehensive handling.⁵

Normatively, Indonesia already has legal instruments to address human trafficking through Law No. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking. However, various uncovered cases demonstrate that the implementation of this regulation still faces various obstacles, both in terms of law enforcement, evidence collection, and protection of child victims.⁶However, various studies have shown that there are still obstacles in implementing these regulations, particularly regarding the consistency of law enforcement, the effectiveness of criminal penalties, and optimizing victim protection. Consequently, the existence of adequate

¹Moh. Hatta, *The Crime of Human Trafficking in Theory and Practice*, Liberty, Yogyakarta, 2012, pp. 25-30.

²R. Triana, *Sale of Babies by Biological Mothers in the Perspective of Criminal Law and Human Rights*, *International Journal of Science and Humanities*, 2026, pp. 132-145.

³Virginia Lembong, *The Crime of Human Trafficking Based on Law Number 21 of 2007*, *Lex Administratum*, Vol. 13, No. 4, 2025, pp. 2-3.

⁴Juandi, Endang Prasetyawati and Intan Nurina Seftiniara, *Legal Protection for Child Victims of Human Trafficking*, *Jurnal Prisma Hukum*, Vol. 6, No. 1, 2026, pp. 55-57.

⁵Rahmat Sutiyono, *Analysis of the Effectiveness of Criminalization of Perpetrators of Human Trafficking Crimes*, *Jurnal Dimensi Hukum*, Vol. 8, No. 1, pp. 42-44.

⁶Devina Marella and Victor Imanuel Williamson Nalle, *Inconsistencies in the Application of the Law on the Crime of Human Trafficking and the Law on the Protection of Indonesian Migrant Workers in Handling the Crime of Human Trafficking*, *Journal of Legal Research*, Vol. 5, No. 4, 2025, pp. 601-604.

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regulations has not been able to fully suppress human trafficking, including baby trafficking.⁷Based on this background, this research is crucial, considering that baby trafficking is a form of human trafficking that has serious implications for child protection and the enforcement of human rights. Therefore, this study aims to analyze the legal provisions regarding baby trafficking in the Indonesian legal system, examine the forms of criminal liability for perpetrators of baby trafficking, and analyze the legal protection measures provided to child victims of human trafficking. Therefore, this research is expected to provide both theoretical and practical contributions to efforts to eradicate baby trafficking in Indonesia.

2. Research methods

The research method used in this study is normative legal research. Normative legal research is research that positions law as a system of norms encompassing legal principles, legal norms, legal rules, and applicable laws and regulations. The approaches used include the statute approach, the conceptual approach, and the case approach. The legal sources used consist of primary, secondary, and tertiary legal materials. Primary legal materials consist of laws and regulations and court decisions. Secondary legal materials include scientific journals, research results, and scientific works relevant to the research object. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other sources supporting the research. The legal material was collected through library research. The obtained legal material was then analyzed qualitatively using descriptive-analytical methods to obtain legal arguments regarding baby trafficking as a form of human trafficking in Indonesia.

3. Results and Discussion

3.1. Baby Trafficking as a Form of Human Trafficking Crime from an Indonesian Legal Perspective

Baby trafficking is a special form of human trafficking crime that places babies as objects of transactions to obtain economic benefits or other purposes that are against the law.⁸From a criminal law perspective, baby trafficking is not only understood as the act of selling or transferring a child, but also as a form of exploitation that robs children of their basic rights as human beings who have dignity and status that must be protected by the state.⁹Conceptually, baby trafficking is a subset of child trafficking, while child trafficking is a form of human

⁷Devina Marella, Ibid, pp. 610-612.

⁸Ernita Harefa, Protection of Victims of Human Trafficking in Indonesia from the Perspective of International Human Rights Law, Jurnal Hukum Justice, Vol. 1, No. 2, 2026, p. 106.

⁹Ernita Harefa, Ibid, p. 107.

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trafficking. Baby trafficking can be understood as any act aimed at transferring, handing over, receiving, or controlling a baby through a specific transaction in exchange for money, goods, services, or other benefits. In practice, baby trafficking is often carried out through various methods, such as direct sale by biological parents for economic reasons, intermediary third parties, and abuse of protection for mothers and children.¹⁰

According to Maidin Gultom, children are a trust and a gift from God Almighty, possessing the dignity and worth of a full human being. Therefore, every child must receive legal protection from conception until adulthood. This protection includes protection against all forms of exploitation, violence, neglect, kidnapping, and child trafficking. This view demonstrates that baby trafficking is not only a violation of criminal law but also a violation of fundamental rights.¹¹

Under Indonesian positive law, baby trafficking can be analyzed based on the elements of the crime of human trafficking as stipulated in Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking. These elements consist of the act, the method, and the purpose. These three elements serve as the basis for determining whether an act can be classified as a crime of human trafficking.¹² The act element includes the recruitment, transportation, harboring, sending, transfer, or receipt of a person. In the context of baby trafficking, this element is fulfilled when the baby is handed over or transferred from one party to another. Meanwhile, the means element can include fraud, abuse of a vulnerable position, or the payment of money to a party with control over the victim. The purpose element is evident in the economic gain obtained by the perpetrator through the baby sale transaction. Thus, baby trafficking substantially fulfills the elements of the crime of human trafficking as defined in the Human Trafficking Law.¹³

From a criminal law perspective, baby trafficking is characterized as a crime that violates more than one legal interest. On the one hand, this act violates the individual rights of infants as victims by depriving them of their right to be cared for by their families and to receive protection as guaranteed by the constitution. On the other hand, baby trafficking also disrupts public order because it is carried out through criminal networks that exploit social, economic, and administrative weaknesses. Barda Nawawi Arief stated that criminal law policy essentially aims

¹⁰Juandi, Endang Prasetyawati and Intan Nurina Seftiniara, Legal Protection for Victims and Children of Human Trafficking Crimes, *Jurnal Prisma Hukum*, Vol. 10, No. 1, 2026, pp. 55-58.

¹¹Barda Nawawi, Problems of Law Enforcement and Criminal Law Policy in Crime Prevention, Kencana, Jakarta, 2008, pp. 73-80.

¹²Ineu Marta Sundawa, Law Enforcement Against Perpetrators of Human Trafficking in Indonesia, *Samudra Keadilan Law Journal*, Vol. 21, No. 1, 2026, pp. 184-188.

¹³Ineu Marta Sundawa, *Ibid.*, pp. 188-1991.

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to provide protection to society (social defense) while simultaneously realizing social welfare. Therefore, combating baby trafficking cannot be done solely through criminalizing perpetrators, but must also be accompanied by preventive efforts such as strengthening the child protection system, monitoring the adoption process, improving family welfare, and synergy between law enforcement agencies.¹⁴

In addition to being regulated in Law Number 21 of 2007, baby trafficking is also specifically regulated in Law Number 35 of 2014 concerning Child Protection. Article 76F expressly prohibits anyone from placing, allowing, committing, ordering, or participating in the kidnapping, sale, and/or trafficking of children.¹⁵ This demonstrates that baby trafficking is not only a violation of criminal law, but also a violation of human rights and the principle of the best interests of the child. As modus operandi become increasingly complex and take advantage of technological advances and socio-economic conditions, law enforcement is needed that is not solely oriented toward improving coordination between law enforcement and child protection agencies. Therefore, strengthening regulations and implementing legal policies are crucial factors in realizing an effective child protection system while ensuring the eradication of human trafficking in Indonesia.¹⁶

3.2. Strengthening Criminal Law Policy in Preventing and Eradicating Baby Trafficking in Indonesia

Baby trafficking is a form of human trafficking characterized as an organized crime and directly impacts human rights violations, particularly children's rights. The evolving modus operandi of baby trafficking, which involves intermediary networks, falsified population documents, abuse of adoption mechanisms, and the use of social media as a means of transaction, demonstrates that this crime is no longer simply committed, but rather evolves in response to social changes and technological advances. This situation necessitates the establishment of criminal law policies that are not solely focused on imposing penalties on perpetrators but also on preventing criminal acts through the establishment of adaptive regulations, institutional strengthening, and increased effectiveness.¹⁷

¹⁴Barda Nawawi, *Anthology of Criminal Law Policy*, Kencana, Jakarta, 2010, pp. 23-41.

¹⁵Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Article 76F

¹⁶Mar'ie Muhammad, Hambali Thalib and Salle, *Criminal Law Enforcement in the Suppression of the Crime of Human Trafficking*, *Al-Ishlah: Jurnal Ilmiah Hukum*, Vol. 29, No. 1, 2026, pp. 1-16.

¹⁷Alfiandi Wisudawansyah and Asri Vivi Yanti Sinurat, *Reformulation of Criminal Law Policy on Human Trafficking as an Extraordinary Crime*, *Journal of Science and Social Research*, Vol. 9, No. 3, 2026.

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Strengthening criminal law policy needs to be done in the legislative aspect. Existing regulations essentially prohibit and impose criminal penalties on human trafficking perpetrators, but they do not specifically address the infant trafficking modus operandi, which is developing through illegal shelters, certain maternity clinics, or the use of false identities in civil registration processes. Therefore, criminal law policy reform needs to be directed at refining norms that can anticipate various new methods, including strengthening criminal liability for corporations, foundations, health workers, and other parties who intentionally facilitate infant trafficking.¹⁸ In addition to reforms in formulation, strengthening criminal law policy must also be carried out at the application stage (judicial policy). The effectiveness of eradicating baby trafficking is greatly influenced by the professionalism of law enforcement officers in identifying the elements of human trafficking crimes and their ability to build effective coordination between the police, prosecutors, courts, child protection agencies, and relevant government agencies. Consistent law enforcement will provide legal certainty while increasing the deterrent effect on perpetrators, thus optimally achieving the goal of eradicating human trafficking.¹⁹

In addition to the penal approach, strengthening criminal law policies must also be supported by non-penal policies as part of crime prevention efforts. Barda Nawawi Arief stated that crime prevention cannot be achieved solely through criminal means but must be supported by social policies that can eliminate the factors that cause crime. In the context of baby trafficking, these policies can be realized through improving community welfare, monitoring child adoption processes, increasing legal education for the public, strengthening population administration systems, and monitoring the use of information technology that has the potential to be exploited as a medium for baby trafficking. This approach is expected to reduce the factors that encourage baby trafficking while strengthening protection for children as the group most vulnerable to becoming victims.²⁰

Based on this description, strengthening criminal law policies to prevent and eradicate baby trafficking must be implemented through regulatory reform, strengthening law enforcement institutions, improving inter-agency coordination, and integrating penal and non-penal policies. This approach will create a criminal law system that is not solely focused on punishing

¹⁸Ramadhani Triana, Diana Lukita Sari and Anita Zulfiani, Sale of Babies by Biological Mothers in Criminal Law Perspective, Indonesian Journal of Social Sciences and Humanities, Vol. 6, No. 1, 2026.

¹⁹Yogi Hidayat et al., Criminal Responsibility of Perpetrators of Human Trafficking Crimes from an International Law Perspective and Its Implementation in Indonesia, Journal Equitable, Vol. 11, No. 1, 2026.

²⁰Barda Nawawi, Problems of Law Enforcement and Criminal Law Policy in Crime Prevention, Kencana, Jakarta, 2008.

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perpetrators but also ensures the protection of children's rights and effectively eradicates baby trafficking as a form of human trafficking in Indonesia.²¹

4. Conclusion

Baby trafficking in the Indonesian legal system is not simply a violation of conventional criminal law, but rather a manifestation of complex transnational organized crime that radically reduces human rights. This practice shifts the position of children from legal subjects holding absolute rights (inherent rights) to objects of economic commodification through various systematic modus operandi, such as exploiting the vulnerability of pregnant women, illegal adoption, and manipulation of population administration. Through a statutory approach (statute approach), conceptual approach (conceptual approach), and case approach (case approach), legal dogmatic analysis shows that baby trafficking has substantially fulfilled the material elements of a crime in Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (UU TPPO). This fulfillment includes the element of action (act) in the form of recruitment and transfer of babies, the element of means (means) in the form of abuse of vulnerability of biological parents due to economic factors, and the element of purpose (purpose) oriented purely to capitalize on illegal economic gain (economic exploitation). Although Indonesia has adequate legal substance through the Anti-Trafficking Law, this study identifies substantial gaps in legal structure and culture. Law enforcement in the field still faces obstacles such as inconsistent regulatory implementation, weaknesses in the evidentiary system, and a less than optimal framework for legal protection and holistic remedies for child victims. Therefore, this study emphasizes the need for a reconstruction of criminal law formulation policies and strengthening aspects of criminal accountability that are oriented towards early child protection, so that the prevention of this crime does not only focus on repressive policies, but also on reforming population administration law that is centered on human dignity.

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²¹Farhana, Responsive Legal Approach to Criminalizing Human Trafficking Crimes, Assofa, 2022

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