

LICS 2026

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

Medico-Legal Protection of Women and Children Against Human Organ Trafficking in Indonesia

M. Arief M¹⁾ & Anis Mashdurohatun²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, ariefm@gmail.com

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, anism@unissula.ac.id

Abstract. *This study aims to analyze the legal protection of women and children against human organ trafficking in Indonesia and to formulate a strengthened, victim-centred approach that integrates medico-legal practice and the maqāṣid al-sharī'ah (objectives of Islamic law) framework. A normative legal method was employed, combining statutory, conceptual, and comparative approaches based on secondary legal materials, namely primary legal sources and peer-reviewed journals. The findings show that Indonesia regulates organ trafficking through several overlapping instruments—the Anti-Trafficking Law (Law No. 21 of 2007), the Health Law (Law No. 17 of 2023), and the new Criminal Code (Law No. 1 of 2023)—yet none establishes organ trafficking as a distinct offence, and victim restitution as well as the medico-legal contribution remain underutilised. Women and children, who are structurally the most vulnerable, are inadequately protected because forensic evidence such as visum et repertum is not optimally integrated into prosecution, and protection is still offender-centred rather than victim-centred. The study concludes that harmonising criminal, health, and procedural law, strengthening the role of forensic medicine, and embedding the value of ḥifẓ al-naḥs (protection of life) can produce a more humane and effective protective framework.*

Keywords: *Legal; Medico; Protection; Restitution; Trafficking.*

1. Introduction

Human trafficking is a complex transnational organised crime that crosses jurisdictional boundaries and reflects a systemic failure to enforce human rights. It is not an ordinary crime but a humanitarian crisis that damages the social, economic, and moral order of a nation, and

LICS 2026

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

women and children consistently constitute the demographic most frequently victimised.¹ Among its gravest forms is the trafficking of human organs, which is driven by structural vulnerability, gender inequality, poverty, and forced migration that criminal networks exploit.

Indonesia has built a relatively strong legal framework against trafficking through Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons and the ratification of the Palermo Protocol through Law Number 14 of 2009. Nevertheless, implementation still faces obstacles in digital evidence, inter-agency coordination, and the granting of restitution, so that the restoration of victims' rights remains incomplete.²

With respect to organs specifically, the new Health Law expressly prohibits any commercialisation of human organs and tissues. Article 124 paragraph (3) of Law Number 17 of 2023 forbids the trade of organs, while Article 432 paragraph (2) imposes criminal sanctions of up to seven years' imprisonment or a fine of two billion rupiah on those involved in such trade.³ These provisions are reinforced by Articles 345 and 346 of the new Criminal Code, so that the special health law may set aside the general criminal provisions under the principle of *lex specialis derogat legi generali*.⁴

Because organ trafficking is inseparable from medical acts, the role of physicians and forensic medicine is decisive. Forensic examination, especially the *visum et repertum*, plays a central part in revealing material truth in cases of exploitation and sexual violence, particularly where direct witnesses or other evidence are absent.⁵ A doctor with legal competence therefore occupies a strategic position at the intersection of medicine and law in protecting trafficking victims.

Despite this framework, a significant gap remains between normative ideals and practical reality. National criminal law has not yet established organ trafficking as a distinct and comprehensive offence, leaving the regulation general and scattered, so that adaptive and just

¹ Hidayatullah and Melisa, "Fenomena Kejahatan Perdagangan Manusia," *Al-Manhaj: Jurnal Hukum dan Pranata Sosial Islam*, Vol. 4 No. 2 (2022), p. 1185, <https://doi.org/10.37680/almanhaj.v4i2.1630>.

² Nining Indah Tri Safitri, Mahrus Ali, and Wafda Aafiya Hidayat, "Perlindungan Hukum Bagi Korban Tindak Pidana Human Trafficking di Indonesia," *Hakim: Jurnal Hukum*, Vol. 5 No. 2 (2024), p. 12, <https://doi.org/10.54209/judge.v5i02.685>.

³ Taufik Aziz, Efrila, and Tomi Agustian Suswantoro, "Analisis Yuridis Transplantasi Organ Ditinjau dari Perspektif Undang-Undang No 17 Tahun 2023 tentang Kesehatan," *SENTRI: Jurnal Riset Ilmiah*, Vol. 4 No. 8 (2025), p. 1324, <https://doi.org/10.55681/sentri.v4i8.4382>.

⁴ *Ibid.*, p. 1325.

⁵ Wahyu Hidayati Dwi Palupi and Arista Candra Irawati, "Peran Kedokteran Forensik dalam Pengungkapan Kasus Tindak Pidana Kekerasan Seksual," *Jurnal Pengabdian Masyarakat dan Riset Pendidikan*, Vol. 4 No. 2 (2025), p. 8185, <https://doi.org/10.31004/jerkin.v4i2.3169>.

LICS 2026

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

legal reform is required.⁶ The protective orientation likewise remains focused on punishing offenders rather than restoring victims, which weakens the position of women and children as the parties most harmed.

As an Islamic university initiative, this study also draws on the objectives of Islamic law. The *maqāṣid al-sharī'ah* place the protection of life (*hifẓ al-naḥs*) among the five essential values, so that organ trafficking, which endangers life and human dignity, is gravely prohibited and demands the strongest protection.⁷

Empirically, Indonesia simultaneously functions as a country of origin, transit, and destination for trafficking, which makes the population of women and children continuously exposed to recruitment networks operating across provinces and national borders. Within this landscape, organ trafficking is among the most concealed forms of exploitation because it is wrapped in seemingly legitimate medical procedures, so that victims are frequently unaware that the removal of their organs constitutes a serious crime rather than a voluntary donation. The clandestine character of the offence, combined with the limited integration of medical evidence into the criminal process, causes many cases to remain undetected and unprosecuted, while victims bear irreversible physical and psychological harm.⁸

This study therefore positions the physician who also possesses legal competence as a key actor, and seeks to demonstrate that protecting women and children requires more than punishing offenders; it requires a framework in which medical knowledge, criminal law, and ethical-religious values operate together. By combining a medico-legal perspective with the objectives of Islamic law, this paper offers a contribution that is both technically grounded in forensic practice and normatively anchored in the protection of human life and dignity.⁹

Based on the foregoing, this study aims to analyse the legal protection of women and children against human organ trafficking in Indonesia and to formulate an integrated medico-legal and *maqāṣid al-sharī'ah* approach that strengthens victim-centred protection.

⁶ Abd. Mukhsin, "Reformasi Kebijakan Pidana dalam Penanggulangan Perdagangan Organ Manusia: Kajian Komparatif Hukum Positif dan Hukum Pidana Islam," *Nomos: Jurnal Penelitian Ilmu Hukum*, Vol. 5 No. 4 (2025), p. 821, <https://doi.org/10.56393/nomos.v5i4.3575>.

⁷ Yulies Tiena Masriani, "Regulasi Penyaluran Harta Wakaf dan Hibah: Analisis Komprehensif dalam Perspektif Maqashid Syariah," *TAHKIM: Jurnal Peradaban dan Hukum Islam*, Vol. 8 No. 2 (2025), p. 12, <https://doi.org/10.29313/tahkim.v8i2.8040>.

⁸ Nining Indah Tri Safitri, Mahrus Ali, and Wafda Aafiya Hidayat, *Op.Cit.*, p. 13.

⁹ Abd. Mukhsin, *Op.Cit.*, p. 820.

LICS 2026

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

2. Research Methods

This research applies a normative legal method (*yuridis normatif*) that examines legal norms, principles, and doctrines relevant to the protection of women and children against organ trafficking. Three approaches are combined: the statutory approach, the conceptual approach, and the comparative approach between national positive law and Islamic law.¹⁰ Primary legal materials consist of the relevant statutes, while secondary legal materials comprise peer-reviewed journal articles and authoritative legal literature. The materials are collected through documentary study and analysed qualitatively and descriptively to answer the research problem.

3. Results and Discussion

3.1. The Legal Framework Protecting Women and Children Against Organ Trafficking in Indonesia

Indonesian law addresses organ trafficking through several instruments that operate at once. The Anti-Trafficking Law defines trafficking broadly to include the recruitment, transport, harbouring, or receipt of a person through coercion, fraud, abuse of power, or a position of vulnerability for the purpose of exploitation, and it expressly recognises the removal of organs as a form of exploitation. The law also guarantees victims the right to restitution, yet in practice the granting of restitution remains far from optimal.¹¹

The Health Law strengthens this protection from the medical side. Article 124 paragraph (3) of Law Number 17 of 2023 strictly prohibits any commercialisation of organs or tissues except on lawful grounds.¹² The prohibition is supported by penal provisions, and because the Health Law is the more specific statute, it may prevail over the general provisions of the Criminal Code in matters concerning the trade of organs. This layered arrangement signals the seriousness with which the state treats organ exploitation.

The new Criminal Code, namely Law Number 1 of 2023 which took effect on 2 January 2026, also contains provisions relevant to the trade of organs. However, these provisions remain general and do not yet treat organ trafficking as an independent offence with its own elements and aggravated sanctions, so that the criminalisation of this conduct still depends on the

¹⁰ Peter Mahmud Marzuki, 2017, *Penelitian Hukum: Edisi Revisi*, Kencana, Jakarta, p. 133.

¹¹ Safitri, Ali, and Hidayat, *Op.Cit.*, p. 14.

¹² Aziz, Efrila, and Suswantoro, *Op.Cit.*, p. 1326.

LICS 2026

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

interplay of several statutes.¹³ The absence of a single, dedicated norm creates uncertainty as to which instrument applies and how the elements of the offence are to be proven.

For women and children, this protection is reinforced by specific legislation. Law Number 35 of 2014 on Child Protection obliges the state and society to protect children from exploitation, including the sale of organs, while Law Number 12 of 2022 on the Crime of Sexual Violence and the ratifications of CEDAW and the Convention on the Rights of the Child provide further guarantees against gender-based and child-targeted exploitation. Taken together, these instruments form a protective umbrella, but their effectiveness depends on coherent enforcement.

The principal weakness, therefore, is not the absence of norms but their fragmentation and overlap. Because organ trafficking is dispersed across the Anti-Trafficking Law, the Health Law, and the Criminal Code without a unifying definition, prosecutors face difficulty in selecting the appropriate charge, and victims—overwhelmingly women and children—struggle to obtain restitution and rehabilitation. Comparative study with Islamic criminal law shows that the latter places the protection of life at the very centre of its objectives, which offers a normative anchor for reform.¹⁴

A closer reading of the Anti-Trafficking Law reveals that the offence is constructed from three cumulative elements, namely the act, the means, and the purpose of exploitation, as set out in Article 1 and Article 2 of Law Number 21 of 2007.¹⁵ The act covers recruitment, transport, harbouring, or receipt of a person; the means include threats, coercion, fraud, abuse of power, or the exploitation of a position of vulnerability; and the purpose is exploitation, which the law expressly defines to encompass the removal of organs. Significantly, where any of the prohibited means is used, the consent of the victim becomes legally irrelevant, a principle that is especially important for women and children whose apparent agreement is often the product of deception or economic desperation rather than genuine free will.

The modus operandi of organ trafficking typically begins by targeting individuals in conditions of structural vulnerability, offering them money or employment in exchange for an organ, and then channelling the organ through a clandestine medical procedure. Because the transaction is disguised as a voluntary donation and concealed behind ostensibly lawful clinical practice, it

¹³ Abd. Mukhsin, *Op.Cit.*, p. 823.

¹⁴ Abd. Mukhsin, *Op.Cit.*, p. 825.

¹⁵ Article 1 and Article 2 of Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, State Gazette of the Republic of Indonesia of 2007 Number 58.

LICS 2026

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

evades the ordinary indicators of violent crime, which makes the integration of medical scrutiny indispensable to detection.¹⁶

On the side of victim protection, the Anti-Trafficking Law guarantees the right to restitution, and this guarantee is operationalised together with the provisions on compensation, restitution, and rehabilitation that fall within the mandate of the Witness and Victim Protection Agency. From the standpoint of victimology, restitution is not merely a financial remedy but a recognition of the victim as a rights-bearing subject whose suffering the legal system is obliged to address.¹⁷ Without an effective restitution mechanism, the protection afforded to women and children remains formal rather than substantive.¹⁸

In practice, however, the realisation of restitution for trafficking victims continues to face structural obstacles, including weak coordination among institutions, the difficulty of tracing offenders' assets, and the limited capacity of victims to pursue their claims, so that the restoration of their rights is rarely complete.¹⁹ This gap between the normative promise of restitution and its actual delivery is one of the clearest manifestations of the offender-centred orientation that this study seeks to redress.

The Health Law complements this protection by regulating the medical context in which organs may lawfully be transferred. Beyond the prohibition of commercialisation, Law Number 17 of 2023 requires that transplantation be carried out solely for humanitarian and therapeutic purposes, by competent health personnel, and through institutions subject to national oversight.²⁰ By confining lawful transplantation to a strictly altruistic and supervised framework, the law draws a clear line between legitimate donation and criminal trade, although the precise parameters distinguishing the two still require more detailed implementing regulation.

Read together, these instruments demonstrate that Indonesia does not lack legal norms against organ trafficking; rather, it lacks coherence among them. The Anti-Trafficking Law, the Health Law, and the new Criminal Code each capture a different facet of the conduct, yet none consolidates these facets into a single, clearly defined offence, which leaves prosecutors to assemble charges from scattered provisions and complicates the proof of every element.²¹ This

¹⁶ Safitri, Ali, and Hidayat, *Op.Cit.*, p. 15.

¹⁷ Rena Yulia, 2020, *Viktimologi: Perlindungan Hukum terhadap Korban Kejahatan*, Graha Ilmu, Yogyakarta, p. 187.

¹⁸ *Ibid.*, p. 190.

¹⁹ Safitri, Ali, and Hidayat, *Op.Cit.*, p. 16.

²⁰ Aziz, Efrila, and Suswantoro, *Op.Cit.*, p. 1327.

²¹ Abd. Mukhsin, *Op.Cit.*, p. 824.

LICS 2026

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

fragmentation is the structural problem that the second part of this discussion seeks to address through an integrated approach.

3.2. Strengthening Protection Through an Integrated Medico-Legal and *Maqāṣid al-Sharī'ah* Approach

Because organ trafficking necessarily involves medical procedures, forensic medicine is indispensable to its detection and proof. The *visum et repertum* and broader forensic examination—covering anamnesis, physical examination, laboratory analysis, and psychosocial evaluation—support a legal process that sides with the victim, especially where direct evidence is lacking.²² From the perspective of legal theory, this evidentiary role integrates justice, legal certainty, and benefit, and constitutes a substantial form of legal protection for victims.²³

A physician who also holds legal competence is therefore strategically placed to bridge medicine and law. Such a professional can ensure that medical documentation meets evidentiary standards, that the chain of custody of biological evidence is preserved, and that suspicious cases of organ removal are reported and investigated. Strengthening the capacity of forensic physicians and standardising victim-oriented *visum et repertum* procedures would close a critical gap between medical practice and criminal prosecution.²⁴

This medico-legal strengthening gains ethical depth when read alongside the objectives of Islamic law. In the *maqāṣid al-sharī'ah*, the five essential values—protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*)—constitute the framework through which the welfare (*maṣlaḥah*) of the community is realised.²⁵

Within this framework, the protection of life occupies the highest priority, so that organ trafficking, which commodifies the human body and endangers life, is categorically forbidden. Islamic criminal law thus treats the safeguarding of life as the primary objective of the law, providing a humanistic normative basis that can enrich and reinforce national reform of the offence of organ trafficking.²⁶ Embedding the value of *ḥifẓ al-naḥs* into positive law would reframe organ trafficking not merely as an economic or administrative violation but as an assault on human dignity (*karāmah insāniyyah*).

²² Palupi and Irawati, *Op.Cit.*, p. 8186.

²³ *Loc.Cit.*

²⁴ Palupi and Irawati, *Op.Cit.*, p. 8188.

²⁵ Masriani, *Op.Cit.*, p. 14.

²⁶ Abd. Mukhsin, *Op.Cit.*, p. 827.

LICS 2026

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

An integrated approach also demands that protection be genuinely victim-centred. This entails effective restitution and compensation, trauma-sensitive procedures, medical and psychosocial rehabilitation, and the protection of victims and witnesses throughout the criminal process.²⁷ Because organ trafficking is transnational, it further requires cross-border cooperation, mutual legal assistance, and harmonised definitions among states of origin, transit, and destination, in line with the Palermo Protocol.²⁸

At the operational level, the medico-legal contribution depends on the integrity of the evidentiary chain. The forensic physician must document the condition of the victim, preserve biological samples, and maintain a strict chain of custody so that the medical findings can be admitted and relied upon in court. In organ trafficking, this documentation is decisive, since the presence of surgical scars, the absence of an organ, or signs of an unconsented procedure may constitute the only material evidence linking the victim to the crime.²⁹ The physician thus becomes not only a healer but a guardian of material truth within the criminal justice process.

This evidentiary role is reinforced by the ethical and professional obligations of the medical profession. A physician is bound by the medical oath and by professional ethics to act in the interest of the patient and to refuse any participation in procedures that harm human life or dignity, including the unlawful removal of organs. Strengthening protection therefore also entails clarifying the doctor's legal duty to report reasonable suspicions of organ trafficking, so that the clinical encounter becomes a point of interception rather than a point of exploitation.³⁰

From the perspective of Islamic legal theory, the prohibition of organ trafficking can be grounded systematically in the doctrine of the five essential objectives. According to classical *uṣūl al-fiqh* scholarship, the law is enacted to secure the welfare of humankind through the preservation of religion, life, intellect, lineage, and property, which together constitute the *al-kulliyāt al-khamsah*.³¹ Among these, the preservation of life occupies a paramount rank, so that any act that commodifies the human body or imperils life is repugnant to the very purpose of the law.³²

Two further principles sharpen this conclusion. The principle of *sadd al-dharī'ah* (blocking the means to harm) justifies prohibiting not only the act of organ trade itself but also the

²⁷ Safitri, Ali, and Hidayat, *Op.Cit.*, p. 16.

²⁸ Hidayatullah and Melisa, *Op.Cit.*, p. 1190.

²⁹ Palupi and Irawati, *Op.Cit.*, p. 8187.

³⁰ Aziz, Efrila, and Suswantoro, *Op.Cit.*, p. 1328.

³¹ Abū Ishāq al-Shāṭibī, 2003, *al-Muwāfaqāt fī Uṣūl al-Sharī'ah*, Dār al-Kutub al-'Ilmiyyah, Beirut, p. 8.

³² *Ibid.*, p. 17.

LICS 2026

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

intermediary practices that facilitate it, while the recognition of human dignity (*karāmah insāniyyah*) affirms that the body is a trust and not a commodity. When these principles are read together with the protection of life, organ trafficking emerges as a grave violation that the state is religiously and morally bound to prevent and punish.³³ This convergence between Islamic legal objectives and the constitutional duty to protect human rights provides a powerful normative foundation for reform in an Islamic university setting such as the host of this conference.

Accordingly, reform should move in three directions. First, the harmonisation and, ideally, codification of the offence of organ trafficking so that its elements, sanctions, and the position of victims are defined clearly and consistently across the Anti-Trafficking Law, the Health Law, and the Criminal Code. Second, the institutionalisation of forensic medicine within the prosecutorial chain, including mandatory reporting of suspected organ removal and capacity-building for forensic physicians. Third, the integration of the value of *hifz al-nafs* and a victim-centred orientation into both substantive and procedural law, so that protection of women and children becomes the measure of success rather than the severity of punishment alone.

3.3. The Structural Vulnerability of Women and Children and a Victim-Centred Orientation

Women and children are not victims of organ trafficking by coincidence but by structure. Gender inequality, poverty, limited access to education, and dependency relations place them in positions of vulnerability that criminal networks deliberately exploit, which is why international and national instruments treat their protection as a distinct priority.³⁴ The Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child oblige states to take special measures to shield these groups from exploitation, and Indonesia has incorporated these obligations into its domestic order.

At the national level, Law Number 35 of 2014 on Child Protection imposes a duty on the state, society, and families to protect children from every form of exploitation, including the sale of organs, and it provides for special protection and rehabilitation for child victims.³⁵ Law Number 12 of 2022 on the Crime of Sexual Violence further strengthens procedural protection for

³³ Abd. Mukhsin, *Op.Cit.*, p. 826.

³⁴ Hidayatullah and Melisa, *Op.Cit.*, p. 1188.

³⁵ Article 59 and Article 76F of Law Number 35 of 2014 on the Amendment to Law Number 23 of 2002 on Child Protection.

LICS 2026

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

women and children by introducing victim-oriented evidentiary rules and the right to restitution and recovery.³⁶

A victim-centred orientation requires that the protection of these groups be measured not by the severity of the punishment imposed on offenders but by the degree to which victims recover their dignity, health, and rights. This entails trauma-sensitive examination procedures, the avoidance of secondary victimisation during interrogation and trial, the provision of medical and psychosocial rehabilitation, and the genuine delivery of restitution.³⁷

For a forensic physician, this orientation translates into a duty to conduct examinations that are both evidentially rigorous and humane, ensuring that the very process of gathering medical evidence does not inflict further harm on a woman or child who has already been exploited. In this way, the medico-legal function becomes an instrument of protection rather than merely of proof, aligning the technical demands of the criminal process with the dignity of the victim.³⁸

3.4. Digitalisation and the Transnational Dimension

The twenty-first century has transformed the modus operandi of trafficking networks. Digital platforms, social media, and online recruitment—often disguised as job offers abroad—have become powerful tools for luring women and children into exploitation, including the harvesting of organs.³⁹ Technology thus operates as a double-edged sword: it facilitates surveillance and detection on the one hand, yet enables recruitment, advertising, and coercion on the other.

These developments expose a weakness in the existing framework, namely the difficulty of digital proof and the limited capacity of law enforcement to trace cross-border transactions.⁴⁰ Because the recruitment, the surgical procedure, and the recipient of the organ may be located in three different jurisdictions, no single national authority can address the crime in isolation.⁴¹

The transnational character of organ trafficking therefore demands cross-border cooperation grounded in the Palermo Protocol, which Indonesia has ratified through Law Number 14 of

³⁶ Law Number 12 of 2022 on the Crime of Sexual Violence, State Gazette of the Republic of Indonesia of 2022 Number 120.

³⁷ Rena Yulia, 2020, *Viktimologi: Perlindungan Hukum terhadap Korban Kejahatan*, Graha Ilmu, Yogyakarta, p. 201.

³⁸ Palupi and Irawati, *Op.Cit.*, p. 8189.

³⁹ Safitri, Ali, and Hidayat, *Op.Cit.*, p. 17.

⁴⁰ Hidayatullah and Melisa, *Op.Cit.*, p. 1189.

⁴¹ *Loc.Cit.*

LICS 2026

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

2009.⁴² Effective enforcement requires mutual legal assistance, extradition, the harmonisation of legal definitions among states, and joint investigation mechanisms, so that offenders cannot exploit the gaps between national systems.

The medico-legal dimension is equally transnational. Standardised forensic protocols, the cross-border exchange of medical evidence, and cooperation among transplantation authorities are necessary to identify illicit procedures and to trace the movement of organs across borders, complementing the legal mechanisms of international cooperation.

3.5. Toward an Integrated and Codified Framework of Protection

The foregoing analysis points to the need for an integrated reform that unites the criminal, health, procedural, and religious-ethical dimensions of protection. The first pillar is normative harmonisation and, ideally, the codification of organ trafficking as a distinct offence with clearly defined elements, graduated sanctions, and an explicit victim-restitution scheme, so that the fragmentation among the Anti-Trafficking Law, the Health Law, and the Criminal Code is resolved.⁴³

The second pillar is the institutionalisation of forensic medicine within the prosecutorial chain. This includes mandatory reporting of suspected organ removal, capacity-building for forensic physicians, the standardisation of victim-oriented *visum et repertum* procedures, and the recognition of medical evidence as central rather than supplementary in proving the offence.⁴⁴

The third pillar is the integration of the objective of protecting life into both substantive and procedural law. By embedding the value of *hifz al-nafs* and the recognition of the body as a trust rather than a commodity, the law gains a humanistic foundation that reframes organ trafficking as an assault on human dignity and elevates the protection of victims above the mere punishment of offenders.⁴⁵ This integration is particularly resonant in an Islamic university context, where the objectives of Islamic law and the constitutional commitment to human rights reinforce one another.

Taken together, these three pillars constitute a coherent agenda in which medicine, law, and ethics operate as mutually reinforcing instruments of protection. Their implementation would shift the Indonesian framework from a fragmented and offender-centred model toward an

⁴² Law Number 14 of 2009 on the Ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

⁴³ Abd. Mukhsin, *Op.Cit.*, p. 828.

⁴⁴ Palupi and Irawati, *Op.Cit.*, p. 8190.

⁴⁵ Abd. Mukhsin, *Op.Cit.*, p. 829.

LICS 2026

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

integrated and victim-centred one, capable of protecting women and children against the grave and concealed crime of organ trafficking.⁴⁶

3.6. Comparative Reflection and the Strategic Role of the Physician-Jurist

A comparative reflection strengthens the case for reform. Many jurisdictions and international medical instruments—such as the World Health Organization Guiding Principles on Human Cell, Tissue and Organ Transplantation and the professional commitments embodied in the Declaration of Istanbul on Organ Trafficking and Transplant Tourism—treat the commercialisation of organs as a distinct and serious wrong that demands both criminal sanction and professional discipline. Indonesia's decision to disperse the offence across several statutes therefore stands in contrast to the global tendency toward consolidated and victim-protective regulation, reinforcing the argument for codification.⁴⁷

Comparative experience also shows that the most effective responses combine criminal prohibition with rigorous medical oversight, since organ trafficking sits precisely at the boundary between crime and clinical practice. Transplantation authorities, hospital ethics committees, and forensic services act as filters that can prevent illicit procedures before they occur and can document them where they do, a lesson directly relevant to strengthening Indonesia's national transplantation oversight.⁴⁸

It is in this space that the figure of the physician who also holds legal competence becomes strategically significant. Such a professional understands both the clinical realities of transplantation and the evidentiary demands of criminal law, and is therefore uniquely placed to translate medical findings into admissible proof and to recognise the warning signs of trafficking that a purely legal or purely medical perspective might miss. Empowering and multiplying such physician-jurists, through training and institutional recognition, is itself a concrete protective measure.⁴⁹

Finally, the comparative and religious-ethical dimensions converge on the same conclusion. Whether approached through international human-rights standards, through medical-professional norms, or through the objectives of Islamic law, the protection of life and dignity is treated as the supreme value, and the trade in human organs as its grave negation. This convergence offers Indonesia a coherent normative basis on which to build an integrated,

⁴⁶ Rena Yulia, *Op.Cit.*, p. 205.

⁴⁷ Abd. Mukhsin, *Op.Cit.*, p. 822.

⁴⁸ Aziz, Efrila, and Suswantoro, *Op.Cit.*, p. 1323.

⁴⁹ Palupi and Irawati, *Op.Cit.*, p. 8185.

LICS 2026

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

victim-centred, and humane framework for protecting women and children against organ trafficking.⁵⁰

Particular attention must be paid to children, whose protection is governed not only by substantive law but also by a dedicated justice system. The juvenile justice framework requires that child victims and witnesses be handled through restorative, trauma-sensitive mechanisms that prioritise their best interests, which is indispensable when a child has been subjected to the trauma of organ removal.⁵¹ Aligning forensic examination with these child-protective standards ensures that the pursuit of evidence never overrides the welfare of the child.

The evidentiary dimension also requires modernisation. As recruitment and transactions increasingly occur online, electronic and documentary evidence must be collected, authenticated, and preserved in accordance with the criminal procedure law, and integrated with medical evidence to construct a complete picture of the offence. A coordinated evidentiary strategy that fuses digital traces with forensic medical findings offers the most realistic path to overcoming the proof difficulties that currently allow many perpetrators to escape liability.⁵²

Beyond enforcement, prevention remains the most humane form of protection. Community-based education, the empowerment of women and children, the reduction of structural poverty, and public awareness of the modus operandi of organ trafficking can interrupt the supply chain of vulnerability before exploitation occurs. A protective framework that combines prevention, prosecution, and victim recovery—anchored in the objective of preserving life—best reflects both the constitutional mandate and the objectives of Islamic law.⁵³

4. Conclusion

Indonesian law already protects women and children against organ trafficking through the Anti-Trafficking Law, the Health Law, the new Criminal Code, and child- and women-specific legislation, but this protection remains fragmented because organ trafficking is not regulated as a distinct offence and victim restitution is weakly implemented. Strengthening protection requires an integrated approach that institutionalises the medico-legal role of forensic medicine, especially the *visum et repertum*, in proving the crime, and that embeds the objective of protecting life (*ḥifẓ al-naḥs*) drawn from the *maqāṣid al-sharīʿah* into positive law. Harmonising criminal, health, and procedural law, empowering forensic physicians, and placing

⁵⁰ Masriani, *Op.Cit.*, p. 15.

⁵¹ Article 90 of Law Number 11 of 2012 on the Juvenile Criminal Justice System.

⁵² Safitri, Ali, and Hidayat, *Op.Cit.*, p. 13.

⁵³ Abd. Mukhsin, *Op.Cit.*, p. 829.

LICS 2026

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

victims at the centre of the process will produce a more humane and effective framework for protecting women and children against organ trafficking.

5. References

Journals:

- Abd. Mukhsin, "Reformasi Kebijakan Pidana dalam Penanggulangan Perdagangan Organ Manusia: Kajian Komparatif Hukum Positif dan Hukum Pidana Islam," *Nomos: Jurnal Penelitian Ilmu Hukum*, Vol. 5 No. 4 (2025), <https://doi.org/10.56393/nomos.v5i4.3575>.
- Hidayatullah and Melisa, "Fenomena Kejahatan Perdagangan Manusia," *Al-Manhaj: Jurnal Hukum dan Pranata Sosial Islam*, Vol. 4 No. 2 (2022), <https://doi.org/10.37680/almanhaj.v4i2.1630>.
- Nining Indah Tri Safitri, Mahrus Ali, and Wafda Aafiya Hidayat, "Perlindungan Hukum Bagi Korban Tindak Pidana Human Trafficking di Indonesia," *Hakim: Jurnal Hukum*, Vol. 5 No. 2 (2024), <https://doi.org/10.54209/judge.v5i02.685>.
- Taufik Aziz, Efrila, and Tomi Agustian Suswantoro, "Analisis Yuridis Transplantasi Organ Ditinjau dari Perspektif Undang-Undang No 17 Tahun 2023 tentang Kesehatan," *SENTRI: Jurnal Riset Ilmiah*, Vol. 4 No. 8 (2025), <https://doi.org/10.55681/sentri.v4i8.4382>.
- Wahyu Hidayati Dwi Palupi and Arista Candra Irawati, "Peran Kedokteran Forensik dalam Pengungkapan Kasus Tindak Pidana Kekerasan Seksual di Provinsi Kep. Bangka Belitung," *Jurnal Pengabdian Masyarakat dan Riset Pendidikan*, Vol. 4 No. 2 (2025), <https://doi.org/10.31004/ierkin.v4i2.3169>.
- Yulies Tiena Masriani, "Regulasi Penyaluran Harta Wakaf dan Hibah: Analisis Komprehensif dalam Perspektif Maqashid Syariah," *TAHKIM: Jurnal Peradaban dan Hukum Islam*, Vol. 8 No. 2 (2025), <https://doi.org/10.29313/tahkim.v8i2.8040>.

Book:

Peter Mahmud Marzuki, 2017, *Penelitian Hukum: Edisi Revisi*, Kencana, Jakarta.



LICS 2026

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

Regulations:

The 1945 Constitution of the Republic of Indonesia.

Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons.

Law Number 14 of 2009 on the Ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Law Number 35 of 2014 on the Amendment to Law Number 23 of 2002 on Child Protection.

Law Number 12 of 2022 on the Crime of Sexual Violence.

Law Number 1 of 2023 on the Criminal Code.

Law Number 17 of 2023 on Health.

Other Sources:

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979.

Convention on the Rights of the Child (CRC), 1989.

Medico-Legal Protection of Women and ...
(M. Arief M & Anis Mashdurohatun)