



LICS 2026

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

Optimization Efforts for The Protection of Children's Human Rights in The Crime of Human Trafficking in Indonesia

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Abstract. *Children are both a gift and the future successors of the nation who possess fundamental rights to live, grow, and develop naturally without the threat of violence. However, the reality on the ground shows a high incidence of human trafficking crimes that target children as the primary victims of labor exploitation and violations of their dignity. This crime is not merely an ordinary legal violation but a modern form of slavery that clearly deprives children of their human rights and destroys their future. This situation is exacerbated by law enforcement that often focuses solely on imposing prison sentences on lower-level perpetrators, while efforts to restore the losses suffered by child victims are frequently neglected. This study aims to uncover the weaknesses in the current legal framework and formulate improvements to ensure that children receive comprehensive protection. This research employs legal research focusing on the examination of legal norms, principles, and written laws applicable in Indonesia. The approaches used include statutory and conceptual approaches. The primary legal materials analyzed include the 1945 Constitution of the Republic of Indonesia, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection, and Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking. Through statutory and conceptual analysis, this study proposes legal reforms that prioritize restorative justice. The proposed reforms include abolishing provisions allowing substitute imprisonment in lieu of compensation, thereby requiring perpetrators to compensate child victims without exception. In addition, the state is encouraged to establish a special guarantee fund to finance children's educational and healthcare needs if perpetrators are proven to have no assets. With these legal improvements, the protection of children's human rights is expected to become not merely words on paper but a tangible manifestation of the state's commitment to safeguarding the nation's future generations.*



LICS 2026

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

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1. Introduction

The rule of law is established with the primary objective of providing protection and justice for all citizens, regardless of their social status or age. Within the structure of national life, children occupy a highly special position because they are the legitimate heirs who will continue the nation's governance and culture in the future. Therefore, the protection of children has been affirmed as an absolute obligation of the state, explicitly enshrined in the 1945 Constitution of the Republic of Indonesia. The Constitution guarantees that every child has the right to survival, proper growth and development, and freedom from all forms of exploitation and arbitrary treatment.¹

Although the highest legal guarantee has been firmly established, the reality within society often presents a stark contrast. Poverty affecting many families across various regions has become the primary cause of the loss of protection for children within their own homes. The pressure of meeting basic needs and the lack of employment opportunities for parents force children to leave home in search of livelihoods. These conditions of deprivation create significant risks, leaving children without protection and making them highly vulnerable to manipulation by individuals with malicious intentions.

Amid these economic hardships, human trafficking emerges as one of the most severe threats targeting children. Human trafficking is a tangible manifestation of modern-day slavery, in which human beings are no longer valued as rational individuals but are instead treated as commodities that can be bought, sold, and discarded. These organized criminal groups operate systematically, possess substantial financial resources, and deliberately target children because they are perceived as vulnerable, obedient, and incapable of resisting oppression.

The methods employed by these criminal groups are diverse and continuously evolve to exploit weaknesses in law enforcement supervision. In the past, traffickers might have visited villages to persuade impoverished families directly. Today, they employ more sophisticated deception, such as offering high-paying jobs in major cities, promising fraudulent educational assistance, or trapping children in debt bondage that they are forced to repay through labor. Children who believe these false promises are then taken far from their hometowns, and

¹ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.



LICS 2026

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

all of their identification documents are confiscated to prevent them from escaping.

The harm inflicted on children by these crimes is profound and difficult to heal. Trafficked children are forced to work beyond their physical limits, receive inadequate nutrition, and often suffer physical abuse if they refuse orders. Even more severe are the psychological consequences; these children lose trust in adults, experience intense fear, and endure overwhelming shame, especially those who are forced into sexual exploitation. This emotional burden prevents them from living the lives that children should normally enjoy.²

The Indonesian government has not remained passive in addressing this threat and has enacted various legal instruments to combat this form of modern slavery. The primary laws include the Child Protection Law and the Law on the Eradication of the Crime of Human Trafficking. These laws were designed as legal instruments to apprehend, prosecute, and punish anyone who seeks profit from the labor and suffering of children. The imprisonment penalties prescribed by these laws are also intentionally severe to deter potential offenders.

However, in practice, the implementation of these laws still contains inherent shortcomings that significantly disadvantage victims. The current legal framework focuses excessively on procedures for punishing perpetrators while providing insufficient regulation regarding the restoration of child victims' conditions. Judicial proceedings often concentrate solely on proving the defendant's guilt, while children's rights to financial compensation for psychological treatment and education are not vigorously pursued by state authorities.

This misplaced legal emphasis creates a double burden for children. When law enforcement successfully rescues children from confinement, they are often immediately taken to police stations for questioning until late at night. The questions posed by investigators are sometimes rigid and compel children to relive the traumatic experiences they have just endured. Such insensitive examination methods further damage children's psychological well-being and demonstrate that the legal system has not yet developed a victim-centered humanitarian approach.

Even worse, the legal system's failure to compel perpetrators to provide compensation perpetuates an endless cycle of crime. When children are returned to their families without any financial support to rebuild their lives, they once again face the same poverty that existed before they were deceived.

² Arif Gosita, *Masalah Perlindungan Anak*, (Jakarta: Akademi Pressindo, 2004), hlm. 41.



LICS 2026

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

Without living assistance from the state or compensation from perpetrators, these children become easy targets for other criminal groups. This situation demonstrates that legal failure indirectly pushes children back into suffering for a second time.

Based on the issues described above, this study is prepared to conduct an in-depth assessment of the weaknesses in the legal framework for protecting children from the dangers of human trafficking. This paper aims to unravel the complexities of injustice within judicial proceedings while proposing new ideas for restructuring state regulations. Its ultimate objective is to establish a legal system that is not only effective in imprisoning offenders but also firm in confiscating perpetrators' assets to compensate child victims, thereby ensuring the restoration of their stolen futures.

2. Research Methods

This study employs legal research focusing on the examination of legal norms, principles, and written laws applicable in Indonesia. The approaches used include statutory and conceptual approaches.³ The primary legal materials analyzed include the 1945 Constitution of the Republic of Indonesia, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection, and Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking. All of these legal materials are systematically analyzed and critically evaluated to identify weaknesses in their implementation, followed by the formulation of proposed legal reforms that better promote justice for children.

3. Results and Discussion

3.1. Root Causes and Forms of Child Trafficking Threats

The crime of child trafficking never occurs on its own in a vacuum; rather, it is a direct consequence of the failure of society and the state to create a prosperous environment. An examination of the issue shows that the roots of this crime begin with a family's inability to meet its daily living needs. When there is no longer food on the table and parents lose hope of finding work, the burden of survival is often shifted onto the shoulders of children. It is this pressure to survive that breaks down the family's defenses and allows criminals to enter and take their children.

In addition to financial poverty, a lack of knowledge is also a major factor driving the prevalence of this crime in rural areas. Many parents do not have adequate

³ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenada Media Group, 2005), hlm. 93.



LICS 2026

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

education, making them highly vulnerable to false job offers brought by intermediaries. Parents often believe that entrusting their children to someone from the city who promises work at a restaurant or factory is a stroke of good fortune. This lack of awareness causes children to be handed over voluntarily, even though, in reality, they are being delivered into a place of abuse.

As times have changed, these organized criminal groups have become increasingly sophisticated in altering their methods to avoid detection. In the past, they had to go door to door; today, they exploit the internet and social networking platforms. Children in rural areas who use smartphones are often contacted by someone posing as a recruiter or even pretending to be a romantic partner. Sweet promises sent through text messages persuade children to leave home without their parents' knowledge and travel to meeting places prepared by criminal groups.

Once these children fall into the trap, they are forced into various forms of labor exploitation. The most common form is forced labor in physically demanding jobs. Children are taken to remote plantations, mining sites, or unlicensed manufacturing factories. There, they are required to work for long hours every day without rest, receive inadequate wages, and are kept under strict surveillance so that none of them can seek help from local residents.

An even more brutal form of exploitation is the abuse of children's dignity and bodies. Many girls, and even boys, are forced into night entertainment venues or covert brothels. They are compelled to serve clients under threats of beatings or even murder if they dare to refuse or cry out for help. This crime gravely degrades human dignity and leaves psychological scars that will most likely never disappear throughout the rest of the child's life.⁴

An even more heartbreaking reality is the involvement of close relatives or neighbors in this criminal network. The main perpetrators often recruit people already known to the victim's family to act as persuaders. Because the prospective victims know and trust these individuals, they do not become suspicious. The involvement of trusted people makes the investigation of these cases far more difficult later on, as parents are sometimes reluctant to report their own neighbors to the police for fear of damaging family or community relationships.

The growth of this crime is also worsened by weak security at regional and national borders. Indonesia has a vast territory with many small ports that are

⁴ Harkristuti Harkrisnowo, *Kriminologi dan Masalah Kejahatan Struktural*, (Jakarta: Kemitraan, 2008), hlm. 67.



LICS 2026

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

not guarded by official personnel. Criminal groups exploit these quiet ports to transport children using small boats or fishing vessels at night. The absence of surveillance equipment and the limited number of patrol officers make these covert movements of people extremely difficult for the government to prevent.

Overall, this section demonstrates that child trafficking is a multilayered problem that cannot be solved simply by arresting one or two criminals on the streets. The crime is rooted in weaknesses in rural social conditions, low legal awareness, and inadequate border security. As long as the government fails to improve the welfare of rural families and strengthen security at all exit points, Indonesian children will continue to be easy targets for criminal groups seeking wealth through unlawful means.

3.2. Weaknesses in Current Laws and Law Enforcement

The state has indeed provided law enforcement officers with officially enacted legal provisions, but the wording of these laws still contains weaknesses that greatly disadvantage children. The first and most damaging weakness to the sense of justice lies in the article regulating compensation under the Law on the Eradication of the Crime of Human Trafficking. The law requires perpetrators to pay compensation to child victims, yet at the same time provides an escape clause stating that if the offender is unable to pay, the obligation may be replaced by only a few additional months of imprisonment.⁵

This legal loophole allowing compensation to be substituted with additional imprisonment is openly exploited by leaders of criminal organizations. Once arrested, they immediately hide all of their wealth and money in other people's accounts or convert them into valuable assets that cannot easily be traced. Before the judge, they pretend to be impoverished and willingly accept a short additional prison sentence. The law allows this to happen, leaving child victims with nothing not even enough money to continue their lives or obtain medical treatment.

Beyond the loophole concerning compensation, the current Child Protection Law also lacks specific provisions governing the rehabilitation of trafficked children. The law primarily addresses children who come into conflict with the law because they have stolen or fought. In contrast, children who are purely victims of exploitation rarely receive special protection during court proceedings. As a result, procedures for child trafficking victims are often treated the same as

⁵ Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.



LICS 2026

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

those for adults, making the process rigid, intimidating, and inappropriate for their psychological development.

Another weakness lies in the tendency of law enforcement officers to focus excessively on arresting low-level perpetrators or field operatives. Police often consider their work complete once they have arrested the driver transporting the children or the guard watching over the detention house. The masterminds and principal financiers behind these criminal organizations are rarely apprehended, let alone brought to trial. A legal approach that merely cuts the branches without uprooting the crime allows trafficking networks to quickly recruit new drivers and continue their operations the very next day.

Another harmful practice among state officials is their failure to trace and seize the perpetrators' assets from the very beginning of the investigation. Ideally, once police arrest a suspect, they should immediately investigate where the proceeds of the crime have gone and freeze the offender's bank accounts. However, because financial investigation techniques are seldom employed, offenders' assets are usually transferred before the court issues a guilty verdict. This inability to confiscate criminal assets early is one of the primary reasons child victims lose the opportunity to receive compensation.

The suffering of child victims is often compounded by insensitive treatment during investigations. In many cases, children who have just been rescued are immediately subjected to extensive questioning at police stations without the assistance of mental health professionals. Repeated questioning, intimidating stares from officers, and the absence of child-friendly interview rooms make children feel as though they themselves have done something wrong. Such investigative methods create new fears and further increase the children's emotional burden.

Furthermore, there is a major weakness in interagency cooperation regarding the return and long-term care of child victims. Ideally, the police, prosecutors, social welfare institutions, and local governments should work together by contributing personnel and financial support. In reality, however, responsibility is often shifted from one institution to another due to claims of insufficient funding. As a result, many children remain stranded in temporary shelters with minimal food and must wait for months without certainty about returning home because government bureaucracy moves very slowly.

Taken together, this section demonstrates that both the legal framework and law enforcement practices continue to suffer from rigidity and insufficient concern for victims' suffering. Rules allowing offenders to replace compensation with light prison sentences, law enforcement's inability to trace criminal assets, and



LICS 2026

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

intimidating investigative procedures for children clearly show that the law has not yet become a safe refuge for victims. Legal reforms and changes in enforcement practices are urgently needed so that courts become not only places for imposing punishment but also institutions that secure the future of victimized children.

3.3. Reforming the Legal Framework to Achieve Justice

Faced with a legal system still filled with loopholes, the state is required to take major steps by comprehensively reforming legislation. Such reform must be guided by the principle of restorative justice rather than merely focusing on retributive justice against offenders. The justice system should no longer consider a case finished simply because the judge's gavel has fallen and the criminal has been imprisoned. Instead, the new legal framework must ensure that the child's rights, dignity, future, and living expenses are fully restored.⁶

The first reform that must unquestionably be implemented is the elimination of provisions allowing compensation payments to be replaced with imprisonment. The Law on Human Trafficking must be amended to clearly establish that anyone who masterminds this crime bears an absolute obligation to compensate child victims, without any alternative. Judges should be required to order the seizure of offenders' assets, land, or vehicles, sell them, and ensure that the proceeds are directly given to the victim's family to support their recovery and future well-being.

However, the law must also provide a solution when the offender genuinely has no assets. In such cases, the new legal framework should mandate the creation of a Victim Assistance Fund financed through government budgets. If the offender fails to compensate the child, the government should automatically provide financial assistance from this fund. This reflects the state's responsibility for failing to protect its citizens from the threat of exploitation and modern slavery.

The next reform concerns the responsibility of businesses or companies proven to have employed child workers. The new law should impose strict liability on companies, eliminating complicated requirements to prove fault. This means that if child labor is discovered in a factory or plantation, the owner should automatically face criminal sanctions and substantial fines without requiring police to prove whether the owner knew about the practice. Such strict

⁶ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, (Jakarta: Kencana Prenada Media Group, 2011), hlm. 89.



LICS 2026

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

enforcement would compel business owners to exercise extreme caution and reject child workers supplied by any labor broker.

Police investigation procedures must also be fundamentally reformed. New legal provisions should prohibit officers from interviewing child victims alone. Whenever a trafficked child is found, the police should first place the child under the care of mental health professionals and social workers to help them regain emotional stability. Any testimony should only be obtained through social workers who understand children's emotional needs. This is essential to ensure that legal proceedings do not become a second source of psychological trauma for already frightened and confused children.

Court procedures must likewise be redesigned to create a child-friendly environment. The new rules should require children's testimony to be delivered through remote video links or from closed rooms with one-way observation windows. Child victims should never be forced to share the same courtroom with the perpetrators who abused them. Simply seeing the offender during trial is often enough to terrify children and prevent them from speaking honestly, thereby obstructing the search for truth.

The final and perhaps most crucial reform concerns the responsibilities of local governments after court proceedings have concluded. The new legal framework should obligate governors, regents, and mayors to ensure that child victims are re-enrolled in public schools in their home communities free of charge. In addition, local governments should be required to provide the victims' parents with sufficient business capital. If local governments fail to monitor or finance the continued welfare of these families, regional leaders should be subject to official reprimands or sanctions imposed by the relevant minister to prevent them from neglecting their responsibilities.

In conclusion, reforming child protection laws against human trafficking is a long but essential journey toward restoring justice. Revising legislative provisions, eliminating loopholes that allow wealthy criminals to escape their responsibilities, and ensuring that the state provides financial assistance to victims represent concrete manifestations of human rights protection. These reforms should not be viewed as acts of state generosity but rather as a means of atoning for past failures that allowed the nation's children to be traded like cheap commodities on the black market of crime.

4. Conclusion

Child trafficking is one of the most heinous crimes that degrades human dignity, turning children who should be playing and learning into victims whose labor and



LICS 2026

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

dignity are exploited by profit-seeking criminal groups. This situation is aggravated by Indonesia's legal framework, which still contains significant loopholes and fails to provide genuine protection for child victims. The most obvious weakness lies in the lenient provisions governing compensation, whereby offenders can easily choose a short additional prison sentence instead of surrendering their assets to compensate victims. Moreover, the manner in which state authorities investigate and prosecute child victims still fails to reflect the compassion necessary to heal their psychological wounds. Therefore, optimizing the protection of children's fundamental rights requires comprehensive and courageous legal reform. Such reform must ensure that offenders bear an absolute obligation to compensate victims without the option of substituting payment with additional imprisonment. At the same time, the state must establish financial assistance for victims when offenders are genuinely indigent and reform court procedures so that children no longer have to face their abusers directly. Only through a legal system that is firm in punishing perpetrators while compassionate in safeguarding victims' futures can this nation fulfill its promise to protect the very lifeblood of its civilization from the threat of modern slavery.

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