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### **Legal Protection For Women And Children Against Human Trafficking Crimes In Indonesia**

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#### **Abstract**

Human trafficking, especially the trafficking of women and children, is a criminal act that must be eradicated. Women and children are targeted by traffickers for purposes such as prostitution, sexual exploitation, pornography industry, drug trafficking, organ trafficking, and other forms of exploitation. Therefore, legal protection against the crime of human trafficking is crucial for women and children in Indonesia. The objective of this research is to explore the importance of legal protection for women and children from the crime of human trafficking in Indonesia. The research method employed is normative juridical. Normative juridical is a method in normative legal research that analyzes secondary data. The secondary data was condensed through literature review, and then qualitatively analyzed using a juridical approach. The findings of this research are as follows: Legal protection for women and children from the crime of human trafficking should be supported

not only by legal substance in the form of legislation but also by other components, namely legal structure, which includes law enforcement agencies, and legal culture or societal support. Support from legal substance, legal structure, and positive legal culture is crucial in providing effective legal protection for women and children from the crime of human trafficking. All these aspects are interconnected and mutually influential. Without adequate legal substance, an effective legal structure would be difficult to achieve, as well as without supportive legal culture. Conversely, without a supportive legal culture, the implementation of legal substance and good legal structure would also face obstacles.

### **Keywords**

Legal Protection, Women, Children, Trafficking.

### **A. Background**

Every country is obligated to protect its citizens, and the same applies to Indonesia. The obligation of the Indonesian state to protect its citizens is a mandate and purpose of the state, as reflected in the fourth paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution, which states: "...to protect the entire Indonesian nation and all blood descendants of Indonesia..."<sup>1</sup>

The purpose of the Indonesian state, as stated in the Preamble of the 1945 Constitution, specifically in the fourth paragraph, is the protection of its citizens, encompassing all citizens within and outside the country. One of the protections provided by the Indonesian state to its citizens is legal protection.

Legal protection means protection through legal means or protection provided by the law, aimed at safeguarding certain interests by incorporating those interests into a legal right.<sup>2</sup> Legal protection involves providing refuge for human rights that have been violated by others and ensuring that society can enjoy all the rights granted by the law.<sup>3</sup>

Legal protection for every citizen is a universal concept for states that adhere to the rule of law, serving as the safeguard for the interests of their citizens. As Indonesia is a legal state, as mentioned in Article 1, paragraph (3) of the 1945 Constitution, everything must be based on the law, which is implemented through legislation as a manifestation of positive law aimed at providing legal protection to legal subjects (every Indonesian citizen) and the objects being protected.

One aspect of legal protection that needs attention is the legal protection of society against harmful and dangerous acts, such as human trafficking, particularly against women and children. This is implemented through legislation, specifically the Republic of Indonesia Law Number 21 of 2007 on the Eradication of Human

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<sup>1</sup> Effendi Suryana, *Pancasila dan Ketahanan Jati Diri Bangsa*, Bandung: PT Rafika Aditama, 2015, hlm 155.

<sup>2</sup> Harjono, *Konstitusi Sebagai Rumah Bangsa*, Jakarta: Penerbit Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, 2008, hlm 357.

<sup>3</sup> Satijipto Raharjo, *Ilmu Hukum*, Bandung: PT Citra Aditya Bakti, 2000, hlm 54 dalam: Salim HS, dan Erlies Septiana Nurbani, *Penerapan Teori Hukum pada Penelitian Tesis dan Disertasi*, Jakarta: PT RajaGrafindo Persada, 2013, hlm 262.

Trafficking. Provisions regarding victim protection are specifically regulated in Articles 43 to 53 of the Law Number 21 of 2007 on the Eradication of Human Trafficking.

The Republic of Indonesia Law Number 21 of 2007 on the Eradication of Human Trafficking is established not only to prevent and address the crime of human trafficking but also to protect the victims as a result of human trafficking through the existence of severe criminal penalties of imprisonment and fines for those involved in trafficking women and children.

The Republic of Indonesia Law Number 21 of 2007 on the Eradication of Human Trafficking provides the definition of human trafficking as stated in Article 1, number 1, which is as follows: Human trafficking is the act of recruiting, transporting, sheltering, sending, transferring, or receiving a person through violence, the use of violence, abduction, imprisonment, forgery, fraud, abuse of power or vulnerable position, debt bondage, or giving payment or benefits, thereby obtaining consent from the person who has control over the other person, whether done within the country or across countries, for the purpose of exploitation or causing the person to be exploited.

The Indonesian government has made various efforts to eradicate human trafficking in the country. However, the efforts made by the Indonesian government have not yet yielded satisfactory results, as evidenced by the ongoing cases of human trafficking in Indonesia. This creates a gap between "das sollen" (what should be) and "das sein" (what is), and there is always a discrepancy between law in the books and law in action.

The issue of human trafficking, particularly trafficking of women and children, has received significant attention in various media outlets in recent years. The media not only highlight the cases themselves but also the intricacies of the rescue actions taken by law enforcement agencies and the government's efforts to address the problem. Throughout 2021, the West Java Regional Police handled 19 cases of smuggling and human trafficking. Out of these 19 cases, 12 are under investigation, 6 have reached the prosecution stage (P21), while 1 case has been canceled (SP3).<sup>4</sup> In anticipating international or transnational crimes and organized crime (TOC), the West Java Regional Police continues to coordinate with various institutions such as the Immigration Office and local governments.

Over the past five years, there have been 882 cases of human trafficking in West Java. The highest number of cases occurred in Indramayu, followed by 35 cases in the Bogor Regency area. The International Organization for Migration (IOM) held a press conference together with the Integrated Service Center for the Empowerment of Women and Children. The trend of trafficking cases, particularly those occurring in West Java and the Bogor region, tends to increase.<sup>5</sup>

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<sup>4</sup> <http://www.inilahjabar.com/read/detail/1786576/selama-2021-terjadi-19-kasus-trafficking-di-jabar>. Di akses tanggal 20 Mei 2023 Pukul 07.52 Wib.

<sup>5</sup> <http://www./Trafiking/Kasus%20Trafficking%20di%20Jawa%20Barat%20Tertinggi%20di%20Indonesia.htm>. Diakses tanggal 21 Mei 2023 Pukul 09.00Wib.

With 882 cases, West Java occupies the top position in trafficking cases in Indonesia. And although Bogor only has 35 cases, that number is considered quite high as it continues to increase. There are at least three main reasons why trafficking cases are becoming rampant. The first and foremost factor is poverty, followed by a lack of public awareness, and minimal government information.<sup>6</sup>

The Ministry of Women's Empowerment and Child Protection has recorded an increase in cases of human trafficking during the pandemic, from 213 cases in 2019 to 400 cases in 2020. Data from the OM in Indonesia also highlights the increase in the number of child trafficking victims in 2020, with 80% of them being sexually exploited. Additionally, according to the records of the Witness and Victim Protection Agency (LPSK), the number of requests for protection from witnesses/victims of human trafficking received by LPSK increased by 15.3% in 2020.<sup>7</sup>

The main factors contributing to human trafficking, particularly of women and children, are poverty, low education, early marriage, and non-compliance with religious teachings. These factors are the root causes of the occurrence of cases of human trafficking of women and children.<sup>8</sup> Human trafficking is a crime that predominantly affects individuals below the poverty line, especially women and children.

The low level of education among communities, both in urban slums and rural areas, provides an opportunity for perpetrators to deceive their victims by promising job opportunities without requiring high levels of education. This makes the victims easily deceived by the perpetrators' coaxing.<sup>9</sup>

Women and children are used for purposes such as prostitution and sexual exploitation (including pedophilia), legal and illegal migrant labor, child adoption, fishing work, mail-order brides, domestic workers, begging, pornography industry, drug trafficking, organ trafficking, and other forms of exploitation.<sup>10</sup>

Human trafficking, especially of women and children, involves the illegal sale, abuse, or exploitation of human beings. Exploitation includes, at the very least, exploitation for the purpose of prostitution or other forms of slavery, forced labor, or organ removal.<sup>11</sup> Trafficked victims are not only targeted for prostitution or other forms of sexual exploitation but also encompass other forms of exploitation such as forced labor, debt bondage, or similar practices.

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<sup>6</sup> *Ibid*

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<http://www./Trafiking/Kasus%20Trafficking%20di%20Jawa%20Barat%20Tertinggi%20di%20Indonesia.htm>, diakses tanggal 21 Mei 2023 Pukul 09.00Wib

<sup>8</sup> Yudhya Prasetya, Universitas Muhammadiyah Yogyakarta, "Perdagangan Perempuan Dan Anak Sebagai Kejahatan Transnasional" *Jurnal Yustisia*, Faculty of Law, Universitas Wiralodra, Indramayu, hlm 190., [file:///C:/Users/ASUS-X455LA-Q/Downloads/YUDHYA+PRASETIA+\(185-195\).pdf](file:///C:/Users/ASUS-X455LA-Q/Downloads/YUDHYA+PRASETIA+(185-195).pdf), diakses: 21 Mei 2023.

<sup>9</sup> Muhammad Kamal, *Human Trafficking: Penanggulangan Tindak Pidana Perdagangan Manusia di Indonesia*. Makasar: CV Social Politic Genius (SIGn), 2019, hlm 9.

<sup>10</sup> Protokol PBB untuk Mencegah, Memberantas, dan Menghukum Perdagangan Manusia, Khususnya Perempuan dan Anak, Suplemen Konvensi PBB untuk Melawan Organisasi Kejahatan Lintas Batas, Tahun 2000.

<sup>11</sup> *Ibid*.

Women and children are creations of the Almighty God who need to be protected in their dignity and integrity, and their right to life must be guaranteed to grow and develop in accordance with their nature and purpose. Therefore, any form of treatment that disturbs and violates their basic rights in various inhumane forms of exploitation and abuse must be immediately stopped without exception. Especially in cases of human trafficking, women and children are truly powerless and vulnerable, both physically and mentally, and often seem resigned when subjected to unwarranted treatment.

Although efforts have been made to raise awareness, there is still a lack of comprehensive understanding among the community about human trafficking, especially of women and children, and the associated signs. Despite Indonesia having laws to combat human trafficking, there are challenges in the enforcement of these laws and a lack of effective monitoring in various regions. Even though some non-governmental and governmental organizations provide services for trafficking victims, there are still shortcomings in accessing these services throughout Indonesia, particularly in rural areas. The law enforcement against human traffickers still faces obstacles, including a lack of resources, corruption, and difficulties in obtaining strong enough evidence to prosecute the perpetrators.

Legal protection for women and children from the crime of human trafficking is fundamentally a form of protection of human rights as an inherent right of every individual, acquired from birth and bestowed by God, which cannot be diminished. Therefore, legal protection for women and children from the crime of human trafficking is of utmost importance.

Based on the theory of legal protection, this research examines and analyzes the forms or objectives of legal protection, the legal subjects being protected, and the objects of protection provided by the law to these subjects,<sup>12</sup> specifically women and children who are victims of the crime of human trafficking, based on the Republic of Indonesia Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking and related legislation.

Regarding the originality of the research or to ensure the authenticity of this research, the author has made various efforts to determine whether similar research with the same topic and issues has been conducted previously or not. Based on the observations and literature review from various references, research findings, the internet (social media), and other sources of information conducted by the author, several writings related to legal protection for women and children who are victims of human trafficking were found in the form of articles and other writings, as follows:

An article written by Dadang Abdullah, titled "Legal Protection for Victims of Child and Women Trafficking." In the abstract, Dadang Abdullah writes the following: "Trafficking is a dark alliance by several individuals across national and international borders, mostly originating from developing countries with changing economies, with the ultimate goal of forcing women and underage girls to work in

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<sup>12</sup> Salim HS, dan Erlies Septiana Nurbani, *op.cit.*, Hlm 263.

the sex industry and economic oppression, in exploitative conditions for the benefit of agents, recruiters, and criminal syndicates, as with other illegal activities related to trafficking such as domestic servitude, sham marriages, forced labor, and adoption."

Furthermore, in the conclusion of the article, Dadang Abdullah writes the following: The protection of human trafficking victims can encompass abstract (indirect) as well as concrete (direct) forms of protection. Abstract protection essentially refers to protection that can only be emotionally (psychologically) felt or experienced, such as satisfaction. Meanwhile, concrete protection refers to protection that can be tangibly enjoyed, such as material or non-material provisions. Material provisions can include compensation or restitution, cost of living or education waivers. Non-material provisions can include protection from threats or demeaning publicity. The sociological mapping of human trafficking modes can be as follows. Agents recruit individuals through various means and propaganda. Subsequently, they search for agents in other locations as recipients. In certain situations, they even resort to violence and intimidation, deception and abduction, and eventually, the entrapment of debt and the exercise of power. Undoubtedly, the common modus operandi is exploitation.<sup>13</sup>

Zaky Alkazar Nasution, in the Abstract of his thesis entitled "Legal Protection for Women and Children Victims of Human Trafficking," states:

This thesis discusses legal protection for women and children who are victims of human trafficking. The background used is the assessment that categorizes Indonesia as Tier-3 in handling human trafficking by the international community. The trafficked victims are not only for prostitution or other forms of sexual exploitation but also include other forms of exploitation such as forced labor or forced services, slavery, or similar practices. Various government policies related to the protection of women and children are relatively comprehensive, ranging from the 1945 Constitution to the underlying regulations. The analysis conducted is regarding the current legal protection for women and children victims of human trafficking provided by several laws such as the Criminal Code, the Law on Trafficking in Persons, and the Witness Protection Law. Future protection for victims of human trafficking will be provided by the Draft Criminal Code prepared in 2005. This thesis also discusses the efforts of the Indonesian National Police (Polri) in combating human trafficking as a means of legal protection for the victims. In this thesis, the phenomenon found in the background of the problem will be combined with conceptual literature and the developed framework of thinking. To obtain field data, research is conducted using juridical and sociological approaches. This thesis employs qualitative research techniques. The methods used for qualitative research include observation, interviews, as well as comparative methods or comparisons with foreign legislation. It can be concluded that the current legal protection for

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<sup>13</sup> Dadang Abdullah, Fakultas Hukum Universitas Lambung Mangkurat, dengan judul: "Perlindungan Hukum Terhadap Korban Trafficking Anak dan Perempuan". <https://media.neliti.com/media/publications/225067-perlindungan-hukum-terhadap-korban-traff-95881591.pdf>, diakses:21 Mei 2023.

women and children victims of human trafficking is still perceived as ineffective. This is evident from the rarity of severe criminal penalties imposed by judges against human traffickers. The absence of compensation sanctions against human traffickers further contributes to the sense of injustice felt by the victims who have suffered physically, mentally, and economically. The efforts made by the Indonesian National Police in combating human trafficking as a preventive measure to avoid becoming victims are carried out through pre-emptive, preventive, repressive, and rehabilitative approaches. In the future, with the enactment of the Draft Criminal Code, it is expected to provide better protection for victims of human trafficking, both in abstract and concrete terms. The future legal protection for victims of human trafficking should also consider various international policies or standards, which can be drawn from comparative studies in the Netherlands, England, Thailand, and the Philippines.<sup>14</sup>

3. Ahmad Syaafi, in the concluding section of his article titled "Legal Protection for Women and Children Victims of Human Trafficking Crimes," states:

The legal protection provided by the state for women and children as victims of human trafficking crimes is scattered across several general and specific regulations, such as the Criminal Code, the Criminal Procedure Code, Law No. 21 of 2007 on the Eradication of Human Trafficking Crimes, and Law No. 13 of 2006 on Witness and Victim Protection. The legal protection provided by the Criminal Code is currently only abstract and has not been provided directly or concretely. Law No. 13 of 2006 provides both direct and indirect protection. Direct protection includes compensation and restitution to crime victims, but there is no mechanism for providing compensation and restitution due to the absence of implementing regulations. Law No. 21 of 2007 also regulates the provision of protection to victims of human trafficking crimes, both directly and indirectly, including providing restitution for loss of wealth or income, suffering, medical and/or psychological treatment costs, and/or other losses to the victims of human trafficking. However, this direct protection is not supported by implementing regulations, such as Government Regulations. The government should promptly issue implementing regulations (Government Regulations) as a means of implementing the laws related to the mechanism of compensation and restitution for victims of human trafficking crimes, especially women and children.<sup>15</sup>

However, some examples of articles and theses mentioned above are very different from the article I have written, making this article original and innovative.

## B. B. Research Method

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<sup>14</sup> Zaky Alkazar Nasution "Perlindungan Hukum Terhadap Perempuan dan Anak Korban Perdagangan Manusia", *Tesis*,. Program Magister Ilmu Hukum Program Pasca Sarjana Universitas Diponegoro Semarang 2008, [http://eprints.undip.ac.id/17904/1/Zaky\\_Alkazar\\_Nasution.pdf](http://eprints.undip.ac.id/17904/1/Zaky_Alkazar_Nasution.pdf) , diakses: 21 Mei 2023.

<sup>15</sup> Ahmad Syaafi, "Perlindungan Hukum Terhadap Perempuan dan Anak Korban Tindak Pidana Perdagangan Orang", <https://media.neliti.com/media/publications/153055-ID-perlindungan-hukum-terhadap-perempuan-da.pdf>, diakses: 21 Mei 2023.



This research employs a normative legal research method. Normative legal research is an examination of legal issues from the perspective of legal science, focusing on an in-depth analysis of established legal norms.<sup>16</sup> Normative legal research, also known as library research, is conducted solely by referring to secondary sources of information.<sup>17</sup> In line with this research type, the study is descriptive and analytical in nature, aiming to provide an overview of a particular society or group of individuals, as well as any disturbances or other phenomena.<sup>18</sup> The research primarily adopts a juridical-normative approach, which examines the interrelationships between legal regulations and their practical applications.<sup>19</sup> The juridical-normative approach is a method used in normative legal research, relying on secondary data sources or literature materials.<sup>20</sup>

Secondary data in legal research refers to information obtained from the study of literature or various reference materials related to the research topic, commonly known as legal sources.<sup>21</sup> These sources include: 1) Primary legal materials, which are legally binding documents<sup>22</sup> such as the Constitution of the Republic of Indonesia of 1945, Law of the Republic of Indonesia Number 7 of 1984 concerning the Ratification of the Convention on the Elimination of all Forms of Discrimination Against Women, Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection, Law of the Republic of Indonesia Number 21 of 2007 concerning the Eradication of Human Trafficking, and other relevant legislations; 2) Secondary legal materials, which provide explanations about primary legal materials;<sup>23</sup> 3) Tertiary legal materials, which offer guidance and further clarification on both primary and secondary legal materials.<sup>24</sup>

The data analysis used in this research is qualitative normative analysis. Normative analysis refers to an evaluation based on prevailing norms or rules,<sup>25</sup> particularly positive legal provisions. Qualitative analysis involves an examination of data without the use of numerical figures or statistical formulas.<sup>26</sup>

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<sup>16</sup> Hadin Muhjad dan Nunuk Nuswardani, *Penelitian Hukum Indonesia Kontemporer*, Yogyakarta: Genta Publishing, 2012, hlm 9.

<sup>17</sup> Soerjono Soekanto dan Sri Mamudji, Jakarta: *Pengantar Penelitian Hukum*, Universitas Indonesia, 2001, hlm 13.

<sup>18</sup> Soerjono Soekanto *Pengantar Penelitian Hukum*, Jakarta: Universitas Indonesia Press, 2006, hlm 10

<sup>19</sup> Roni HanitjoSoemitro, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, Cetakan Keempat, 2010, hlm 97.

<sup>20</sup> Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, PT Citra Aditya Bakti, Bandung, 2014, hlm 98.

<sup>21</sup> Mukti Fajar ND. Dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris*, Pustaka Pelajar, Yogyakarta, 2010, hlm 156.

<sup>22</sup> Bambang Sunggono, *Metodologi Penelitian Hukum*, PT Raja Grafindo Persada, Jakarta, 2010, hlm. 116.

<sup>23</sup> *Ibid*, hlm 116-117.

<sup>24</sup> *Ibid*, hlm 117.

<sup>25</sup> Tim Redaksi Kamus Besar Bahasa Indonesia Pusat Bahasa Departemen Pendidikan Indonesia, *Kamus Besar Bahasa Indonesia Pusat Bahasa*, Jakarta: PT Gramedia Pustaka Utama, 2008, hlm 968.

<sup>26</sup> Fuady, Munir, *Metode Riset Hukum: Pendekatan Teori dan Konsep*, Depok: Rajawali Press, 2018, hlm 95.



### C. Results and Discussion

Adequate legal protection for women and children from the crime of human trafficking is crucially needed. The necessity for providing sufficient legal protection to crime victims is not only a national issue but also an international one.<sup>27</sup> The author has stated that based on the theory of legal protection, this research examines and analyzes the forms, types, or purposes of legal protection, the legal subjects being protected, and the objects of protection provided by the law to these subjects, namely women and children who are victims of human trafficking under the Republic of Indonesia Law Number 21 of 2007 on the Eradication of Human Trafficking and related legislation.

Protection is an effort or form of service provided by the law to legal subjects and the things that are protected.<sup>28</sup> The principle of legal protection for the people of Indonesia is the principle of recognition and protection of human dignity and rights based on Pancasila and the principle of a legal state based on Pancasila. The recognition and protection of human dignity and rights are said to be derived from Pancasila because their recognition and protection are inherently embedded in Pancasila and should color and shape the nature and content of the legal state based on Pancasila.<sup>29</sup>

Legal protection, in addition to being supported by the substance of the rules, namely legislation, must also be supported by other components, namely structure, which includes law enforcement agencies, and legal culture, which includes societal support. These three components refer to Lawrence M. Friedman's concept of the "Legal System."

Lawrence Meir Friedman states that a legal system is built upon three important parts or elements, namely: a. Legal substance, which encompasses all legal rules, both written and unwritten, such as substantive law, procedural law, and customary law. b. Legal structure, which refers to the hierarchy or arrangement of legal implementation, judiciary, legal institutions, and law-making bodies. c. Legal culture, which represents attitudes and behaviors towards the law, as well as all factors that determine how the legal system gains an appropriate place and acceptance within the framework of its adopted values. This includes aspects of culture in general, customs, opinions of society and law enforcers, ways of acting, thinking, or behaving, whether oriented towards promoting social forces towards the law or deviating from the law.<sup>30</sup>

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<sup>27</sup> Ifrani, "Disharmoni Pengaturan Tata Kelola Kawasan Hutan Di Indonesia, Jurnal Hukum Al'Al Volume VII Nomor 14 Juli-Desember 2015, hlm. 89 dalam: Dadang Abdullah, op.cit , hlm 236

<sup>28</sup> Salim HS dan Erlies Septiana Nurbani, *Pnerapan Teori Hukum pada Penelitian Disertasi dan Tesis, Buku Ketiga*, Jakarta: Rajawali Press, 2016., hlm 263.

<sup>29</sup> Broto Suwiryono, *Hukum Ketenagakerjaan (Penyelesaian Perselisihan Hubungan Industrial Berdasarkan Asas Keadilan*, LaksBang PRESSindo, Surabaya,, 2017, hlm 142.

<sup>30</sup> Dayanto, *Negara Hukum dan Demokrasi: Pergulatan Paradigmatik dan Kritik Realitas dalam Meluruskan Jalan Bernegara*, Yogyakarta: Deepublish, 2014, Hlm. 147.

trafficking has been implemented in the legislation by the government or state, specifically in the Republic of Indonesia Law Number 21 of 2007 concerning the Eradication of Human Trafficking. Provisions regarding victim protection are specifically regulated in Articles 43 to 53.

The specific legal protection for women and children against the crime of human trafficking, as stated in the Republic of Indonesia Law Number 21 of 2007 concerning the Eradication of Human Trafficking, particularly in Article 43 paragraph (1), includes compensation, medical and social rehabilitation, and reintegration that must be carried out by the government, especially for victims who have experienced physical, psychological, and social suffering as a result of the crime of human trafficking. Subsequent articles, namely Articles 44, 47, 48, and 51 to 54 of the Republic of Indonesia Law Number 21 of 2007, regulate the confidentiality of victims' identities, the right to restitution or compensation, including property rights and costs incurred during the legal process, both domestically and internationally, and such restitution must be included in the court's verdict.<sup>31</sup> Law enforcement is necessary for the implementation of restitution for crime victims by the perpetrators of the crime, especially in the case of trafficking victims, without having to go through legal remedies such as appeals, cassation, or review in order to obtain their restitution rights.

The Republic of Indonesia Law Number 21 of 2007 concerning the Eradication of Human Trafficking was enacted not only to prevent and address the crime of human trafficking but also to protect the victims as a result of this crime through the existence of severe imprisonment and fines for perpetrators involved in the trafficking of women and children. For example, Article 6 of Law Number 21 of 2007 concerning the Eradication of Human Trafficking stipulates that "Any person who sends a child into or out of the country by any means, resulting in the exploitation of the child, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine ranging from at least IDR 120,000,000.00 (one hundred twenty million Indonesian Rupiah) to a maximum of IDR 600,000,000.00 (six hundred million Indonesian Rupiah)."

Human trafficking, particularly involving women and children, is an act that contradicts the dignity and human rights of individuals and must be eradicated by law enforcement agencies such as the police, prosecutors, judges, legal institutions, and lawmakers. Therefore, provisions regarding victim protection are specifically regulated in Articles 43 to 53, and severe imprisonment and fines for perpetrators involved in trafficking women and children must be applied by law enforcement officials, including the police, prosecutors, judges, legal institutions, and lawmakers, as consistent and consequential elements of the legal structure, in order to serve as a deterrent considering the disturbing nature of the actions of those involved in trafficking women and children, which harm society and destroy the future of children who are the future of the nation. Thus, in the future, there will be no more individuals engaged in the crime of trafficking or, at the very least,

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<sup>31</sup> Aziz Syamsuddin, *Tindak Pidana Khusus*, Jakarta: Sinar Grafika, 2011), hlm.63.

a reduction in cases of trafficking involving women and children.

Legal enforcement agencies play a key role in providing legal protection for women and children from the crime of human trafficking. Here are some common actions taken by law enforcement agencies to provide such protection:

First, Investigation and Prosecution: Law enforcement agencies conduct investigations and gather evidence in cases of human trafficking involving women and children. They collect evidence, identify perpetrators, and gather necessary information to initiate legal proceedings.

Second, Rescue and Victim Protection: Law enforcement agencies play a role in rescuing human trafficking victims, particularly women and children trapped in trafficking networks. They collaborate with specialized institutions or organizations handling victim protection to provide temporary shelter, healthcare services, psychological support, and other forms of assistance.

Third, Prosecution of Offenders: Law enforcement agencies prosecute individuals involved in human trafficking. They work in cooperation with prosecutors to ensure that perpetrators are brought to justice in accordance with the applicable laws.

Fourth, Network Disruption and Service Providers: Law enforcement agencies strive to uncover and dismantle human trafficking networks, including recruiters, service providers, controllers, and main perpetrators. These actions aim to disrupt these networks and prevent future human trafficking activities.

Fifth, International Cooperation: Law enforcement agencies collaborate with counterparts from other countries in combating human trafficking. They share information, experiences, and resources to investigate and prosecute cases involving women and children who fall victim to human trafficking.

Sixth, Education and Training: Law enforcement agencies receive specialized education and training in handling cases of human trafficking involving women and children. They are provided with a better understanding of the signs and characteristics of human trafficking, as well as effective investigative and prosecutorial strategies.

Seventh, Through these actions, law enforcement agencies play a role in providing better legal protection for women and children who become victims of human trafficking. However, it is important to continuously enhance cooperation between law enforcement agencies, the government, NGOs, and civil society in efforts to combat human trafficking and ensure legal protection for women and children from the crime of human trafficking.

Legal protection for women and children from the crime of human trafficking cannot be separated from the enforcement of the law by judges as the ultimate decision-makers in handling and sanctioning human trafficking offenses, particularly those involving women and children. Thus, judges, in issuing judgments or sentences against perpetrators of human trafficking, must reflect legal certainty, justice, and the best interests of society, victims, and perpetrators alike.

Legal protection for women and children from human trafficking typically

involves several steps. One important step is to provide a safe haven for the victims. This can be in the form of shelters or safe houses that protect the victims' identities and provide basic necessities such as food, shelter, and necessary medical care. Additionally, psychological and medical support are crucial to help victims overcome the physical and psychological trauma caused by human trafficking. Victims often experience mental pressure, depression, anxiety disorders, and physical injuries that require specialized care and support.<sup>32</sup>

Social and economic rehabilitation is also an important step in providing protection to the victims. This involves programs aimed at helping victims rebuild their lives and regain independence through education, skills training, and assistance in finding safe and decent employment. All these measures aim to provide comprehensive protection and recovery for victims of human trafficking.<sup>33</sup>

To enhance access to mental and psychological recovery for human trafficking victims, the following steps can be taken:<sup>34</sup>

1. Increase public awareness: A broader public education on human trafficking, its impact on victims, and the importance of mental recovery can help reduce stigma and motivate community support.
2. Enhance professional training: The government can invest resources to train more psychologists, counselors, and other mental health professionals in handling trauma resulting from human trafficking. This will improve the availability of competent and trained services.
3. Improve access to recovery services: The government should ensure that mental and psychological recovery services are widely available and easily accessible to human trafficking victims. This includes integrating recovery services into existing healthcare systems and ensuring equal access for all victims.
4. Collaboration between governmental and non-governmental institutions: Cooperation between the government, NGOs, and non-profit organizations can help improve access to mental and psychological recovery services. Together, they can strengthen support networks, enhance service sustainability, and increase public understanding.

To prevent the spread and increase of human trafficking cases, especially involving women and children, addressing the root causes and providing alternative solutions through family social empowerment are necessary.

Legal protection for women and children from human trafficking cannot be separated from the culture or legal norms of society, as they are closely linked to cultural factors that influence views, norms, and legal practices within the

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<sup>32</sup> Bareskrim Polri. Laporan Kasus TPPO Unit IV Subdit III Dit Tipidum Bareskrim Polri. 2021. hlm. 86

<sup>33</sup> Winarno, B. *Dinamika Isu-isu Global Kontemporer*. Yogyakarta: CAPS (Center for Academic Publishing Service). 2014. hlm 93.

<sup>34</sup> IOM Indonesia. *Petunjuk Teknis Operasional Gugus Tugas Pencegahan & Penanganan Tindak Pidana Perdagangan Orang*. Jakarta: International Organization for Migration (IOM) Indonesia. (2019). hlm 83.

community. Here are some aspects of the connection between culture or legal norms and human trafficking, particularly involving women and children:

To prevent the spread and escalation of cases of human trafficking, especially involving women and children, the root causes need to be addressed, and one alternative to eliminate them is through the empowerment of families through social means.

Legal protection for women and children from human trafficking cannot be detached from the cultural or legal traditions of society, as they are closely related due to cultural factors that influence societal views, norms, and legal practices. Here are several aspects of the connection between cultural or legal traditions and human trafficking, particularly involving women and children:

Firstly, Social Norms and Values: Legal and human trafficking cultures are reflected in societal norms and values. If society holds demeaning views towards women and children or if human trafficking is accepted as a common practice, it reflects a legal culture that inadequately protects their interests.

Secondly, Law Enforcement: Strong and effective legal cultures are crucial in combating human trafficking. If the legal system does not take violations of human rights, such as human trafficking, seriously, victims may not receive the justice they deserve. Ineffective law enforcement can also reinforce human trafficking practices within society.

Thirdly, Legal Protection: A good legal culture includes adequate legal protection for women and children. If laws and policies supporting protection against human trafficking are absent or not effectively implemented, women and children become vulnerable to exploitation and human trafficking.

Fourthly, Awareness and Education: A strong legal culture can influence societal awareness and education about human trafficking. Through appropriate legal education, communities can understand their rights, recognize the signs of human trafficking, and fight against such practices.

Fifthly, Policies and International Cooperation: A positive legal culture concerning human trafficking also affects policies and international cooperation. Countries with a strong legal culture are more likely to adopt policies that protect women and children from human trafficking and work together with other nations to address this issue collectively.

The importance of improving the legal culture that protects women and children from human trafficking cannot be overstated. It involves efforts to change societal views, norms, and legal practices so that the rights and needs of women and children are respected and well-protected.

Therefore, based on the findings and discussions, the summary of the results and discussions can be stated as follows: research on legal protection for women and children from human trafficking should not only be supported by legal substance, such as legislation but also by other components, such as the legal structure, which includes law enforcement agencies, and the legal culture, which involves societal support.

**Legal Substance:** Legal substance refers to the content or provisions of the law that govern the protection of women and children from human trafficking. It is important to have clear and comprehensive legal regulations that explicitly prohibit human trafficking and provide adequate protection for victims. This includes regulations on prevention, law enforcement, rehabilitation, and compensation for victims. Good legal substance reflects universal values regarding human rights and recognizes the particular vulnerability of women and children in the context of human trafficking.

**Legal Structure:** The legal structure refers to the legal framework that facilitates the implementation, enforcement, and effective law enforcement against human trafficking. A strong legal structure includes competent law enforcement agencies, a fair and efficient judiciary system, effective monitoring mechanisms, and cooperation between law enforcement agencies and other institutions involved in victim protection. A good legal structure enables the effective handling of human trafficking cases, ensures justice for victims, and imposes strict sanctions on perpetrators.

**Legal Culture:** Legal culture refers to the norms, values, and attitudes of society towards the law. A strong legal culture reflects society's appreciation for the importance of protecting women and children from human trafficking and condemns such actions. A good legal culture also promotes public awareness of victims' rights and collective responsibility in combating human trafficking. This involves efforts to enhance understanding, education, and changes in societal attitudes towards human trafficking.

Support from positive legal substance, legal structure, and legal culture is crucial to providing effective legal protection for women and children from the crime of human trafficking. All these aspects are interconnected and mutually influential. Without adequate legal substance, an effective legal structure would be difficult to achieve, as would be the case with a positive legal culture. Conversely, without a supportive legal culture, the implementation of legal substance and a good legal structure would also face obstacles. Therefore, it is important to consider these three aspects holistically in efforts to protect women and children from human trafficking.

#### **D. Conclusion**

Legal protection for women and children from the crime of human trafficking should not only be supported by legal substance, namely legislation, but also by other components, namely the legal structure, represented by law enforcement agencies, and the legal culture, represented by societal support. Support from positive legal substance, legal structure, and legal culture is crucial to providing effective legal protection for women and children from the crime of human trafficking. All these aspects are interconnected and mutually influential. Without adequate legal substance, an effective legal structure would be difficult to achieve, as would be the case with a positive legal culture. Conversely, without a supportive



legal culture, the implementation of legal substance and a good legal structure would also face obstacles. Therefore, it is important to consider these three aspects holistically in efforts to provide legal protection for women and children from the crime of human trafficking in Indonesia.

Legal protection for women and children from the crime of human trafficking must be a top priority for the government, law enforcement agencies, and society. Legislation, particularly the Republic of Indonesia Law Number 21 of 2007 concerning the Eradication of Human Trafficking, and related regulations, must be enforced firmly against human trafficking perpetrators, especially those involved in trafficking women and children. This should be done through effective and fair law enforcement to provide justice to victims and prevent the occurrence of such crimes.

It is important to provide adequate legal protection for women and children against the crime of human trafficking, including the provision of safe shelters, rehabilitation services, psychological support, legal assistance, and opportunities for them to regain independent lives. Victims should also be given identity protection and confidentiality to prevent them from retaliatory threats.

In addition to addressing the consequences of human trafficking, it is also important to focus on prevention and addressing the root causes. This involves efforts to tackle poverty, social inequality, gender inequality, and other factors that exacerbate the vulnerability of women and children to human trafficking.

Legal protection for women and children against the crime of human trafficking should involve cross-sectoral efforts from the government, international institutions, and the community to achieve effective and sustainable outcomes.

It is important to raise awareness in society about the crime of human trafficking, recognize the signs and associated risks, and provide education to women and children so they can protect themselves.

Cooperation between countries in law enforcement, investigations, and information exchange is crucial to stop cross-border human trafficking networks. Countries should also be committed to protecting women and children who become victims of human trafficking, regardless of their nationality.

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