

Policy for Combating Child Trafficking in North Sumatra Province

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Keywords:

Child trafficking,
Countermeasures,
Criminal offenses,
Policy.

Abstract. Child trafficking has been occurring in North Sumatra Province since before the independence of the Republic of Indonesia until now. Addressing child trafficking still has issues that must be enforced for the sake of children's interests and rights, both at the investigation, prosecution, and sentencing levels against the perpetrators. North Sumatra Province has been a driving force in formulating regulations related to human trafficking, especially of women and children, even before the enactment of Law No. 21 of 2007 on the Eradication of Human Trafficking, which must be accompanied by the reform of national criminal law. This paper aims to develop a legal framework, design the implementation of law enforcement, and formulate legal reforms regarding child trafficking in North Sumatra Province. This research is a socio-legal study oriented towards the legal policy of child trafficking in North Sumatra Province, providing direct input into the policy-making process with a multi- or interdisciplinary approach. Related to the legal framework, the perpetrators of child trafficking are individuals, and law enforcement uses Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons and Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection to punish the perpetrators of child trafficking. The effectiveness of combating child trafficking in North Sumatra Province has not yet been measurable because the archived data still combines the number of child victims and adult victims in human trafficking cases. However, there have been no repeat offenders of child trafficking after serving their sentences. Legal reforms related to combating child trafficking in North Sumatra Province use penal measures. Regional regulations must align with the Criminal Code and related laws that are in accordance with the national criminal law reforms.

1. INTRODUCTION

The country of Indonesia is a nation that places the idea of human rights protection as an important element. Indonesia considers the urgency of human rights protection, so the guarantee of citizen rights protection is included in the constitution. One of the rights of citizens is the right to independence. The guarantee of the right to independence is affirmed in the 1945 Constitution in Article 28A and 28I paragraph (1). The guarantee of the right to freedom for citizens has been affirmed in the constitution, yet there are still crimes that violate this freedom (House, 2015). One of them is the crime of human trafficking. Human trafficking generally involves the process of moving or placing someone in an exploited situation. In cases of human trafficking, children are the group most frequently victimized, categorizing them as a vulnerable group. Child trafficking victims also experience forms of violence. The forms of violence experienced by children as victims include physical, psychological, and sexual violence (Cecchet & Thoburn, 2014). In Indonesia, human trafficking, which is a significant part of child trafficking, occurs in various provinces across the country. One of them is North Sumatra Province. The geographical location of North Sumatra Province is on the strategic route of international shipping in the Malacca Strait. Moreover, North Sumatra Province has an international airport and several illegal ports (unofficial ports) that facilitate perpetrators in transporting human trafficking victims out of the region or even out of the country. Based on data from the Indonesian National Police cited from the databoks website, which has been synchronized with data from katalog.data.go.id that published data on Human Trafficking Crimes in 2023 handled by the Criminal Investigation Agency of the Indonesian National Police and its regional police, there were 3,363 recorded victims of human trafficking crimes in Indonesia throughout 2023. The highest number of victims was recorded in the North Sumatra Regional Police area, totaling 379 people. Among the victims, children have been recorded as victims of human trafficking in North Sumatra Province. Therefore, this research focuses on children as victims of human trafficking in North Sumatra Province.

There are three reasons why research on child trafficking crimes in North Sumatra Province is important to study. First, child trafficking crimes in North Sumatra Province have been occurring since the colonial era up to the present day (Situmorang, 2011). Child trafficking in North Sumatra Province is not a new subject for study. Records of child trafficking began from 1872-1942 in the Deli Maatschappij plantations, which implemented contract labor. During the colonial period, North Sumatra, formerly known as East Sumatra, was a region on the island of Sumatra that experienced exploitation by private entities, especially in the development of plantations. If the workers resisted, they would be forcibly transported and punished. The punishment given is forced labor or an extension of their contract. The laborers had to surrender their entire fate to the Deli Maatschappij plantation owners. Children employed on the tobacco plantations work in the sheds and fields, performing tasks such as tying, selecting, and stacking tobacco. As the plantations developed and more work became available, children also became involved in the planting and maintenance of tobacco crops. In addition to children employed in tobacco plantations, records of child trafficking also occurred among child workers in Jermal in the waters of the East Coast of Sumatra around the 1950s. Work in jermal is a form of child labor. Besides being unable to access education, children bear a very heavy workload, lack guaranteed welfare, and experience physical, psychological, and sexual violence. From the data processed from the presentation by the Deputy Director of the Criminal Investigation Directorate of North Sumatra Police, delivered at the National Discussion and Socialization with the

Theme "Strengthening Synergy and Collaboration of Institutions in Preventing and Combating Human Trafficking in North Sumatra," in 2023, the Task Force for Human Trafficking in North Sumatra Province uncovered 7 cases of child trafficking with 7 child victims. Second, there are still weaknesses in the enforcement of child trafficking laws in North Sumatra Province at the investigation, prosecution, and trial stages. Third, North Sumatra Province is one of the provinces in Indonesia that is focused on human trafficking crimes, especially child trafficking (Atmasasmita, 2003). This is evidenced by the North Sumatra Provincial Government having issued policies related to the handling and prevention of human trafficking crimes. Based on the commitment made by the Province of North Sumatra, legal reform on child trafficking in the Province of North Sumatra is an important matter to be addressed. The research will focus on policies for combating child trafficking. Efforts to combat crime in this research will focus on penal measures through the penal route (Penal Policy). Therefore, it is necessary to have a crime prevention strategy in an effort to find a criminal law formulation to address the crime of child trafficking in North Sumatra Province, both in terms of the crime itself, criminal liability, and punishment for the perpetrators of child trafficking in North Sumatra Province (Kahler, 2018). The above description serves as the main reason and basis for establishing the title "Policy for Addressing Child Trafficking Crimes in North Sumatra Province."

2. MATERIALS AND METHOD

This research is a type of socio-legal research. In some literature on legal research methods, socio-legal research is categorized as non-doctrinal research. Sociological-legal is essentially a concept that encompasses approaches to law, legal processes, and legal systems. Socio-legal has become a general term that encompasses a group of disciplines applying social science perspectives to the study of law. Socio-legal creates an academic space for interdisciplinary exchange between the conceptions of law and legality; a space free from methodological orthodoxy that utilizes established disciplines. The characteristic of socio-legal research is to study legislation and policies to explain the philosophical, sociological, and juridical problems of written law and to explain legal phenomena in the cultural context in which the law exists. The socio-legal approach is an interdisciplinary approach aimed at integrating all aspects of disciplinary perspectives, social sciences, and legal sciences into a single approach. Socio-legal research focuses on studies oriented towards legal policy on child trafficking in North Sumatra Province by providing direct input into the policy-making process, which is multi- or interdisciplinary in approach. The data used in this research are primary data obtained from field research in the form of interviews and secondary data through literature sources. The location of this research is North Sumatra Province. The data collection technique in socio-legal research uses a mixed method approach, combining primary data collection from interviews and literature materials. After that, the data obtained were analyzed using qualitative analysis methods to find the model of child trafficking crime policy in North Sumatra Province.

3. RESULTS AND DISCUSSION

3.1. Legal Framework for Child Trafficking Crimes in North Sumatra Province

In this study, related to the legal framework, the author conducted research on the perpetrators of child trafficking crimes in North Sumatra Province. In Law Number 21 of 2007 concerning the Eradication of Human Trafficking, perpetrators are divided into four groups: individuals, state organizers, corporations, and organized groups. In Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection, there is no categorization of perpetrators of trafficking crimes. The law defines the subject of the crime as any person without specifying who falls into the category of perpetrators of child trafficking (Bruckert & Parent, 2002). Likewise, the North Sumatra Regional Regulation Number 6 of 2004 concerning the Elimination of Trafficking in Women and Children does not categorize the perpetrators of child trafficking as the Anti-Trafficking in Persons Law does, but rather treats them similarly to the Child Protection Law, where the subjects of the crime are every person. In the prosecution of child trafficking offenders, a distinction is also made between juvenile offenders and adult offenders. The sentencing of child offenders who commit child trafficking crimes is based on Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, while for adult offenders, it is based on Law No. 21 of 2007 concerning the Eradication of Human Trafficking Crimes and the Criminal Procedure Code.

Based on the results of interviews conducted with the Panit Renakta (youth, children, and women) of the North Sumatra Regional Police, the North Sumatra Regional Police stated that the perpetrators of child trafficking in North Sumatra Province fall into the category of individuals. since the enactment of the Law on the Eradication of Human Trafficking, the number of child trafficking crimes reported to the North Sumatra Regional Police since the enactment of Law No. 21 of 2007 on the Eradication of Human Trafficking has amounted to 19 cases specifically related to child trafficking crimes (Panggabean et al., 2024). In this case, the Subdit Renakta Ditreskrumum Polda Sumut classifies victims aged 18 years and below. Data from the Human Trafficking Crime Task Force of the North Sumatra Police in 2023 indicates that out of 41 reports of human trafficking crimes submitted to the Human Trafficking Crime Task Force of the North Sumatra Police, there are 62 suspects involved in human trafficking crimes. Perpetrators of child trafficking fall into the category of individuals. For the victims of child trafficking in North Sumatra Province, there are 7 individuals, consisting of 4 female child victims and 3 male child victims. From the interview results, no categories of perpetrators as state organizers, corporations, and organized groups were found. When it was investigated whether there was any connection between the perpetrators and organized groups, there was no evidence that the perpetrators of child trafficking crimes committed these crimes in an organized manner; rather, they were carried out individually.

The existing penal policy in child trafficking offenses consists of international regulations, national regulations, and regional regulations (Rafferty, 2013). For international regulations, there are two regulations: first, the United Nations Convention on the Rights of the Child, commonly known as the Convention on the Rights of the Child (CRC), which is an international human rights treaty that guarantees children's rights in the fields of civil, political, economic, social, health, and cultural rights. It was adopted by the United Nations (UN) in 1989 and came into force on September 2, 1990. Second, the United Nations General Assembly adopted a document called The Convention on the Elimination of All Forms of Discrimination against Women, which is commonly known as CEDAW. CEDAW has become a human rights treaty that provides space for women to be free from all forms of trafficking and exploitation. The importance of the CEDAW Convention in relation to child trafficking crimes is also based on the Republic of Indonesia Law Number 21 of 2007 concerning the Eradication of Human Trafficking Crimes, which in the consideration section includes Law Number 7 of 1984 on the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (Lembaran Negara Republik Indonesia Tahun 1984 Nomor 29, Tambahan Lembaran Negara Republik Indonesia Nomor 3277). Thus, the CEDAW Convention is an integral part of combating human trafficking, especially children, in Indonesia (Asikin, 2025).

National regulations related to child trafficking crimes consist of 5 (five) laws, namely, first, Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, specifically for trafficking crimes involving children as victims, which are found in Article 2, Article 3, Article 4, reinforced by Article 17, as well as Article 5 and Article 6 of Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons. Second, Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 on Child Protection, which specifically regulates child trafficking crimes in Articles 76F and 83. Third, Law No. 1 of 2023 concerning the Criminal Code is regulated in Article 455 paragraphs (1) and (2). However, the National Criminal Code does not differentiate between child victims and adult victims. Regarding Article 455 of Law No. 1 of 2023 on the Criminal Code, the researcher argues that equating the elements between adult and child victims will certainly impose a relatively heavy burden of proof on children in cases of child trafficking. This formulation will not be able to protect children as victims of human trafficking. This is because, although in principle the status of children and adults as human beings is the same in the eyes of the law, the law also places children in a special position. This means that the legal provisions applicable to children are distinguished from those applicable to adults, at least there are guarantees of special protection for children. Fourth, Law No. 39 of 1999 on Human Rights and Fifth, Law No. 13 of 2003 on Manpower.

Regional regulations include 3 (three) Regional Regulations in North Sumatra Province, namely, first, North Sumatra Provincial Regulation No. 6 of 2004 on the Elimination of Trafficking in Women and Children, based on the fact that trafficking in women and children is one of the worst forms of violence experienced by women and children, which has become a form of crime occurring in various countries (Atmasasmita, 2003). Second, the Governor of North Sumatra Regulation No. 59 of 2017 concerning the Provincial Action Plan for the Prevention and Handling of Human Trafficking, and third, the Medan City Regional Regulation No. 3 of 2017 concerning the Prevention and Handling of Human Trafficking Victims, because human trafficking is a crime against human rights that disregards a person's right to live freely, not to be tortured, to obtain personal freedom, freedom of thought and conscience, freedom of religion, the right not to be enslaved, and other human rights violations.

3.2. Enforcement of Child Trafficking Crimes in North Sumatra Province

At the investigation stage, based on an interview with the Panit Renakta Polda Sumut, it was mentioned that the development of handling human trafficking cases since the enactment of Law No. 21 of 2007 on the Eradication of Human Trafficking has been managed by the North Sumatra Regional Police using Law No. 21 of 2007 on the Eradication of Human Trafficking. In handling cases of child trafficking in the North Sumatra Regional Police, Article 83 of Law Number 35 of 2014 concerning Amendments to the Child Protection Law is used. Additionally, the North Sumatra Regional Police use Article 6 of Law No. 21 of 2007 concerning the Eradication of Human Trafficking Crimes to provide protection to child victims of trafficking. From interviews conducted, the number of girls who became victims of child trafficking in North Sumatra Province is higher compared to boys. The age range of child victims of human trafficking in North Sumatra Province is between 0 to 18 years and can be categorized based on the *modus operandi*, which includes the adoption or abduction of newborns and children who are made Commercial Sex Workers (CSWs) within the age range of 14 to under 18 years. In the interview, it was also explained that child trafficking has a very significant impact on the child victims. The impact on child victims of human trafficking in North Sumatra Province includes loss of future, loss of identity, and mental disorders (Samuels, 2015).

After the investigation is conducted, a summary and conclusion of the criminal act are made. The suspect is determined based on at least 2 (two) pieces of evidence supported by physical evidence. The determination of the suspect is carried out through the case examination mechanism, except for suspects caught in the act. After the case file in the investigation process is completed, the case file is submitted to the Public Prosecutor. The investigation conducted by the police officers aims to gather evidence to determine whether an incident that occurred is a criminal event, with the investigation also aimed at finding the perpetrator (Carrier & Spafford, 2003). After the investigation is conducted, the next stage is prosecution. This is done to protect the rights of the suspect and uphold the principle of presumption of innocence.

Examination of the suspect The investigation of Child Trafficking Crimes conducted by the investigator focuses on sufficient preliminary evidence as a condition for the occurrence of the crime. The starting point of the investigation before the investigator is the suspect. From him, information regarding the criminal event being investigated is obtained (Reilly, 2019). However, even though the suspect is the starting point of the investigation, the accusatory principle must be applied to them. The suspect must be placed in the position of a human being with dignity and worth. He must be regarded as a subject, not as an object. What is being examined is not the suspect as a person. The criminal act he committed is the object of the investigation. The examination is aimed at the criminal offense committed by the suspect. The suspect must be presumed innocent, in accordance with the legal principle of "presumption of innocence," until a final and binding court decision is obtained. In criminal investigations, it is not always the case that only the suspect needs to be examined. Sometimes, it is necessary to examine witnesses or experts. For the sake of clarifying and elucidating the alleged criminal event. However, the dignity and fundamental rights of the suspect must be upheld, and witnesses and experts must also be treated in a humane and civilized manner.

In practice, investigators often find it difficult to prove the existence of the intent/purpose component of victim exploitation. Therefore, greater efforts and capabilities from law enforcement are needed to prove the component of intent/purpose of exploitation (Milanovic, 2021). Investigators can conduct direct investigations at the origin, transit, or final destination of the victim, by gathering information from various sources such as local residents, concerned community organizations, local law enforcement, and others, to determine whether the elements of Child Trafficking are proven. Because the victim's consent is no longer important if the methods mentioned in the definition of human trafficking (such as deception, lies, etc.) have occurred, and it can be proven that there was intent or purpose of exploitation, then that person can be categorized as a victim of Human Trafficking, specifically with a child as the victim. Investigators can conduct an investigation to determine whether the crime victim is a victim of child trafficking, including, first, migrant workers, child workers, children trafficked for prostitution, child trafficking through adoption or child placement, slavery under the guise of marriage and mail-order brides, and organ implantation.

At the prosecution stage, the prosecutor as the controller of the case process (*Dominus Litis*) holds a central position in law enforcement, because only the prosecutor's office can determine whether a case can be brought to court or not based on legally valid evidence according to criminal procedural law. The Prosecutor's Office is also the only institution that executes criminal judgments (*executive ambtenaar*). Therefore, the Public Prosecutor needs to coordinate with investigators in handling cases, including the crime of trafficking in women and children, so that the handling of the case can be carried out optimally. The prosecution of Human Trafficking against adult and child victims has differences in the fulfillment of the "means" component. In cases of Human Trafficking involving children, the 'means' component is not a determining factor in proving whether Human Trafficking has occurred or not. In the context of Human Trafficking involving child victims, the element of 'method' needs to be

proven, but it is not a determining factor in whether Human Trafficking has occurred or not. Therefore, the description of the means element must still be included in the indictment. However, the elements of process and intent will be the main determinants of the occurrence of Human Trafficking against children. In the context of Human Trafficking involving children in Indonesia, the element of 'method' must still be proven, even though this element is not the determining factor in whether Human Trafficking occurs or not.

Related to the protection of victims of child trafficking crimes. In cases of human trafficking, victims need to be provided with protection. One of the important considerations for protecting the victim is due to the losses they have suffered. Therefore, the form of protection for victims that is essential is carried out through the recovery of losses suffered by the victim due to a crime. The recovery can take the form of compensation and restitution. Restitution emphasizes the accountability of the perpetrator for criminal charges in criminal cases. To support the implementation of restitution, the role of law enforcement in the criminal justice system is necessary, both from the investigator's side in determining the victim's losses so that they can be included in the case file, and from the public prosecutor as the victim's representative in court to ensure that victims who want restitution are included in the charges, including the amount of restitution. The judge also plays a crucial role as the decision-maker, where one of the requirements for restitution is the existence of a court ruling. The submission of restitution by the victim to the LPSK is carried out when the victim is aware of their right to file a restitution request. In practice, there are some victims who do not know that they have the option to request restitution from the perpetrator. For that reason, the role of law enforcement is needed, both investigators and prosecutors as legal institutions that provide legal protection to victims, to be required to inform victims to file their restitution claims. The prosecutor's office will examine the case file submitted by the investigator to check for the presence or absence of a restitution request.

If the restitution request has not been submitted, the prosecutor will instruct the investigator to inform the victim about the restitution application, if the victim desires compensation (Lollar, 2014). The prosecutor must inform that the claim for damages can be submitted along with the criminal case filing and/or submit a separate claim for damages through a civil lawsuit in the district court. If the victim wishes to file for restitution before the judge's ruling, the prosecutor will instruct the investigator to cooperate with the Witness and Victim Protection Agency in examining the requirements for filing restitution. The Witness and Victim Protection Agency will then determine the amount of restitution to be paid by the perpetrator based on evidence of the victim's losses, both material and immaterial. In addition, the prosecutor's office also plays a role in asset recovery. At the trial stage, for most victims of child trafficking, giving testimony or evidence in court is a highly stressful challenge throughout the entire cooperation process and becomes a more frightening event compared to other occurrences (Ciorciari & Heindel, 2016). Therefore, Law Enforcement Officers or Counselors can truly eliminate this fear. At this level, law enforcement officers should reduce the level of pressure as much as possible, so that victim-witnesses can manage the pressure and provide the best testimony and evidence, by offering practical assistance to ensure that victim-witnesses can secure their human rights to access the court. The effectiveness of law enforcement against child trafficking in North Sumatra Province is not only about reviewing the conditions and what happens in court. But it will be linked to the processes and aspects that occur before a case is examined and decided by the court (Kaufman, 2010).

A review of the effectiveness of the child trafficking court function in North Sumatra Province was conducted by examining the expectations of groups that are traditionally seen as having the mandate to assess the court's performance, namely, the public, lawmakers, and policymakers in the Supreme Court. In addition to stakeholder expectations, the review also examines the criteria and indicators derived from widely accepted frameworks for assessing court performance. This approach is used to balance the expectations of stakeholders with the fundamental principles of court operations, including the independence and impartiality that judges must uphold (Contini & Mohr, 2007). However, at the same time, judges are required to be impartial and objective in evaluating the evidence and testimonies presented by the Prosecutor and the defendant in court. Based on data from the North Sumatra Regional Police obtained from an interview with the Panit Renakta of the North Sumatra Regional Police, not all Police Stations in North Sumatra Province handle child trafficking cases at the police level. However, there are several Police Stations that handle child trafficking cases, including Polrestabes Medan, Polres Deli Serdang, Polres Asahan, and Polres Madina. The police precinct that handles the most child trafficking cases is Polrestabes Medan. The modus operandi of human trafficking crimes in North Sumatra Province can be seen in the following table:

Table 1: Modus Operandi of Human Trafficking Crimes in North Sumatra Province in 2023.

Modus	Number of Cases
Indonesian Migrant Workers	31
Commercial Sex Workers	7
Crew Members	1
Child Exploitation	2

From the data on Human Trafficking Crimes obtained from Bareskrim and the North Sumatra Police in 2023, it was found that the number of human trafficking crime reports in North Sumatra Province is 41 reports, with 86 female adult victims and 286 male adult victims. Meanwhile, the number of female child victims is 4 and the number of male child victims is 3. Thus, the total number of victims amounts to 379 victims of human trafficking. From that number of victims, 62 suspects have been identified. The development of human trafficking cases in North Sumatra Province can be seen in the following table:

Table 2: Case Development in North Sumatra Province in 2023.

Case Development	Number of Cases
Investigation stage	9
P21 Stage	28
Cases that are SP3	1
Cases Transferred to the Court	5

There are obstacles in counting the number of child trafficking cases resolved in North Sumatra Province. According to an interview conducted with a Judge at the High Court of North Sumatra, the number of child trafficking cases resolved in North Sumatra Province has not been tabulated. This is because the data collection still combines human trafficking offenses with adult and child victims. The obstacles faced in the enforcement of child trafficking law in North Sumatra Province during the investigation stage based on interviews with sources are:

1) The lack of information from the community regarding child trafficking crimes is due to the economic factors of parents who exploit their children through child prostitution and illegal adoption. The explanation reveals that one of the investigation processes is to gather information from the community. However, in reality, the community is less cooperative with law enforcement due to a lack of understanding and minimal information known by the community regarding this child trafficking crime. This is caused by the economic factors of the community that sell their own children. Economic difficulties limit the community's access to information about child trafficking crimes.

2) The lack of information obtained is generally because the perpetrators of child trafficking crimes are often the child's closest relatives, making the family reluctant to report it.

3) Among the various obstacles in the investigation, the challenge that often arises is when conducting an examination of the suspect. It is natural for everyone to defend themselves by giving convoluted statements to cover up their mistakes.

4) In uncovering child trafficking cases, the North Sumatra Provincial Police do not protect undercover agents as they do in narcotics crime cases, where undercover agents are allowed and protected by law. Therefore, it is very difficult to uncover child trafficking networks.

From the obstacles conveyed by the source The North Sumatra Provincial Police have made various efforts to overcome these obstacles. The efforts made by law enforcement officers, especially investigators, in overcoming the obstacles in investigating child trafficking crimes in North Sumatra Province include:

- a. Always establish cooperation and exchange information whenever there is a report about a case of child trafficking;
- b. Optimization and prioritization of the best interests of the child;
- c. Collaborate with stakeholders in the psychological recovery of child trafficking victims;
- d. In handling victims of child trafficking, the Ditreskrim Polda North Sumatra consistently collaborates with other stakeholders, such as the Dinas P3AKB (Department of Women's Empowerment, Child Protection, and Family Planning) of North Sumatra Province;
- e. Another effort to overcome the challenges faced is to conduct outreach to the community through babinkantibmas;
- f. Conducting outreach to the community, including campuses, schools, and neighborhoods;
- g. For the police themselves, it involves including investigators to attend child investigator certification and participate in the Prolat for the Protection of Women and Children and also the Crime of Human Trafficking.

Furthermore, although according to the results of interviews with sources, there have been no disclosures of child trafficking cases involving international networks in North Sumatra Province so far, the North Sumatra Provincial Police continue to coordinate with related agencies to optimize the roles of each related agency by prioritizing preemptive and preventive actions. What has been done by the North Sumatra Provincial Police in optimizing the roles of each related agency/department by prioritizing preemptive and preventive actions, among others:

1) Related to immigration agencies with the existence of Immigration Foster Villages. The immigration foster village is a program conducted by the Immigration Office with the aim of, among other things, increasing the knowledge and awareness of the village community about immigration and preventing child trafficking and human smuggling;

2) Friends of PMI (Indonesian Migrant Workers) coordinated by BP3MI, which is a volunteer community concerned with Indonesian migrant workers. The community's task is to facilitate access to placement services for Indonesian Migrant Workers (PMI) so that they can avoid becoming victims of human trafficking (TPPO) abroad;

3) Collaborate with relevant institutions/agencies that are concerned with the rights of children, both as victims and as perpetrators, by providing socialization, education, and fair law enforcement in accordance with applicable legal provisions, and conducting investigations, inquiries, and coordination with related stakeholders;

4) Literally, the purpose of an investigation is to determine the perpetrator of a crime, to hold them criminally accountable for the act committed, so that in a proper investigation process, at the very least, it provides education to the community so that they can avoid actions prohibited by law;

5) Based on the interview results, in order to improve the quality of the investigation function for child trafficking crimes in North Sumatra Province in the future, the process of forming the PPA and PPO directorates is currently being finalized. Thus, hopefully by 2026, the PPA and PPO Directorates will be established in the North Sumatra Provincial Police, thereby structurally strengthening the handling of child trafficking cases.

Based on interviews conducted with sources from the High Prosecutor's Office of North Sumatra Province, there are no obstacles in prosecuting child trafficking crimes in North Sumatra Province. This is because the prosecutors already have established guidelines for the prosecution. Likewise, with the trial stage Based on interviews conducted with sources from the High Court of Sumatra Province, there are no obstacles in delivering verdicts on child trafficking cases in North Sumatra Province. This is because, in rendering the verdict, the judge has provided legal considerations regarding the crime of child trafficking in accordance with the evidence and facts revealed in the trial.

3.3. Reform of Child Trafficking Criminal Law in North Sumatra Province

The formulation of policies to combat child trafficking in North Sumatra Province is related to objective elements. According to Topo Santoso, a crime is "an act or series of acts or the omission of acts by humans or corporations that are unlawful and can be committed under certain conditions or accompanied by certain consequences for which the act is punishable by law and/or action in legislation (Febriyani & Santoso, 2022)." This definition encompasses a broader subject, not only humans but also corporations. Criminal acts are always unlawful. Topo Santoso mentioned that an act or a series of acts, considering that a crime can be committed with a single act, but also with a series of acts. To emphasize that what is meant here is not only an act (active), but also an omission (negligence/failure to act), it is clarified that a crime can also be committed by not performing an act. Sometimes what is formulated is not the act itself (formal offense), but rather the consequence of an act (material offense) (Marlina & Mulyadi, 2024). One thing that distinguishes it from violations in other areas of law is that it is explicitly threatened with punishment and/or action under statutory regulations.

This definition by Topo Santoso is also in line with the regulations in the National Criminal Code where criminal acts no longer include the element of fault (specifically intent). Every crime is considered to be committed intentionally.

Only acts committed intentionally are prohibited by the Penal Code. Therefore, it does not need to be included in each and every criminal act. Whether it is the person or the corporation that committed the crime, this is a matter of criminal liability. So, a crime is separated from criminal liability. Except for some acts of negligence (culpa), the element of negligence must be clearly stated in the formulation of the crime. In relation to the formulation of objective elements in the crime of child trafficking in North

Sumatra Province in this dissertation research, the author argues that the act element as an objective element in the crime of child trafficking should be separated between the perpetrator who commits the crime of human trafficking with adults as victims and children as victims. The consequence of equating the elements between adult and child victims will certainly impose a relatively heavy burden of proof on children in cases of child trafficking. This formulation will not be able to protect children as victims of human trafficking. This is because although in principle the status of children and adults as human beings is the same in the eyes of the law, the law also places children in a special position. This means that the legal provisions applicable to children are distinguished from those applicable to adults, at least in terms of providing special protection guarantees for children.

Speaking of criminal liability, it cannot be separated from criminal acts. Although the concept of a crime does not include the issue of criminal liability. A crime only refers to the prohibition of an act. The basis for the existence of a crime is the principle of legality, while the basis for punishing the perpetrator is the principle of culpability. This means that the perpetrator of a crime will only be punished if they have committed an error in carrying out the crime. When is someone said to have made a mistake? This means that a perpetrator will only be punished if they have committed an offense in carrying out the crime. Adami Chazawi explains that error is an element concerning the mental state of the perpetrator, linking the act and its consequence, as well as the unlawful nature of the act with the perpetrator. Only with the existence of a connection between those factors and the mental state of the perpetrator can responsibility be imposed on someone. As a condition for someone's criminal liability, wrongdoing is always considered to exist when a criminal act has been committed. This assumption is only nullified if proven otherwise (Simester, 2021). In this case, fault can be interpreted as something that can be blamed on someone. In the National Criminal Code, Article 36 states that (1) Every person can be held accountable for a crime committed intentionally or due to negligence; (2) An act that can be punished is a crime committed intentionally, while a crime committed due to negligence can be punished if explicitly stated in the legislation. Another form of intent is usually formulated in legislation using terms such as "with intent," "knowing," "that he knows," "while knowing," or "where he knows." This emphasizes that law enforcement, particularly investigators and public prosecutors, must still pay attention to whether the suspect or defendant acted with intent or not. Because only acts committed with intent can be punished. So, the investigator in their investigation cannot just leave it to the court regarding the fulfillment of the intentional element. With the reason that the element of intent is not a *bestanddeel*, but rather "only" an element. Similarly, the public prosecutor must also pay attention in their indictment that the defendant's actions were done intentionally. Of course, with the exception if what was done is a crime of negligence (*delik culpa*), and other exceptions such as in crimes formulated under strict liability and vicarious liability (Neethling & Potgieter, 2011).

Article 38 of the National Criminal Code states that: Any person who, at the time of committing a criminal act, has a mental disability and/or an intellectual disability may have their sentence reduced and/or be subjected to action. This is a new provision that does not exist in the current Penal Code, namely not about people who cannot be held responsible, but rather people who have a diminished capacity to be responsible. This is not covered in Article 44 of the Criminal Code, which corresponds to Article 39 of the National Criminal Code. Explanation In Article 38 of the National Criminal Code, it is stated: what is meant by "mental disability" is the disruption of cognitive, emotional, and behavioral functions, including: a. psychosocial, including schizophrenia, bipolar disorder, depression, anxiety, and personality disorders; and b. developmental disabilities that affect social interaction abilities, including autism and hyperactivity. what is meant by "intellectual disability" is the impairment of cognitive function due to below-average intelligence, including, among others, learning difficulties, mental retardation, and Down syndrome.

Criminal offenders with mental disabilities and/or intellectual disabilities are considered less capable of understanding the unlawful nature of their actions or acting based on an awareness that can be punished. In this provision, individuals with mental disabilities who are in a state of acute relapse accompanied by psychotic symptoms and/or individuals with moderate to severe intellectual disabilities are deemed incapable of responsibility. To be able to explain the inability to be held responsible from a medical perspective, it is necessary to present an expert so that the perpetrator of the crime is considered or assessed as unable to be held responsible (Rea, 2003). Article 39 of the National Criminal Code states: "Anyone who, at the time of committing a crime, is suffering from a mental disability in an acute relapse state accompanied by psychotic symptoms and/or a moderate to severe intellectual disability cannot be sentenced to punishment, but can be subjected to measures." The explanation of Article 39 of the National Penal Code states that: "In this provision, individuals with mental disabilities who are in a state of acute relapse accompanied by psychotic symptoms and/or individuals with moderate to severe intellectual disabilities are not capable of being held responsible." To explain the inability to be held responsible from a medical perspective, it is necessary to present an expert so that the perpetrator of the crime is considered or assessed as unable to be held responsible. The formulation of Article 39 of the National Criminal Code is quite different from Article 44 of the Criminal Code, which states: Article 44 (1) of the Criminal Code formulates, "Anyone who commits an act that cannot be held accountable due to a defect in the development of their mind or disturbance caused by illness, shall not be punished." The terms used by the National Criminal Code already refer to the medical field, specifically mental illnesses. The National Criminal Code not only mentions mental disabilities but also intellectual disabilities, which can be moderate or severe. Both make it so that the person who commits the act cannot be punished, but actions can be taken.

The formulation of criminal offenses and sentencing for child trafficking in North Sumatra Province is linked to several legal regulations related to child trafficking, which are governed by Law No. 21 of 2007 on the Eradication of Human Trafficking, Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection, and Law No. 1 of 2023 on the Criminal Code, Law No. 39 of 1999 on Human Rights, and Law No. 13 of 2003 on Manpower. However, among the various regulations related to child trafficking offenses, only Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection, and Law No. 1 of 2023 on the Criminal Code include penalties for these criminal acts. Meanwhile, Law No. 39 of 1999 on Human Rights and Law No. 13 of 2003 on Manpower only contain prohibitions and appeals not to involve children in human trafficking and appeals not to employ children in the worst forms of child labor.

In this case, the three laws, namely Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection, and Law No. 1 of 2023 on the Criminal Code, regulate penalties related to the crime of child trafficking. From these three laws, there is no apparent harmonization in the penal provisions among the three laws that include penalties for the perpetrators of child trafficking. Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection, and Law No. 1 of 2023 on the Criminal Code have their own perspectives in imposing penalties on perpetrators of child trafficking. This can be seen from the criminal penalties imposed on perpetrators of child trafficking. Then, for Law No. 1 of 2023 concerning the Criminal Code, there has not yet been a separation of criminal threats for perpetrators of child and adult trafficking offenses. According to previous discussions, the provisions of criminal law on child trafficking in the development of national criminal law must be formed based on the just values of Pancasila. The provisions of the law on child

trafficking offenses are based on the realities of the Pancasila principles, where justice is contained in the second principle "Just and Civilized Humanity" and the fifth principle "Social Justice for All Indonesian People." Related to the reform of criminal law, there are two objectives that criminal law and penalties aim to achieve, namely the first objective of internal reform of criminal law, which is carried out as a means of social defense and the welfare of Indonesian society. That goal serves as a cornerstone of criminal law and the reform of criminal law. Meanwhile, the external goal is to participate in creating world order in relation to the development of international crimes (Sadat, 2021). The importance of strengthening child protection against human trafficking in the reform of national criminal law aligns with the foundation and national goals to be achieved as outlined in the Preamble of the 1945 Constitution of the Republic of Indonesia, particularly in the fourth paragraph.

From the formulation of the fourth paragraph of the 1945 Constitution of the Republic of Indonesia, it can be understood that there is a social defense objective that must be reflected in the formation of national criminal law reforms, including the protection of child victims of human trafficking. With the regulation of human trafficking offenses in Law No. 1 of 2023 concerning the Criminal Code, it is hoped that it can strengthen the idea of forming a comprehensive national criminal justice system as a parameter of justice in the field of criminal law and sentencing to ensure legal certainty and justice, as well as standard law enforcement and the holistic regulation of human trafficking offenses.

This is in line with the opinion of the resource person, Judge of the North Sumatra High Court, Dahlan Sinaga, who stated that in cases of child trafficking, the punishment for the perpetrators should be more severe. This is because children who are trafficked will undoubtedly have deep trauma towards the perpetrators of child trafficking (Jones, 2010). Additionally, children who are adopted illegally will lose their identity, which is their inherent right. For sentencing, which is the process of imposing criminal sanctions by a judge or law enforcement agency, conducted after going through a legal process in accordance with applicable regulations. Therefore, the criminal justice system used is adjusted according to the age of the perpetrator of child trafficking. If the perpetrator of the child trafficking crime is not yet 18 (eighteen) years old, the punishment applied is based on Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. If the perpetrator is an adult, then the punishment will be based on the criminal justice system in Indonesia according to the Criminal Procedure Code and Law No. 21 of 2007 on the Eradication of Human Trafficking (Nur et al., 2019). Adults are those who are 18 years old or older, or those who are married even if they are not yet 18 years old. TPPO often involves adult perpetrators, whether individually, in organized groups, or corporations. Those involved in TPPO can come from various genders and ages. Adult perpetrators can be prosecuted in accordance with Law No. 21 of 2007 on the Eradication of Human Trafficking and other applicable laws and regulations in Indonesia.

Provincial Regulation of North Sumatra It does not include criminal sanctions against perpetrators of child trafficking, however, both the North Sumatra Provincial Regulation No. 6 of 2004 on the Elimination of Trafficking in Women and Children, the North Sumatra Governor Regulation No. 59 of 2017 on the Provincial Action Plan for the Prevention and Handling of Human Trafficking, and the Medan City Regulation No. 3 of 2017 on the Prevention and Handling of Human Trafficking Victims explicitly state that when child trafficking occurs in North Sumatra Province, in addition to the phrase "will be punished in accordance with the applicable laws and regulations," there is an affirmation that the law used is Law No. 21 of 2007 on the Eradication of Human Trafficking, thus allowing for the addition of prison and fine penalties against perpetrators of child trafficking in North Sumatra Province.

4. CONCLUSION

The perpetrators of child trafficking crimes in North Sumatra Province are any individuals (person). The legal policy on child trafficking in this research focuses on penal policy, which consists of the application of child trafficking laws, child trafficking offenses, sentencing, and statistics on child trafficking policies. Criminal regulations applicable to child trafficking in North Sumatra Province consist of international regulations in the form of international conventions, national regulations related to child trafficking, and regional regulations related to child trafficking in North Sumatra in the form of Provincial Regulations of North Sumatra, Governor Regulations of North Sumatra, and Medan Mayor Regulations. The province of North Sumatra has cases of child trafficking. Therefore, in enforcing the law against child trafficking in North Sumatra Province, it begins with the investigation stage conducted by the Regional Police of North Sumatra Province, followed by prosecution by the District Attorney's Office in North Sumatra Province, and the trial stage at the District Court and High Court in the North Sumatra Province region. The effectiveness of law enforcement in child trafficking crimes in North Sumatra Province in terms of crime resolution rates and sentencing levels in criminal justice for child trafficking crimes cannot yet be measured due to the obstacle of cases involving both child victims and adult victims being combined. The reform of child trafficking laws in North Sumatra Province is closely related to several factors, especially regarding the actions and intent in committing child trafficking offenses. With the existence of the Criminal Code, a clear formulation regarding the actions and forms of intent in criminal offenses has been provided. Similarly, the shift in criminal liability for perpetrators of child trafficking offenses is in accordance with the National Criminal Code. The formulation of criminal penalties and sentencing for child trafficking offenses in North Sumatra Province refers to various regulations. However, the laws that explicitly mention criminal penalties are Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection, and Law No. 1 of 2023 on the Criminal Code. For the penalties themselves, there is still disharmony between the three laws. For sentencing, it is differentiated based on the age of the perpetrator: the SPPA Law for child perpetrators and the Criminal Procedure Code (KUHP) as well as Law No. 21 of 2007 for adult perpetrators. For Regional Regulations, although it states that perpetrators of crimes are punished according to the applicable provisions, there is an emphasis that child trafficking crimes in North Sumatra Province use Law No. 21 of 2007.

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