

Protecting Child Victims of Human Trafficking: A Socio-Legal Study of Preventive and Repressive Legal Frameworks in Kalimantan

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Abstract

Human trafficking involving children remains a critical legal and social protection challenge in Indonesia, particularly in rapidly urbanizing areas where vulnerability may emerge within families and peer networks. This study examines the factors generating child trafficking vulnerability in Samarinda and analyzes how preventive and repressive legal protection is implemented by frontline institutions. Employing a socio-legal research design through a qualitative single-case study, the study combines normative analysis of trafficking and child protection legislation with empirical evidence from semi-structured interviews, institutional case records, and policy documents involving the Women and Children Protection Unit of the Samarinda City Police, P2TP2A Samarinda, and Borneo Insan Mandiri. The findings reveal that documented trafficking cases frequently involve household economic exploitation, peer-led procurement, and social media entrapment rather than organised trafficking networks. Protection is constrained by fragmented inter-agency coordination, limited institutional capacity, inadequate victim-support facilities, and the absence of a binding local regulatory framework governing referral and institutional responsibilities. The study further identifies a mismatch between the structure of Law No. 21 of 2007 and forms of trafficking occurring within household and peer relationships. The findings suggest that effective child protection requires stronger early identification, binding local coordination mechanisms, adequate victim-support capacity, and clearer legal treatment of household-based exploitation.

Keywords: Child trafficking, legal protection, victimology, socio-legal research, southeast asia.



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INTRODUCTION

Human trafficking represents one of the most egregious human rights violations in the contemporary era, disproportionately threatening women and children across the globe.¹ The United Nations Office on Drugs and Crime reports that while detected victim numbers fluctuated during the COVID-19 pandemic, this trend largely reflected law enforcement constraints and the migration of illicit activities into hidden digital spaces rather than a genuine decline in exploitation.² International legal instruments—most notably the Palermo Protocol, the Convention on the Rights of the Child, and ILO Convention No. 182—have established rigorous frameworks classifying child trafficking as a severe form of forced labor and human rights abuse requiring heightened state protection.³ Despite these global mandates, the International Labour Organization estimates that 160 million children remain trapped in child labor worldwide, with nearly half exposed to hazardous conditions that frequently intersect with trafficking networks.⁴

From a socio-legal perspective, evaluating the efficacy of anti-trafficking legal frameworks requires analyzing both preventive and repressive protection mechanisms, as conceptualized by Philipus M. Hadjon.⁵ Preventive legal protection encompasses proactive statutory safeguards, local regulatory mandates, and institutional mechanisms designed to eliminate systemic vulnerabilities before harm occurs.⁶ Conversely, repressive legal protection focuses on post-violation responses, including specialized law enforcement, criminal prosecution, and victim-centered redress.⁷ When applied alongside Satjipto Rahardjo's progressive law perspective and Arif Gosita's victimology framework, legal protection extends beyond rigid formal enforcement to demand substantive justice, non-stigmatization, and comprehensive rehabilitation for child victims.⁸ In developing nations like Indonesia, structural gaps between normative legal standards and localized enforcement frequently cause preventive mechanisms to fail, thereby placing an unsustainable burden on frontline repressive agencies.⁹

Indonesia has enacted comprehensive national anti-trafficking laws, including Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons and Law No. 35 of 2014 on Child Protection.¹⁰ However, the actual operationalization of these statutes varies significantly across subnational jurisdictions.¹¹ While existing empirical research on Indonesian child trafficking has

¹ United Nations Office on Drugs, *Global Report on Trafficking in Persons 2024* (Stylus Publishing, LLC, 2024).

² Drugs.

³ U N General Assembly, "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime," 2025.

⁴ GLOBAL ESTIMATES OF CHILD LABOUR, "METHODOLOGY OF THE 2020 ILO-UNICEF," 2022.

⁵ Philipus M Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia: Sebuah Studi Tentang Prinsip-Prinsipnya, Penanganannya Oleh Pengadilan Dalam Lingkungan Peradilan Umum Dan Pembentukan Peradilan Administrasi Negara* (Surabaya: Bina Ilmu, 1987).

⁶ Hadjon.

⁷ Hadjon.

⁸ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2000).

⁹ Nathalina Naibaho, "Victim Protection and The Dynamic Situation of Human Trafficking: Indonesia Experience," *Indonesian Journal of International Law* 20, no. 4 (2023): 667–88, <https://doi.org/http://doi.org/10.17304/ijil.vol20.4.6>.

¹⁰ Republik Indonesia, "Undang-Undang Nomor 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang" (2007).

¹¹ Farhana, *Aspek Hukum Perdagangan Orang Di Indonesia* (Jakarta: Sinar Grafika, 2010).

focused heavily on agrarian regions or border zones in Java, Sumatra, South Sulawesi, and Jambi, these studies fail to capture the unique dynamics of rapidly urbanizing resource-extractive hubs.¹² Samarinda, the capital of East Kalimantan, represents a distinct socio-legal context where rapid economic growth driven by natural resource extraction and regional infrastructure development accelerates internal migration and social dislocation.¹³ Unlike traditional agrarian settings, Samarinda's rapid urbanization creates intense socio-economic stratification, consumerist lifestyle pressures, and expanded digital networks that trafficking operations readily exploit.¹⁴

Initial empirical documentation gathered from the Women and Children Protection Unit of the Samarinda Police and the Integrated Service Center between 2013 and 2016 revealed complex local trafficking patterns, including intra-familial economic exploitation, peer-led procurement, and social media entrapment.¹⁵ Crucially, recent reporting from the East Kalimantan Office of Women's Empowerment and Child Protection demonstrates that these documented historical patterns have escalated in contemporary urban centers, driven predominantly by online recruitment and unmonitored rural-to-urban youth migration.¹⁶ Analyzing foundational baseline cases alongside contemporary institutional trends provides necessary longitudinal insight into why local protection systems remain chronically reactive.¹⁷ This ongoing enforcement gap is further exacerbated by structural deficiencies, including the absence of a dedicated regional regulation (*Peraturan Daerah*) in Samarinda to formalize inter-agency mandates.¹⁸

To address these empirical and theoretical gaps, the present study aims to accomplish two objectives. First, it seeks to identify and explain the structural, community, and institutional factors that generate child trafficking vulnerabilities within a rapidly urbanizing Indonesian city. Second, it aims to examine how frontline institutions operationalize preventive and repressive legal protection, and to determine the systemic barriers that impede the effectiveness of those efforts. In operational terms, the study addresses two questions: which factors produce vulnerability, and how protection is delivered on the ground. Methodologically, the study analyzes statutory instruments governing child protection and trafficking alongside empirical evidence gathered from the three institutions mandated to enforce them. By situating empirical evidence within legal protection theory and victimology, this research expands the understanding of child trafficking in under-researched Eastern Indonesian urban settings. Furthermore, it offers actionable insights to strengthen regional regulatory frameworks, inter-agency coordination, and frontline victim support services. By situating empirical evidence

¹² Yvonne Rafferty, "The Identification, Recovery, and Reintegration of Victims of Child Trafficking within ASEAN: An Exploratory Study of Knowledge Gaps and Emerging Challenges," *Journal of Human Trafficking* 7, no. 2 (2021): 145–67, <https://doi.org/doi.org/10.1080/23322705.2019.1689476>.

¹³ Elisabeth Jackson et al., "Disability and Human Trafficking in Southeast Asia : Vulnerabilities and Victim-Survivors' Experiences Disability and Human Trafficking in Southeast Asia : Vulnerabilities," *Journal of Human Trafficking* 00, no. 00 (2026): 1–22, <https://doi.org/10.1080/23322705.2026.2633282>.

¹⁴ Ngan Dinh and Et Al., "Human Trafficking in Southeast Asia: Results from a Household Survey in Vietnam," *Journal of Human Trafficking* 7, no. 1 (2021): 14–34, <https://doi.org/10.1080/23322705.2019.1650527>.

¹⁵ Unit P P A Polresta Samarinda, "Data Penanganan Kasus Unit Perlindungan Perempuan Dan Anak (PPA) Polresta Samarinda 2013-2016," 2016.

¹⁶ Pemerintah Provinsi Kalimantan Timur, "Keputusan Gubernur Kalimantan Timur Nomor 4/601720/DS-II/2015 Tentang Pengangkatan Pengurus Rumah Perlindungan Sosial Anak (RPSA) 'Benua Etam' Kalimantan Timur" (2015).

¹⁷ Naibaho, "Victim Protection and The Dynamic Situation of Human Trafficking: Indonesia Experience."

¹⁸ Farhana, *Aspek Hukum Perdagangan Orang Di Indonesia*.

within legal protection theory and victimology, this research expands the understanding of child trafficking in under-researched Eastern Indonesian urban settings.¹⁹ Furthermore, it offers actionable insights to strengthen regional regulatory frameworks, inter-agency coordination, and frontline victim support services.²⁰

METHOD

This study uses a socio-legal research design (*yuridis empiris*) that combines normative legal analysis with empirical inquiry to examine the gap between statutory child protection frameworks and the way they are applied. The study is qualitative and takes the position that legal protection is not only a body of codified rules but also a lived reality shaped by institutional practice.²¹ It is designed as a single case study of Samarinda, East Kalimantan, chosen because its resource-driven urbanisation, substantial internal migration, and documented exposure to child trafficking set it apart from the agrarian and border settings that have dominated Indonesian research on the subject.²² Reporting follows the Consolidated Criteria for Reporting Qualitative Research (COREQ) checklist.²³

Data were drawn from three institutions mandated to enforce child protection and anti-trafficking provisions: the Women and Children Protection Unit of the Samarinda City Police (Unit PPA Polresta Samarinda), the Integrated Service Centre for the Empowerment of Women and Children (P2TP2A Samarinda, since renamed UPTD PPA), and the child protection organisation Borneo Insan Mandiri.²⁴ Purposive sampling selected participants who held executive authority or frontline case responsibility, namely the heads of Unit PPA and P2TP2A, senior case managers, and programme coordinators, giving [N] participants in all.²⁵ Data collection combined semi-structured interviews of 45 to 90 minutes, institutional case records, and case files from 2013 to 2016 held by Unit PPA and P2TP2A, read alongside provincial policy reports issued between 2024 and 2026 so that the vulnerabilities recorded in the earlier files can be checked against current conditions.²⁶ Because participants asked that interviews not be recorded, accounts were written up as field notes and transcribed immediately afterwards. Ethical clearance was obtained before fieldwork began, all participants gave written informed

¹⁹ Rahardjo, *Ilmu Hukum*.

²⁰ Angkasa et al., "Development of a Restitution Model in Optimizing Legal Protection for Victims of Human Trafficking in Indonesia," *Journal of Indonesian Legal Studies* 8, no. 3 (2023): 93–128, <https://doi.org/https://doi.org/10.15294/jils.v8i1.67866>.

²¹ Petra K Mahy, "' Constellations ' and ' Entanglement ' in The Study of Legal Pluralism : Reflections on The Scholarship of Keebet Von Benda- Beckmann ' Constellations ' and ' Entanglement ' in The Study of Legal Pluralism : Reflections," *The Indonesian Journal of Socio-Legal Studies* 4, no. 1 (2024), <https://doi.org/10.54828/ijsls.2024v4n1.1>.

²² R K Yin, *Case Study Research: Design and Methods* (SAGE Publications, 2013), <https://books.google.co.id/books?id=OgyqBAAQBAJ>.

²³ Allison Tong, Peter Sainsbury, and Jonathan Craig, "Consolidated Criteria for Reporting Qualitative Research (COREQ): A 32-Item Checklist for Interviews and Focus Groups," *International Journal for Quality in Health Care* 19, no. 6 (2007): 349–57, <https://doi.org/10.1093/intqhc/mzm042>.

²⁴ Women and Children's Protection Unit of Samarinda City Police, "Case Handling Data from the Women and Children's Protection Unit (PPA) of the Samarinda City Police, 2013--2016" (Samarinda: Samarinda City Police, 2016).

²⁵ Michael Quinn Patton, *Qualitative Research and Evaluation Methods*, 4th ed. (Thousand Oaks, CA: SAGE Publications, 2015).

²⁶ Rafferty, "The Identification, Recovery, and Reintegration of Victims of Child Trafficking within ASEAN: An Exploratory Study of Knowledge Gaps and Emerging Challenges."

consent, and institutional records were de-identified before analysis. No child victim was interviewed or contacted.²⁷

Legal issues were examined through a statute approach.²⁸ Four groups of instruments formed the material: Law No. 21 of 2007 on the Eradication of Trafficking in Persons, Law No. 35 of 2014 and its second amendment Law No. 17 of 2016 on Child Protection, Law No. 12 of 2022 on Sexual Violence Crimes, and Presidential Regulation No. 49 of 2023 on the Anti-Trafficking Task Force.²⁹ Each was read against the powers actually vested in the three institutions and against the regional instruments in force, to establish whether the normative framework grants binding authority for the inter-agency coordination it assumes.³⁰ Empirical data were analysed thematically following Braun and Clarke's six phases, with coding carried out inductively so that the drivers of vulnerability and the constraints on protection emerged from what participants said rather than from a predetermined scheme.³¹ Trustworthiness was assessed against Lincoln and Guba's criteria, and interview accounts were cross-checked against institutional case logs and policy documents to triangulate sources and methods.³²

RESULT AND DISCUSSION

This section is organised around three findings rather than around the sequence of institutions that produced the data. The first concerns how is children's vulnerability to trafficking produced in a city whose growth rests on resource extraction? The second concerns how does protection actually proceed once a case surfaces? And the third concerns why does the normative framework fail to bind the institutions it is meant to govern? Theoretical discussion is folded into each of the three findings, and a closing paragraph draws them together.

How vulnerability is produced

Case records held by the Integrated Service Centre for the Empowerment of Women and Children (P2TP2A) in Samarinda document four cases of child trafficking involving underage girls between 2013 and 2016, while the Women and Children Protection Unit (Unit PPA) of the Samarinda City Police handled six cases over the same period.³³ These are the only quantitative traces available, and the officers who supplied them were the first to say that neither figure represents the scale of the problem. Official records capture only those cases that cleared every barrier to reporting; the rest stopped before they ever reached an investigator's desk.³⁴ Civil

²⁷ Diego Castillo Goncalves, "Distinctive Ethical Challenges in Qualitative Research with Migrant Children," *Qualitative Research Journal* 20, no. 3 (2020): 293–303, <https://doi.org/doi.org/10.1108/QRJ-10-2019-0076>.

²⁸ Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Origins and Approaches," *Audito Comparative Law Journal* 4, no. 1 (2023): 1–9, <https://doi.org/doi.org/10.22219/acjl.v4i1.24855>.

²⁹ Indonesia, Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.

³⁰ Philipus M Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: Bina Ilmu, 1987).

³¹ Virginia Braun and Victoria Clarke, "Using Thematic Analysis in Psychology," *Qualitative Research in Psychology* 3, no. 2 (2006): 77–101, <https://doi.org/https://doi.org/10.1191/1478088706qp0630a>.

³² Uwe Flick, *An Introduction to Qualitative Research*, 6th ed. (Thousand Oaks, CA: SAGE Publications, 2018).

³³ Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak Samarinda, "Case Handling and Institutional Report Data" (Samarinda: P2TP2A Kota Samarinda, 2016).

³⁴ Yvonne Rafferty, "The Identification, Recovery, and Reintegration of Victims of Child Trafficking within ASEAN: An Exploratory Study of Knowledge Gaps and Emerging Challenges The Identification, Recovery, and Reintegration

society records for the same years cover considerably more ground: the East Kalimantan Coalition for Child Protection (Gebrak Kaltim) recorded 234 incidents of violence against children in Samarinda between 2013 and 2016, roughly thirty per cent of which carried the characteristics of commercial exploitation.³⁵ The high-risk locations identified by local advocates were ordinary places in the city, namely budget hotels, rented rooms, and entertainment venues.³⁶ Read against the case logs, that map matters more than the counts: it places exploitation inside the ordinary commercial life of the city rather than at its margins, in premises that attract no particular attention and that no agency has reason to inspect.

The cases that did surface show vulnerability forming at very close range. In one, a school-aged child helped facilitate the commercial sexual exploitation of a classmate at a hotel, and no adult in either household noticed.³⁷ In another, a mother sold her twelve-year-old daughter for Rp 700,000, about fifty US dollars, to pay the rent on their house, after having allowed the same treatment to be inflicted on the victim's older sibling.³⁸ A third began on Facebook: a sixteen-year-old student was recruited by an adult man, confined in a rented room in Samarinda, sexually assaulted, and then taken to Jakarta on a promise of work, where she was held in a night entertainment venue until she escaped.³⁹

Read together, the three cases describe the same sequence: the household stops performing its protective function before any recruiter appears. Gosita's victimological framework is useful precisely at this point, because it locates the origin of victimisation in the child's social position rather than solely in the perpetrator's act.⁴⁰ Once parental supervision has collapsed and poverty has made a child's labour or body exchangeable for money, a recruiter does not have to breach any barrier, because none is there. The pattern Dinh and colleagues report from Vietnam, in which economic pressure pushes young people into risky migration, appears in Samarinda in a sharper form, because in these cases the family itself brokers the transaction rather than an outside network.⁴¹

One feature of these cases sets them apart from the picture of trafficking usually cited in the literature. Large-scale recruitment networks do not appear at all. What appears instead is a series of small, repeated transactions among people who know one another. In the case of the child sold by her mother, the first intermediary was the mother; in another case it was a classmate. Patterns

of Victims of Child Trafficking within ASEAN : An Exploratory Study of Knowledge Gaps and Emerging Challenges," *Journal of Human Trafficking* 00, no. 00 (2019): 1–23, <https://doi.org/10.1080/23322705.2019.1689476>.

³⁵ Gebrak Kaltim, "Data Output of Gerakan Bersama Perlindungan Anak Kaltim (Gebrak)" (radarkaltim.prokal.co, 2016).

³⁶ P2TP2A Kota Samarinda and Borneo Insan Mandiri, "Field Interview Notes and Program Coordinator Interview," 2016.

³⁷ P2TP2A Kota Samarinda, "Field Interview Notes with Senior Case Manager," 2016.

³⁸ Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak (P2TP2A) Samarinda, "Case Handling and Institutional Report Data" (samarinda: P2TP2A Kota Samarinda, 2016).

³⁹ Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak Samarinda, "Case Handling and Institutional Report Data."

⁴⁰ Arif Gosita, *Masalah Korban Kejahatan* (Jakarta: Akademika Pressindo, 1993).

⁴¹ Dinh and Al., "Human Trafficking in Southeast Asia: Results from a Household Survey in Vietnam."

of this kind leave no organisation to dismantle, no logistics chain to sever, and no principal offender outside the family circle to prosecute.⁴²

The difficulty is not only operational but statutory, and it is worth setting out precisely. Article 2 of Law No. 21 of 2007 on the Eradication of Trafficking in Persons defines the offence through a sequence of acts, namely recruiting, transporting, harbouring, sending, transferring, or receiving a person, carried out by threat or use of force, abduction, confinement, fraud, deception, abuse of power or of a position of vulnerability, debt bondage, or payment, where the purpose is exploitation.⁴³ That sequence was drafted to capture movement: a person is recruited somewhere, moved, held, and delivered elsewhere. Where the transaction occurs inside a household and the child never leaves it, the sequence has no natural starting point, and the acts that can be proved are thinner than the harm inflicted. Prosecutors are then pushed toward the residual limb of the article, abuse of a position of vulnerability, which is the only element that fits a parent who converts a dependent into a source of income. That route works, but it places the case on the most elastic element of the offence, and elasticity is exactly what weakens consistency across prosecutions.⁴⁴

A second statutory question arises from the case in which a minor approached a recruiter herself. Article 26 of the same law states that a victim's consent does not remove liability for trafficking, a provision intended to prevent consent from being used as a defence.⁴⁵ The provision is clear on its face, yet its practical force depends on officers recognising the case as trafficking in the first place. Where a file is opened on the basis that the child participated willingly, the protection Article 26 was designed to secure never comes into play, and the case is reconstructed as something closer to a moral failing than an offence. The field record gives no indication that Article 26 was invoked in any of the cases documented, which suggests the provision is doing less work in practice than its wording promises.

The distinction between network trafficking and household exploitation therefore determines how the problem should be framed. If exploitation within the family is treated merely as an aggravated form of trafficking, criminal sanction becomes the natural answer, even though sanctions do not touch the conditions that produce the case. What the records show is closer to what Rahardjo describes as the erosion of substantive rights under economic marginalisation: the family, formally the child's first protector, becomes the place where that protection is withdrawn.⁴⁶ Vulnerability does not move elsewhere; it persists inside the institution that ought to have held it back first.

⁴² Samarinda City Police and P2TP2A Kota Samarinda, "Field Interview Notes with Head of Unit PPA and Case Manager P2TP2A," 2016.

⁴³ Indonesia, Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.

⁴⁴ Naibaho, "Victim Protection and The Dynamic Situation of Human Trafficking: Indonesia Experience."

⁴⁵ Indonesia, Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.

⁴⁶ Michael L Valan and Murugesan Srinivasan, "The Application of Routine Activity Theory in Explaining Victimization of Child Marriage," *International Review of Victimology* 27, no. 2 (2021): 211–26, <https://doi.org/10.1177/0269758020988218>.

How Protection is Delivered

Once a case surfaces, protection proceeds through three institutions whose mandates do not meet. Unit PPA was established under Regulation of the Chief of the Indonesian National Police No. 10 of 2007 to investigate offences involving women and children.⁴⁷ P2TP2A provides social services, legal advocacy, and psychological support, and borrows temporary accommodation at the Benua Etam Child Social Protection Centre.⁴⁸ Civil society organisations such as Borneo Insan Mandiri conduct community outreach and victim accompaniment outside the state channel. All three handle the same cases, but none holds authority to direct the work of the other two, so the sequence of steps in any given case depends on which agency receives the report first.⁴⁹ That arrangement is not a division of labour but a division of responsibility without a coordinating centre, and it means the quality of a response depends on informal familiarity between officers rather than on a protocol anyone is obliged to follow.⁵⁰

Overlapping mandates explain why the obstacles the three institutions report take the same form while arising from different causes. Unit PPA lacks investigators trained to work with children and has neither a child-friendly interview room nor a safe house, so a traumatised victim has to be examined in a space not designed for her condition. P2TP2A has service space but few certified child psychology staff and no capacity for long-term placement. Civil society organisations fill part of that gap through outreach and accompaniment, but depend on project funding, so a programme running in one year can stop the next without replacement.⁵¹ These three limitations look alike on the surface because they all resolve into the same sentence in a report, that services are inadequate. What differs is the nature of the shortfall, and that nature determines the kind of intervention required: a trained investigator is a staffing problem, a safe house is a capital problem, and a stopped programme is a financing problem. Treating them as one problem, under one heading, is part of why none of them has been fixed.⁵²

There is a further point about the police that the officers raised and that the statutory material helps explain. Officers reported that courts occasionally handed down lenient sentences to

⁴⁷ Kepolisian Negara Republik Indonesia, “Peraturan Kepala Kepolisian Negara Republik Indonesia Nomor 10 Tahun 2007 Tentang Organisasi Dan Tata Kerja Unit Pelayanan Perempuan Dan Anak” (Jakarta: Markas Besar Kepolisian Negara Republik Indonesia, 2007).

⁴⁸ Gubernur Kalimantan Timur, “Keputusan Gubernur Kalimantan Timur Nomor 4/601720/DS-II/2015 Tentang Penetapan Susunan Pengurus Rumah Perlindungan Sosial Anak ‘Benua Etam’ Kalimantan Timur” (Samarinda: Pemerintah Provinsi Kalimantan Timur, 2015).

⁴⁹ Samarinda City Police and P2TP2A Kota Samarinda, “Field Interview Notes with Head of Unit PPA and Case Manager P2TP2A.”

⁵⁰ Annie Bunce, Niels Blom, and Estela Capelas Barbosa, “Determinants of Referral Outcomes for Victim--Survivors Accessing Specialist Sexual Violence and Abuse Support Services,” *Journal of Child Sexual Abuse* 33, no. 3 (2024): 355–78, <https://doi.org/10.1080/10538712.2024.2341183>.

⁵¹ Samarinda City Police and P2TP2A Kota Samarinda, “Field Interview Notes with Head of Unit PPA and Case Manager P2TP2A.”

⁵² Kjetil Wathne and Håvard Aaslund, “Second-Hand Narratives & Institutional Illegitimacy, the Case of Child Protection Services and Norwegian Youth,” *Child Protection and Practice* 9 (2026): 100313, <https://doi.org/10.1016/j.chipro.2026.100313>.

convicted traffickers.⁵³ The explanation is partly to be found in which provision the case is charged under. Law No. 21 of 2007 provides that where an offence under Articles 2, 3, or 4 is committed against a child, the penalty is increased by one third.⁵⁴ Cases that cannot be fitted to the sequence in Article 2 may instead be charged under Law No. 35 of 2014 on Child Protection, Article 88 of which provides a maximum of ten years and a fine of up to Rp 200 million for the exploitation of a child under Article 76I.⁵⁵ The consequence is structural rather than accidental. The moment a case is moved out of Article 2 of the trafficking law and into the child protection law, the mandatory one-third enhancement for child victims ceases to apply, and the ceiling on the penalty falls. The leniency the officers observed is therefore not simply a matter of judicial attitude; it follows from a charging choice that the architecture of the two statutes makes rational.⁵⁶

The same statutory material exposes a second and quieter gap, this one on the side of the victim. Article 48 of Law No. 21 of 2007 grants victims or their heirs the right to restitution covering lost property or income, suffering, and the cost of medical or other care.⁵⁷ Article 59A of the child protection law goes further and requires that special protection for children be delivered through prompt handling, including physical, psychological, and social treatment or rehabilitation, and through psychosocial accompaniment during proceedings.⁵⁸ Set against the field record, where officers described delays in assembling prosecution files and where restitution was said to be rarely awarded, the two provisions describe a service standard that exists on paper but has no corresponding operational structure. The point is not that the law is silent on recovery; it is that the law specifies recovery in some detail and the institutions charged with delivering it have neither the staff nor the facilities to do so. That is a gap between a mandated service and a funded one.

What matters, then, is not the length of the list of shortfalls but their effect on the victim's position. Secondary victimisation in these cases does not occur at a single point; it unfolds as a sequence. Without a binding referral protocol, a victim must move through three separate agency procedures, and the family accompanying her sees for itself how long the path is before any decision is reached. That impression forms before the case proceeds, not after, which is why refusal to report cannot easily be read as legal ignorance. Families in these cases know the act is wrong; what they doubt is whether reporting it will help. Some choose to settle the matter

⁵³ Yvon Dandurand, "Criminalizing Human Trafficking Has Not Made a Difference: A Law Enforcement Failure," *Journal of Human Trafficking* 10, no. 2 (2024): 383–87, <https://doi.org/10.1080/23322705.2024.2303266>.

⁵⁴ Indonesia, Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.

⁵⁵ Republik Indonesia, "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak" (2014).

⁵⁶ Christina Maya Indah Susilowati, "The Restitution in Human Trafficking Law Enforcement in Relation to Victim Protection," *Jurnal Pembaharuan Hukum* 9, no. 2 (2022): 294–308, <https://doi.org/10.26532/jph.v9i2.17550>.

⁵⁷ Indonesia, Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.

⁵⁸ Indonesia, Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak.

internally; others withhold the report for fear that their child will be stigmatised by the neighbourhood.⁵⁹

That choice is not neutral for investigation. A case without a complaint never becomes a file, and a case that never becomes a file never reaches court. The sequence closes into a circle when the small proportion of cases that do proceed end in lenient sentences, because word of this returns to the neighbourhood and reinforces the reasoning already in place.⁶⁰ Van Boven's framework treats a victim's right to justice and right not to be stigmatised as two separate entitlements, but the field record here shows them working as a single chain.⁶¹ When protection from stigma is unavailable, the right to justice is in practice unreachable, and formal institutions lose the chance to handle a case at the stage when handling it might still succeed. Evidence gathering is impeded in turn, because child victims carry severe trauma, so prosecution files are often delayed and some cases lose momentum at an early stage.⁶²

The imbalance of capacity between the three institutions has a consequence that is rarely discussed. Civil society organisations carry the work closest to victims, namely outreach, accompaniment, and community strengthening, yet they are the least stable, having no routine budget. When a programme ends, what is lost is not only a service but also the accumulated knowledge of recruitment patterns that field workers built up over years. That knowledge does not transfer to state agencies when the programme closes, so each new programme begins its mapping from scratch.⁶³ Institutional protection, then, cannot be measured by the mere existence of institutions, but also by the continuity of the capability stored within them.⁶⁴

Comparing these findings with the regional literature clarifies where the problem lies. Work on victim protection in Indonesia locates the weakness in the translation of national norms to the subnational level, not in the content of the norms themselves.⁶⁵ Cross-country work in ASEAN reaches a similar conclusion about referral networks that do not connect.⁶⁶ The Samarinda record adds one element absent from both, namely that the recruiters in the documented cases sat inside the family or peer circle. That difference in the composition of offenders explains why strengthening referral systems alone is insufficient: referral systems operate after a case has been detected, whereas in this pattern detection fails at the earliest point, because nobody outside the

⁵⁹ Samarinda City Police and P2TP2A Kota Samarinda, "Field Interview Notes with Head of Unit PPA and Case Manager P2TP2A."

⁶⁰ P2TP2A Kota Samarinda and Borneo Insan Mandiri, "Field Interview Notes and Program Coordinator Interview."

⁶¹ Theo Van Boven, *Mereka Yang Menjadi Korban: Hak Korban Atas Restitusi, Kompensasi, Dan Rehabilitasi*, Terjemahan oleh Ildhal Kasim dan Eddie Sius R. Laggut (Jakarta: ELSAM, 2002).

⁶² Cathy L Miller, Gloria Duke, and Sally Northam, "Child Sex-Trafficking Recognition, Intervention, and Referral: An Educational Framework for the Development of Health-Care-Provider Procedures," *Journal of Human Trafficking* 2, no. 3 (2016): 177–200, <https://doi.org/10.1080/23322705.2015.1133990>.

⁶³ Borneo Insan Mandiri, "Field Interview Notes with Programme Coordinator," 2016.

⁶⁴ Elisabeth Jackson and et al., "Disability and Human Trafficking in Southeast Asia: Vulnerabilities and Victim-Survivors' Experiences," *Journal of Human Trafficking*, 2026.

⁶⁵ Naibaho, "Victim Protection and The Dynamic Situation of Human Trafficking: Indonesia Experience."

⁶⁶ Abdurrahman Alhakim et al., "Assessing the Implementation of ACTIP in Combating Child Trafficking: A Comparative Study of Indonesia, Malaysia, and Vietnam," *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 13, no. 1 (2026): 76–99, <https://doi.org/10.32505/politica.v13i1.14530>.

victim's circle realises that anything is happening. A referral protocol assumes a case entering the system; the problem here begins before any system is reached.

Why the Normative Framework Does Not Bind

The finding that recurred most often across institutions was not a shortfall in national legislation but the absence of a regional regulation binding inter-agency work in Samarinda.⁶⁷ Without a local instrument, shared authority between agencies rests on personal willingness rather than binding administrative procedure. At that point Hadjon's argument about preventive and repressive protection makes sense in a form different from his original.⁶⁸ The two do not operate in sequence, and failure in one brings down the other: without a local legal basis, preventive coordination loses its authority, and repressive institutions such as Unit PPA are left working reactively under tight resource limits.

It should be noted that the Benua Etam Child Social Protection Centre was itself established by a Governor's Decree.⁶⁹ Within the hierarchy of Indonesian regulation, a decree of that kind is an administrative designation, not a regulatory norm capable of binding agencies across sectors. It creates a body and appoints its managers; it does not create duties for the police, the social service, or the municipality. The problem, then, is not simply that a regional regulation has yet to be made; it is that the legal basis already in use is not the kind of instrument able to create obligations for other parties. The same weakness applies to inter-agency work generally: absent a regulatory norm, a cooperation agreement binds only the parties who signed it, and only for as long as they remain willing to be bound.⁷⁰

Presidential Regulation No. 49 of 2023 on the Anti-Trafficking Task Force marks national recognition that cross-sector coordination is a problem requiring attention, and the formation of the task force is directed at exactly that.⁷¹ A presidential regulation, however, does not bind regional governments of its own force. It creates a coordination structure at the central level and assigns supporting duties, but imposes no obligation on regencies and municipalities to establish a comparable body. The consequence in Samarinda is predictable: a structure available at provincial level does not automatically become daily procedure at city level, so inter-agency work falls back on personal initiative as before.⁷² The national framework is not indifferent to the problem; it simply terminates one step above the level at which cases are handled.

⁶⁷ Unit P P A Polresta Samarinda, "Data Penanganan Kasus Unit Perlindungan Perempuan Dan Anak (PPA) Polresta Samarinda 2013-2016."

⁶⁸ Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia: Sebuah Studi Tentang Prinsip-Prinsipnya, Penanganannya Oleh Pengadilan Dalam Lingkungan Peradilan Umum Dan Pembentukan Peradilan Administrasi Negara*.

⁶⁹ Timur, Keputusan Gubernur Kalimantan Timur Nomor 4/601720/DS-II/2015 tentang Pengangkatan Pengurus Rumah Perlindungan Sosial Anak (RPSA) "Benua Etam" Kalimantan Timur.

⁷⁰ Tody Sasmita Jiwa Utama, "Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System," *The Journal of Legal Pluralism and Unofficial Law* 53, no. 2 (2021): 269–89, <https://doi.org/10.1080/07329113.2021.1945222>.

⁷¹ "Peraturan Presiden Nomor 49 Tahun 2023 Tentang Perubahan Kedua Atas Peraturan Presiden Nomor 69 Tahun 2008 Tentang Gugus Tugas Pencegahan Dan Penanganan Tindak Pidana Perdagangan Orang," 2023, <https://peraturan.bpk.go.id/Details/258462/perpres-no-49-tahun->.

⁷² Negara, "Normative Legal Research in Indonesia: Its Origins and Approaches."

So long as that arrangement persists, the policy most likely to succeed is not one that adds new institutions but one that establishes a legal basis for the inter-agency work that already exists. A regional regulation on trafficking, particularly one setting out referral duties and the division of roles between agencies, converts coordination from an option into an administrative obligation.⁷³ It would also give the agencies a written basis on which to claim budget, which matters because the two institutions carrying the heaviest load, Unit PPA and P2TP2A, currently have no ground on which to demand additional resources when caseloads rise. What a regional regulation cannot do should be stated just as plainly: it cannot supply trained investigators or build a safe house, and it will not by itself change the statutory ceiling on penalties. Its function is narrower and more precise, namely to convert goodwill into duty, and to make the absence of coordination visible as a failure of administration rather than as an accident of personality.

The three findings converge on a single structural proposition, which is the contribution this article offers. The framework in Law No. 21 of 2007 was drafted against a model of trafficking as organised movement across jurisdictions. The cases documented in Samarinda do not take that form. They are household transactions, small in scale, conducted among people already known to one another, and often with the family as intermediary rather than as protector. When such cases enter a legal architecture built for movement and organisation, they are charged under the most elastic provision available, sentenced under a lower ceiling, and separated from the mandatory enhancement that child victims are meant to attract. The protection gap, in other words, is not only a matter of resources or local regulations; it is also a mismatch between the shape of the offence as drafted and the shape of the harm as it actually occurs.

Bringing the Three Findings Together

The three findings interlock, and that is the main contribution of this article. Vulnerability forms inside a household that has stopped protecting. The protection available operates in disconnected parts, so victims carry the burden themselves. The normative framework meant to join the two stops at national level because the local instrument that would bind it has never been made, and even where it applies, it was written for a pattern of offending that does not match the cases at hand. Hadjon's framework and Gosita's victimology remain useful, but they must be read together rather than in sequence. Failed prevention raises the burden of response; an uneven response leads families to withhold reports; and withheld reports ensure that the next round of prevention fails as well. What needs changing, then, is not one link in the chain but the legal basis that would let the three work as a single system, together with a clearer account of what household exploitation is as an offence.

CONCLUSION

This study concludes that the protection of child victims of human trafficking in Samarinda is constrained by a structural gap between the forms of vulnerability experienced by children, the delivery of legal protection, and the normative framework governing trafficking. The documented cases indicate that trafficking may occur through small-scale household and peer

⁷³ Erma Hari Alijana, "The Role of Indonesian Child Protection Commission (KPAI) in Legal Protection and Prevention of Child Trafficking," *Legalis: Journal of Law Review* 2, no. 2 (2024): 72–82, <https://doi.org/10.61978/legalis.v2i2.305>.

transactions in which perpetrators are often persons known to the child, rather than through organised networks involving cross-jurisdictional movement. This pattern exposes a mismatch between the conventional trafficking framework under Law No. 21 of 2007 and the actual configuration of harm, particularly when cases are difficult to fit within the sequence of recruitment, transportation, harbouring, or transfer. The study theoretically extends Gosita's victimological perspective and Hadjon's preventive–repressive legal protection framework by demonstrating that vulnerability, prevention, institutional response, and enforcement operate as an interconnected cycle rather than as separate stages. Practically, the findings indicate the need to strengthen early identification within families and communities, establish binding inter-agency referral and coordination mechanisms at the local level, ensure adequate investigative, psychological, shelter, and rehabilitation capacity, and strengthen the implementation of restitution and child-sensitive procedures. A regional regulatory instrument is particularly important to transform inter-agency coordination from discretionary cooperation into an administratively binding obligation, while the legal treatment of household-based exploitation requires greater clarity so that child victims are not disadvantaged by the charging framework.

This study is limited by its reliance on case records and institutional and field interview data from Samarinda, particularly the 2013–2016 period, which limits the transferability of the findings to other regions, periods, and forms of trafficking. The available records also represent reported cases and therefore cannot capture the full extent of trafficking that remains undetected or unreported. Future research should therefore examine more recent cases and compare multiple Indonesian regions to determine whether household- and peer-based trafficking represents a broader pattern. Further socio-legal research should also investigate how local regulations, inter-agency referral protocols, charging practices, restitution mechanisms, and victim-support services operate in practice, including from the perspectives of child survivors and their families. Such research would help develop a more context-sensitive legal framework that integrates prevention, victim protection, and repressive enforcement while responding to trafficking patterns that occur within rather than outside the child's immediate social environment.

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