GOLDEN RATIO OF LAW AND SOCIAL POLICY REVIEW
VOLUME 6, ISSUE. 1 (2026)
Website: https://goldenratio.id/index.php/grlspr

GOLDEN RATIO
ISSN [Online]: 2808-2923

LAW & SOCIAL POLICY | RESEARCH ARTICLE

The Legal Status of Biological Parents in Child Trafficking through Illegal Adoption

Azka Farida Putri Hindrawan[1], Hesti Septianita[2]

[1, 2] Department of Law, Faculty of Law, Universitas Pasundan, Bandung, Indonesia.
Email: 221000099@mail.unpas.ac.id[1], hesti.septianita@unpas.ac.id[2]

ARTICLE HISTORY

Received: September 11, 2026
Revised: October 01, 2026
Accepted: November 02, 2026

DOI
https://doi.org/10.52970/grlspr.v6i1.2658

ABSTRACT
This study examines the legal status of biological parents in cases of child trafficking involving illegal adoption and analyzes the circumstances under which biological parents may incur criminal liability from the perspectives of criminal law and child protection. This study employs normative juridical research using legislative and conceptual approaches. The legal materials consist of primary legal materials, including relevant legislation; secondary legal materials, including scholarly books, journal articles, and legal doctrines; and tertiary legal materials supporting the analysis. The legal materials were collected through library research and analyzed qualitatively using a descriptive-analytical approach. The findings demonstrate that the legal status of biological parents is not automatically extinguished by the unlawful transfer of a child through an illegal adoption arrangement. Their rights, obligations, and responsibilities must therefore be assessed in accordance with applicable legal provisions. The findings further indicate that the transfer of a child does not, by itself, establish the criminal liability of biological parents. Criminal liability depends on the concrete acts, knowledge, intent, purpose, and form of involvement of each parent, as well as the fulfillment of the elements of the relevant trafficking offense. Biological parents who knowingly and intentionally participate in trafficking may incur criminal liability when the elements of the offense are legally proven, whereas parents whose consent is obtained through deception, coercion, or exploitation of vulnerability require a different legal assessment. This study concludes that the application of trafficking and child protection laws must distinguish between parental participation and parental vulnerability while maintaining the best interests of the child as the primary consideration.

Keywords: Child Trafficking, Illegal Adoption, Biological Parents, Criminal Liability, Child Protection.

I. Introduction

Child trafficking involving illegal adoption constitutes a manifestation of human trafficking that exploits the child adoption process through unlawful means. This practice not only violates criminal law and child protection law but also threatens the realization of children's rights as legal subjects entitled to protection. Such circumstances give rise to legal issues concerning the legal status of biological parents in child trafficking through illegal adoption (Martiana et al., 2025). The urgency of this study is reflected in the disclosure of an international child trafficking network involving West Java and Singapore in 2025. Official

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

reports from the Indonesian National Police stated that the West Java Regional Police uncovered a network involving the transfer of infants across several regions, with Singapore identified as a destination, and that the investigation involved multiple actors performing different functions. The Indonesian National Police later reported cooperation with the Singapore Police Force in investigating the transnational network. These developments demonstrate the cross-border dimension of child trafficking involving unlawful adoption arrangements and raise legal questions concerning the position of biological parents within the chain of events (Abisyfa & Yusuf, 2025). The involvement of biological parents in child trafficking through illegal adoption presents complex legal issues. On the one hand, biological parents possess rights and obligations toward their children from the moment of birth. On the other hand, their involvement in transferring a child through mechanisms that violate the law may result in criminal liability. These circumstances underscore the importance of determining the legal status of biological parents as the basis for assessing their criminal liability for such conduct.

Research on child trafficking through illegal adoption has been conducted from various perspectives, particularly regarding law enforcement, criminal liability, modus operandi, and protection of children as victims. Nur et al., (2025) examined law enforcement measures toward child trafficking activities through unlawful adoption. The study demonstrates that illegal adoption practices can serve as a means through which child trafficking occurs, thereby requiring law enforcement measures against the parties involved. Nevertheless, the study does not primarily focus on the legal status of biological parents. Susanto & Setiadi, (2023) specifically examined criminal accountability of offenders involved in child trafficking through adoption schemes in Bogor Regency by referring to Law Number 35 of 2014 concerning Child Protection and Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons. The study concluded that illegal adoption may be classified as trafficking when the relevant components concerning the perpetrator, means, and purpose of exploitation are fulfilled. Its emphasis, however, rests on criminal liability of trafficking perpetrators and the application of criminal law provisions rather than the legal status of biological parents. Other studies on illegal adoption and child trafficking indicate that such practices affect not only children as victims but also their biological families. The transfer of children through mechanisms that do not comply with legal adoption procedures may restrict the biological family's access to the child and raise legal issues concerning the rights and status of biological parents. These issues become increasingly complex when the transfer occurs under vulnerable economic and social conditions while other parties exploit such circumstances for financial gain (Loibl, 2021).

The research gap is therefore not merely the absence of discussion concerning biological parents, but the absence of a sufficiently differentiated doctrinal framework for assessing their position. Existing scholarship tends to focus on the trafficking perpetrator or on the unlawful adoption mechanism, while the biological parent may occupy materially different positions depending on knowledge, intent, the circumstances in which consent was obtained, and the parent's concrete contribution to the trafficking process. A parent who knowingly facilitates a trafficking transaction is legally distinguishable from a parent whose consent is obtained through deception, coercion, or exploitation of vulnerability. This distinction is important because criminal liability is individual and requires proof of the relevant unlawful conduct and culpability (Sidun & Dryjanska, 2025). The issue also creates a tension between continuing parental obligations and parental vulnerability. Parental duties toward a child remain legally significant, but the existence of those duties does not by itself establish that a parent is a trafficking perpetrator. Conversely, a parent's consent to a transfer cannot automatically legitimize an unlawful adoption arrangement or displace the child's right to protection. The legal analysis must therefore connect parental status, consent, vulnerability, trafficking elements, culpability, and the best interests of the child (Huntington & Scott, 2022). Accordingly, this study focuses on the legal status of biological parents in child trafficking through illegal adoption and the circumstances under which they may incur criminal liability. The analysis connects parental obligations, the legal requirements of adoption, the elements of trafficking in persons, criminal culpability, and the principle of the best interests of the child. Based on the foregoing, this study addresses the following research questions:

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

a. What is the legal status of biological parents when a child is transferred through an illegal adoption arrangement?
b. Under what circumstances may biological parents incur criminal liability for child trafficking through illegal adoption?

II. Literature Review and Hypothesis Development

2.1. Legal Status of Biological Parents

Legal status (legal standing) refers to the position held by a legal subject within a legal relationship, which establishes specific rights, obligations, and responsibilities. The legal status of biological parents derives from the biological relationship between parents and their children, which gives rise to the obligation to provide care, guidance, education, and protection for their minor children in accordance with applicable laws and regulations. This legal relationship not only grants parents certain rights concerning their children but also imposes obligations to ensure the fulfillment of children's rights as an expression of their legal responsibilities (Nasrah & Zubair, 2022). The legal status of biological parents is regulated under Article 45(1) of Law No. 1 of 1974 concerning Marriage, as amended by Law No. 16 of 2019, which stipulates that both parents are obligated to care for and educate their children to the best of their ability. This obligation is further reinforced by Article 26(1) of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 on Child Protection. This provision establishes that parents are responsible for caring for, nurturing, educating, and protecting their children, facilitating their development in accordance with their respective abilities, talents, and interests, preventing child marriage, and instilling moral and ethical values. Furthermore, this legal protection is constitutionally guaranteed under Article 28B(2) of the 1945 Constitution of the Republic of Indonesia, which stipulates that every child has the right to survive, grow, and develop, as well as to receive protection from violence and discrimination. These legal provisions provide the normative foundation for this study to examine whether the actions of biological parents who transfer their children through illegal adoption constitute a violation of their legal obligations to protect children and ensure the fulfillment of their rights.

2.2. Criminal Liability

Criminal liability constitutes the legal basis for determining whether an individual can be held accountable for a criminal offense. The imposition of criminal liability requires the existence of an unlawful act, culpability, and the offender's capacity to be held responsible for their conduct. This principle is consistent with Article 36(1) of Law No. 1 of 2023 concerning the Criminal Code, which stipulates that an individual may only be held criminally liable for an unlawful act committed intentionally or through negligence. This provision establishes that both intent and negligence constitute the fundamental bases for imposing criminal liability. Within the context of this study, the concept of criminal liability is employed to examine the involvement of biological parents in the offense of infant trafficking through illegal adoption. Biological parents who intentionally surrender their infant to another party while being aware of the consequences and purposes of their actions may fulfill the element of culpability required for the imposition of criminal liability. Accordingly, this concept provides a basis for analyzing whether the conduct of biological parents satisfies the elements of criminal liability under Indonesian criminal law (Afifah & Julianis, 2023). Criminal liability concerns an individual's capacity to be held accountable for an act based on their personal circumstances and the culpability associated with that conduct. Its determination involves three essential elements: the commission of a criminal act, culpability, and the capacity to be held criminally responsible. Culpability serves as a fundamental criterion for determining whether an individual may be subjected to criminal liability. Such determination cannot be based solely on the consequences of an act, as the perpetrator's mental state at the

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

time the act was committed must also be considered when assessing culpability. This principle is particularly relevant to biological parents who surrender their infant to another party, since the act of surrendering a child cannot automatically be equated with participation in the criminal offense of human trafficking (Putra, 2024).

The criminal liability of biological parents must therefore be assessed by considering their knowledge, intent, and degree of involvement in the process of surrendering the infant. Biological parents who are aware of the purpose of infant trafficking but nevertheless surrender their child to another party occupy a different legal position from those who are unaware of the actual purpose of the transaction. Knowledge of the intended purpose, the perpetrator's intent, and the extent of their involvement in the sequence of actions constitute essential factors in determining culpability. This assessment is necessary to establish the individual criminal liability of biological parents in cases of infant trafficking through illegal adoption (Alfarissa & Puspitasari, 2022). Determining the criminal liability of biological parents in infant trafficking cases requires establishing the elements of the criminal offense and the perpetrator's culpability. The biological relationship between parents and children does not preclude the possibility of criminal liability. However, this relationship alone cannot serve as a sufficient basis for classifying biological parents as perpetrators without establishing their involvement in the criminal conduct and the existence of culpability. Biological parents who knowingly surrender their infant to a party involved in human trafficking, understand the purpose of the transfer, and receive financial or other benefits occupy a different legal position from those who surrender their child as a result of deception, coercion, or the exploitation of their vulnerable circumstances. This distinction is essential to ensure that criminal liability is determined based on the culpability and degree of involvement of each individual (Sinaga & Rizal, 2025).

2.3. Infant Trafficking through Illegal Adoption

Infant trafficking through illegal adoption constitutes a form of human trafficking that exploits the legal mechanism of child adoption through unlawful practices for the purpose of obtaining financial benefits or facilitating exploitation. This practice distorts the fundamental purpose of adoption, which is intended to ensure children's protection and welfare, by transforming it into a transactional mechanism that treats infants as commodities (Nuraeny & Utami, 2021). This concept is consistent with Article 1(1) of Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons, which defines human trafficking as follows:

> "Human trafficking refers to the recruitment, transportation, harboring, sending, transfer, or receipt of a person through the use of threats, force, abduction, confinement, fraud, deception, abuse of power or a position of vulnerability, debt bondage, or the provision of payments or benefits to obtain the consent of a person who has control over another individual, whether carried out within or across national borders, for the purpose of exploitation or resulting in the exploitation of that person."

This definition indicates that infant trafficking through illegal adoption may be classified as a criminal offense of trafficking in persons when the legally prescribed elements concerning the act, the means employed, and the purpose of exploitation are established. Accordingly, the classification of an adoption arrangement as human trafficking requires an examination of whether the conduct satisfies the statutory elements rather than merely determining whether the adoption procedure was conducted outside the applicable legal framework. Adoption constitutes a legal measure intended to protect and promote children's welfare through procedures established under applicable laws and regulations. Article 39(1) of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 on Child Protection stipulates that adoption may only be carried out in the best interests of the child and must be conducted in accordance with local customs and applicable laws and regulations. This provision demonstrates that adoption conducted outside the prescribed legal procedures or for the purpose of obtaining financial benefits contradicts the fundamental objectives of child adoption. When illegal adoption is used as a means of trafficking infants, the practice not only violates

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

the legal provisions governing adoption but may also constitute human trafficking when the required statutory elements are fulfilled. Such practices undermine the protective purpose of adoption and reduce children to objects of exploitation (Agatha et al., 2020).

2.4. Child Protection Theory

Child protection encompasses all measures intended to ensure and safeguard children's rights so that they can survive, grow, develop, and participate optimally in accordance with human dignity while receiving protection from violence and discrimination (Fadilla, 2016). This definition is consistent with Article 1(2) of Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 and subsequently amended by Law No. 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law No. 1 of 2016 on the Second Amendment to Law No. 23 of 2002 concerning Child Protection into Law. This provision defines child protection as all measures undertaken to guarantee and safeguard children and their rights so that they can survive, grow, develop, and participate optimally in accordance with human dignity while receiving protection from violence and discrimination. This legal framework recognizes children as legal subjects entitled to protection. Child protection encompasses the fulfillment of the right to life, the right to grow and develop, the right to receive care, the right to identity, and the right to protection from violence and exploitation. Responsibility for fulfilling these rights rests with parents, family members, society, the central government, regional governments, and the state (Najoan et al., 2024). Child protection is closely associated with the principle of the best interests of the child, which serves as the fundamental consideration in every decision concerning a child's life. This principle requires that all actions involving childcare, upbringing, adoption, and the transfer of caregiving responsibilities take into account the child's safety, development, needs, and future well-being. The interests of adults must not serve as the primary consideration in decisions concerning children. The surrender of an infant through illegal adoption raises legal concerns when the process is undertaken to obtain financial benefits or to serve the interests of particular parties. Under such circumstances, the transfer is no longer primarily oriented toward fulfilling the child's caregiving needs. Instead, it may create risks of exploitation, human trafficking, identity falsification, and the disruption of appropriate caregiving relationships. Accordingly, child adoption must remain directed toward the best interests of the child and comply with applicable legal provisions (Fathurrahman & Kasmarani, 2022).

Special protection for children who become victims of human trafficking is regulated under Article 59(1) and Article 59(2)(h) of Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 and subsequently amended by Law No. 17 of 2016. Article 59(1) stipulates that the central government, regional governments, and other state institutions are responsible for providing special protection to children. Furthermore, Article 59(2)(h) identifies children who are victims of kidnapping, sale, and/or trafficking as individuals entitled to special protection. These provisions demonstrate the state's responsibility to ensure specific protective measures for children affected by human trafficking. Such protection is essential because child trafficking may deprive children of their security, appropriate caregiving, identity, family relationships, and rights to growth and development. Protecting child victims of trafficking therefore requires the effective implementation of legal provisions that guarantee their safety and the fulfillment of their rights (Vaghri et al., 2022). Special protection for child victims of trafficking is further reinforced by Article 59A of the Child Protection Law. This provision regulates protective measures through prompt intervention, physical, psychological, and social treatment and/or rehabilitation, psychosocial assistance throughout the recovery process, social assistance for children from disadvantaged families, and protection and assistance throughout judicial proceedings. This provision demonstrates that the legal protection of child victims of trafficking does not end with the prosecution of the perpetrators. Rather, the recovery of the child's physical, psychological, and social condition constitutes an integral component of legal protection. Physical and psychological rehabilitation, social assistance, and legal support are therefore necessary to restore the victim's condition following the commission of a criminal offense. These protective measures are also essential to prevent the re-victimization of children who have experienced trafficking (Renaldy et al., 2024).

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

The protection of child victims of trafficking is also closely related to the recovery of losses resulting from criminal offenses. Children who become victims may experience material and non-material losses affecting their security, caregiving arrangements, identity, family relationships, and rights to growth and development. Restitution constitutes one form of victim recovery in cases of human trafficking and represents an effort to restore rights and interests that have been impaired as a consequence of criminal conduct. The recovery process for child victims must therefore take into account their physical, psychological, and social circumstances, as well as their specific needs following the commission of the criminal offense (Triwati, 2020). Child protection in cases of infant trafficking through illegal adoption is closely connected to the legal position of biological parents. Biological parents have legal obligations to care for, nurture, educate, and protect their minor children. The surrender of an infant to another party cannot be assessed solely on the basis of parental consent. The purpose of the transfer, the child's circumstances, the biological parents' situation, the identity and intentions of the receiving party, the transfer process, and the possibility of exploitation must also be taken into consideration. Biological parents who become victims of fraud or the exploitation of their vulnerable circumstances occupy a different legal position from those who knowingly surrender their infant to a trafficking network with awareness of the intended purpose. This distinction is relevant to determining the legal position and potential criminal liability of biological parents. Nevertheless, the protection of the child must remain the primary consideration in assessing every form of transfer of an infant to another party (Cahyani & Prakso, 2023). In this study, child protection theory is employed to examine the legal position of biological parents in cases of infant trafficking through illegal adoption. This theory provides a normative basis for assessing parental obligations concerning the best interests of the child, the provision of special protection for child victims of trafficking, and the restoration of children's rights following the commission of a criminal offense. The surrender of an infant through illegal adoption cannot be separated from the child's rights to appropriate care, identity, security, growth and development, and protection from trafficking. The legal position of biological parents must therefore be evaluated based on the nature and extent of each individual's involvement in the process. Ultimately, the protection of the infant as a victim remains the primary consideration in determining the legal consequences and the application of relevant legislation to every party involved.

2.5. Analytical Synthesis: Parental Status, Consent, Vulnerability, and Culpability

The preceding literature demonstrates that four fundamental concepts must be examined collectively rather than independently: parental legal status, criminal culpability, vulnerability and consent, and child protection. Parental legal status establishes continuing rights and obligations toward the child but does not, in itself, constitute an independent basis for criminal liability. Instead, criminal responsibility must be determined by examining the conduct, individual circumstances, and culpability of each parent. This distinction is consistent with the principle that criminal liability cannot be imposed solely on the basis of an individual's legal relationship with the victim. Consent must also be examined within its specific circumstances. Consent to the transfer of a child may carry different legal implications depending on the circumstances under which it was obtained and the parent's understanding of the purpose and consequences of the transfer. Where consent is obtained through deception, coercion, abuse of authority, or exploitation of a vulnerable position, the legal position of the parent may differ substantially from that of an individual who knowingly facilitates or assists a trafficking network. Similarly, economic hardship should be considered as a relevant factual circumstance requiring careful assessment rather than as conclusive evidence of either innocence or criminal liability. The child protection framework provides the normative foundation for addressing these legal considerations. The principle of the best interests of the child requires that the legality of the transfer, the child's identity and security, and the potential for exploitation be assessed independently of the interests of the adults involved in the transaction. Accordingly, the analytical framework adopted in this study treats parental legal status, culpability, vulnerability, consent, and child protection as interconnected

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

yet legally distinct considerations. This integrated approach is also consistent with recent scholarship published in Golden Ratio of Law and Social Policy Review, which emphasizes the importance of connecting legal norms with the practical protection of vulnerable individuals (Rande & Asmarani, 2025).

III. Research Method

This study employs a normative juridical research method, as it focuses on examining the legal norms governing the legal position of biological parents in cases of infant trafficking through illegal adoption. Normative legal research involves the examination of statutory regulations, legal principles, legal doctrines, and scholarly literature relevant to the research subject to develop comprehensive legal arguments (Disemadi, 2022). This study adopts both a statutory approach and a conceptual approach. The statutory approach is conducted by examining Law No. 1 of 2023 concerning the Criminal Code, Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons, Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, and Government Regulation No. 54 of 2007 concerning the Implementation of Child Adoption. Meanwhile, the conceptual approach is employed to examine the concepts of the legal status of biological parents, criminal liability, consent, vulnerability, and child protection based on relevant legal doctrines and scholarly perspectives (Ibrahim, 2018). The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations directly governing human trafficking, child protection, parental obligations, and child adoption. Secondary legal materials comprise books, scholarly journal articles, research findings, and expert opinions relevant to the research subject. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other supporting references used to clarify and strengthen the understanding of relevant legal concepts.

The legal materials were selected based on their relevance to the two research questions, their legal authority, and their capacity to clarify the elements of the relevant criminal offenses and the legal position of biological parents. Statutory provisions were prioritized in establishing the applicable legal framework, while scholarly sources were used to interpret legal concepts, identify doctrinal debates, and compare different legal arguments. Where differing scholarly interpretations were identified, the analysis considered the hierarchy and binding force of the underlying legal materials before incorporating secondary interpretations into the legal arguments. Legal materials were collected through library research by identifying, compiling, and examining relevant statutory regulations, books, scholarly journal articles, and legal documents related to the research subject. The collected materials were subsequently analyzed qualitatively using a descriptive-analytical approach. The analysis was conducted in four stages: (1) identifying the legal norms governing parental obligations, child adoption, and human trafficking; (2) examining the elements relevant to criminal liability, including unlawful conduct and culpability; (3) applying the identified legal norms and concepts to distinguish the legal positions of biological parents based on their knowledge, intent, consent, vulnerability, receipt of benefits, and actual involvement in the transfer of the child; and (4) formulating legal conclusions concerning parental status and potential criminal liability while maintaining child protection and the best interests of the child as the central considerations. This analytical procedure is consistent with recent normative legal research that integrates statutory and conceptual approaches through structured qualitative analysis (Pratama & Sulaiman, 2026).

IV. Result and Discussion

4.1. Legal Status and Criminal Liability of Biological Parents in Infant Trafficking through Illegal Adoption

The findings of this study demonstrate that the legal position of biological parents in cases of infant trafficking through illegal adoption remains attached by virtue of the legal relationship between parents and their children. This legal position encompasses rights, obligations, and responsibilities toward the child. Parental obligations are regulated under Law No. 23 of 2002 concerning Child Protection, as amended by Law

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

No. 35 of 2014 and subsequently amended by Law No. 17 of 2016 concerning the Stipulation of Government Regulation in Lieu of Law No. 1 of 2016 on the Second Amendment to Law No. 23 of 2002 concerning Child Protection into Law. Article 26(1) stipulates that parents are responsible for caring for, nurturing, educating, and protecting their children, supporting their development in accordance with their abilities, talents, and interests, preventing child marriage, and instilling moral and ethical values. This provision establishes parents as individuals who bear legal obligations toward their children. These obligations do not automatically cease when a child is surrendered to another party through a mechanism that does not comply with applicable legal provisions. Accordingly, the surrender of an infant through illegal adoption does not eliminate the legal position of biological parents in relation to their child. Child adoption is subject to legal requirements that distinguish it from the unlawful transfer of infants in trafficking practices. Article 39(1) of Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 and subsequently amended by Law No. 17 of 2016, stipulates that adoption may only be carried out in the best interests of the child and must comply with local customs and applicable laws and regulations. Furthermore, Article 39(2) provides that adoption, as referred to in paragraph (1), does not sever the familial relationship between an adopted child and their biological parents. These provisions demonstrate that lawful adoption must be oriented toward the best interests of the child, while the biological relationship between the child and their biological parents remains legally recognized. The surrender of an infant through illegal adoption cannot therefore be equated with adoption conducted in accordance with applicable legal provisions. Illegal adoption does not provide a lawful basis for transferring an infant for economic gain. Such practices constitute a deviation from the fundamental purpose of adoption, which should prioritize the protection, care, and welfare of the child.

Children are recognized as legal subjects entitled to constitutional protection under the 1945 Constitution of the Republic of Indonesia. Article 28B(2) stipulates that every child has the right to survive, grow, and develop, as well as the right to protection from violence and discrimination. This constitutional guarantee provides the foundation for protecting children against any actions that may threaten their lives, growth, development, and security. Infant trafficking through illegal adoption contradicts this principle because it may place infants in circumstances that deprive them of their rights to appropriate care, identity, security, growth, and development. The economic interests of parties surrendering or receiving infants cannot take precedence over the constitutional rights guaranteed to children. The legal position of biological parents in infant trafficking cases cannot be determined solely on the basis of their act of surrendering an infant to another party. Instead, the assessment must consider the specific conduct, knowledge, intent, purpose, and degree of involvement of each individual. Biological parents who are unaware of the trafficking purpose occupy a different legal position from those who understand the purpose of the transfer and knowingly participate in the sequence of activities associated with infant trafficking. These differences in circumstances are relevant to assessing culpability and involvement in the criminal offense. Biological parenthood does not automatically establish an individual as a perpetrator of a criminal offense. Conversely, such status does not provide immunity from criminal liability when involvement in the offense is established through legally admissible evidence.

The assessment of biological parents' involvement must be considered in relation to the provisions of Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons. Article 2(1) stipulates that any person who recruits, transports, harbors, sends, transfers, or receives an individual through the use of threats of violence, actual violence, abduction, confinement, forgery, fraud, abuse of power or a position of vulnerability, debt bondage, or the provision of payments or benefits, including payments or benefits intended to obtain the consent of a person exercising control over another individual, for the purpose of exploitation within the territory of the Republic of Indonesia, is subject to imprisonment for a minimum of three years and a maximum of fifteen years, as well as a fine of at least IDR 120,000,000 and no more than IDR 600,000,000. This provision identifies several essential elements that must be established to determine whether the criminal offense of human trafficking has occurred, including the legal subject, the prohibited conduct, the means employed, and the purpose of exploitation. The surrender of an infant to another party does not, by itself, establish the fulfillment of all these elements. The involvement of biological parents must

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

therefore be examined in relation to the sequence of actions undertaken. Their knowledge of the purpose of the transfer, communication with the receiving party, the provision or receipt of benefits, participation in the transfer process, and connections with the trafficking network constitute relevant evidentiary considerations.

In the 2025 infant trafficking case involving the transfer of babies from Bandung to Singapore, the legal position of biological parents must be analyzed by considering the specific roles of each party within the sequence of events. Vulnerable economic circumstances may be exploited by trafficking networks to obtain parental consent for the surrender of an infant. However, such circumstances do not automatically establish culpability on the part of biological parents. Article 2(1) of Law No. 21 of 2007 recognizes the abuse of power or a position of vulnerability as one of the means employed in the commission of human trafficking. Consequently, parental consent obtained under vulnerable circumstances cannot be regarded as a legal basis for legitimizing the transfer of an infant. The legal assessment must instead examine how consent was obtained, the purpose of the transfer, the party controlling the transfer process, the benefits provided, the parents' knowledge of the intended purpose, and the connection between their actions and the trafficking network. The circumstances of biological parents who are unaware of the trafficking purpose must be distinguished from those of parents who knowingly participate in such activities. Biological parents who receive misleading information regarding the purpose of surrendering their infant occupy a different legal position from individuals who know that the infant will be trafficked but nevertheless hand the child over to a trafficking network. This distinction is directly related to the element of culpability. Knowledge of the trafficking purpose, intent in surrendering the infant, involvement in the transfer process, and the receipt of economic benefits may constitute relevant facts in determining an individual's involvement. However, the receipt of money or other economic benefits cannot serve as the sole basis for establishing criminal liability. The relationship between the benefits received and the intended purpose of trafficking must be demonstrated through the available evidence. Such an assessment is necessary to distinguish biological parents who knowingly participate in trafficking activities from those who are exploited by trafficking networks.

The economic circumstances of biological parents cannot constitute the sole basis for determining criminal liability. Poverty may be one of the factors underlying the decision to surrender an infant, but such circumstances neither eliminate parental legal obligations nor automatically establish an intention to participate in infant trafficking. The assessment of criminal liability must instead focus on the conduct, knowledge, intent, purpose, manner of involvement, and culpability of each individual. Biological parents who surrender an infant as a result of deception occupy a different legal position from those who knowingly assist a trafficking network. This distinction is essential to prevent the automatic imposition of criminal liability on all biological parents who surrender their children to other parties. Infants who become victims of trafficking are entitled to special protection under Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 and subsequently amended by Law No. 17 of 2016. Article 59(2)(h) identifies children who become victims of kidnapping, sale, and/or trafficking as individuals entitled to special protection. Furthermore, Article 59A provides that special protection for children must be implemented through prompt intervention, physical, psychological, and social treatment and/or rehabilitation, psychosocial assistance throughout medical treatment and recovery, the provision of social assistance for children from disadvantaged families, and protection and assistance throughout judicial proceedings. These provisions demonstrate that addressing infant trafficking cases does not end with the imposition of criminal sanctions on the perpetrators. The restoration of children's rights constitutes an integral component of legal protection. Infants who become victims require appropriate treatment, rehabilitation, assistance, and protection throughout judicial proceedings. The principle of the best interests of the child must therefore serve as the primary consideration in determining the appropriate protective measures.

The findings of this study establish a relationship between parental obligations, the legal framework governing child adoption, the criminal offense of human trafficking, and the protection of child victims. Article 26 of Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 and subsequently amended by Law No. 17 of 2016, provides the legal basis for determining parental obligations. Article 39

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

establishes the legal requirements governing child adoption. Meanwhile, Article 59(2)(h) and Article 59A provide the legal basis for special protection measures for children who become victims of trafficking. Article 2(1) of Law No. 21 of 2007 provides the framework for assessing whether the elements of the criminal offense of human trafficking have been fulfilled. Taken together, these provisions provide an analytical foundation for determining the legal position of biological parents on an individual basis. Such an assessment must remain closely connected to the protection of infants as victims. Based on these findings, the legal position of biological parents remains attached following the surrender of an infant through illegal adoption. Such a transfer does not sever the familial relationship between the child and their biological parents or eliminate the legal obligations of parents toward their children. The involvement of biological parents in infant trafficking must be assessed based on their specific conduct, knowledge, intent, purpose, degree of involvement, and culpability. Biological parents who knowingly participate in activities associated with infant trafficking may incur criminal liability when the statutory elements of the offense are established. Conversely, biological parents who are unaware of the trafficking purpose or who are exploited by trafficking networks cannot automatically be equated with individuals who knowingly participate in such activities. The protection of infants as victims must remain central to the resolution of these cases through the fulfillment of children's rights, the provision of special protection, rehabilitation, appropriate assistance, and the application of the principle of the best interests of the child.

4.2. Analytical Comparison with Previous Studies

The findings of this study support and extend the conclusions of previous research. Earlier studies have examined the use of unlawful adoption as a mechanism through which child trafficking may occur, as well as the criminal liability of perpetrators involved in trafficking schemes disguised as adoption arrangements. The present study extends these discussions by focusing on the legal differentiation of biological parents according to their actual involvement in the trafficking process. Accordingly, the central legal question is not merely whether a parent surrendered a child to another party, but whether the parent's conduct, knowledge, intent, and individual circumstances satisfy the statutory requirements for imposing criminal liability. This distinction provides a more precise analytical framework for evaluating parental involvement, which may range from knowing participation to circumstances involving vulnerability or deception. The findings also clarify the relationship between parental obligations and parental vulnerability. Article 26 of the Child Protection Law establishes the legal duties of parents toward their children, whereas the legal framework governing human trafficking requires an assessment of each individual's specific conduct and culpability. These provisions operate at different analytical levels. A parent may continue to bear legal obligations toward their child even when they are not criminally liable for trafficking. Conversely, parental status cannot exempt an individual from criminal liability when the available evidence establishes knowing and intentional participation and the statutory elements of the offense are fulfilled. Therefore, the existence of a parent-child relationship does not, by itself, determine whether criminal liability arises.

The 2025 Bandung–Singapore case further illustrates the importance of this distinction. Official police reports described a transnational trafficking network involving multiple roles, including recruitment, temporary custody, the preparation of false identity documents, and the planned transfer of infants to Singapore. The Indonesian National Police subsequently reported cooperation with the Singapore Police Force in investigating the network. These circumstances demonstrate that trafficking networks may involve multiple actors performing different functions. Consequently, the legal position of biological parents must be determined individually rather than inferred solely from the parent-child relationship or the fact that an infant was surrendered. The official investigation also indicates that parental involvement requires further examination of the identities, circumstances, and motives of the parents concerned. The analysis therefore contributes a three-part doctrinal distinction. First, biological parents who are unaware of the trafficking purpose and whose consent is obtained through deception or exploitation of their vulnerable circumstances should not automatically be classified as perpetrators of human trafficking. Second, biological parents who

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

knowingly facilitate or assist the trafficking process must be assessed against the statutory elements of the offense and the applicable principles of criminal culpability. Third, regardless of the legal position of the parents, the child remains the primary subject of legal protection and the victim whose identity, security, family relationships, recovery, and best interests must remain central to the legal response. This framework extends the existing literature by integrating parental legal status, individualized criminal responsibility, and child-centered protection rather than treating these matters as separate legal issues.

V. Conclusion

The study concludes that the legal position of biological parents in child trafficking through illegal adoption remains attached based on the legal relationship between parents and children. Such legal position encompasses the rights, obligations, and responsibilities concerning the fulfillment of children's welfare. Surrender of a child through illegal adoption does not, by itself, sever the familial lineage between biological parents and child or eliminate parental obligations to nurture, supervise, instruct, and safeguard the child. The practice of illegal adoption demonstrates a deviation from the purpose of lawful child adoption, which should be implemented according to the best interests of the child and prevailing statutory regulations. The legal position of biological parents in child trafficking cases cannot be determined solely based on the surrender of a child to another party. The determination of involvement must be based on concrete acts, knowledge, intent, purpose, manner of involvement, and culpability. Biological parents who know the purpose of child trafficking and consciously participate in the relevant acts may be held criminally liable if the elements of the trafficking offense are proven. Biological parents who do not know the trafficking purpose, become victims of deception, or are in vulnerable circumstances exploited by the trafficking network have a different legal position. This distinction reflects the application of criminal law based on individual culpability and prevents the automatic attribution of criminal liability solely from parental status or the fact of surrender.

Protection of child victims constitutes a central part of the resolution of the case. Law Number 23 of 2002 concerning Child Protection, as amended by Law Number 35 of 2014 and Law Number 17 of 2016, provides a legal basis concerning parental obligations, child adoption, and special protection for child victims of trafficking. Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons provides a legal basis for determining whether the elements of trafficking have been fulfilled. Application of these legal regimes should therefore be directed toward legal certainty, individualized liability based on culpability, restoration of children's rights, and realization of the best interests of the child. Future research may be developed through empirical research on the application of law in cases of child trafficking through illegal adoption. Further studies should examine how investigators, prosecutors, and courts distinguish biological parents who are perpetrators from parents who are victims or exploited parties. Empirical research using court decisions, interviews with law enforcement officials, child protection institutions, and relevant parties may provide evidence concerning how knowledge, consent, vulnerability, economic benefits, and concrete participation are evaluated in practice. Such research would strengthen the practical application of the doctrinal distinctions proposed in this study.

AI Disclosure

The authors used AI-assisted tools in a limited capacity to support language refinement and improve the clarity of certain sentences. The research process, legal analysis, interpretation of legal materials, and conclusions were independently developed by the authors. The authors take full responsibility for the content and accuracy of this manuscript.

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

Authorship Contribution

Azka Farida Putri Hindrawan contributed to the conceptualization, research methodology, data collection, legal analysis, and drafting of the manuscript. Hesti Septianita contributed to the supervision, review, critical evaluation, and revision of the manuscript. Both authors reviewed and approved the final version of the manuscript.

Conflict of Interest Statement

The authors declare that there are no conflicts of interest regarding the publication of this article.

Data Availability Statement

The materials supporting the findings of this study are available from publicly accessible sources, including legislation, legal documents, books, and relevant academic publications. No additional datasets were generated or analyzed during this study.

Acknowledgment and Funding

The authors would like to express their gratitude to all parties who provided support and assistance during the research and preparation of this manuscript. This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

References

Abisyfa, M. F., & Yusuf, H. (2025). Perdagangan Bayi Dari Bandung Ke Singapura Baby Trade From Bandung To Singapore. (21), 14814–14827.

Afifah, Y., & Julianis, Y. (2023). Pertanggungjawaban Pidana terhadap Pelaku Obstruction of Justice dalam Perkara Tindak Pidana Kekerasan Seksual. 91–112. https://doi.org/10.20885/JLR.vol8.iss1.art6

Agatha, F. M., Widia, I. ketut, & Sukada, I. ketut. (2020). Pengangkatan anak oleh orang tua yang berbeda keyakinan dengan calon anak angkatnya. 1(2), 16–20. https://doi.org/10.22225/jph.v1i2.2391.16-20

Alfarissa, T., & Puspitasari, S. A. (2022). Mencegah Motif Adopsi Sebagai Modus. 79–87. https://doi.org/10.35586/esensihukum.v4i1.154

Cahyani, D. A., & Prakso, A. L. (2023). Diversi Jurnal Hukum. 9(April), 349–379. https://doi.org/10.32503/diversi.v9i2.4607

Disemadi, H. S. (2022). Lensa Penelitian Hukum : Esai Deskriptif tentang Metodologi Penelitian Hukum. 24(December), 289–304. https://doi.org/10.37253/jjr.v

Fadilla, N. (2016). Perdagangan orang the legal efforts of child as a criminal victim in human trafficking. 181–194.

Fathurrahman, N., & Kasmarani, Y. (2022). Perlindungan Hukum Dan Pencegahan Tindak Kekerasan Terhadap Anak Angkat Dalam Hubungan Keluarga. 6(1). https://doi.org/10.19109/tazir.v6i1.13017

Huntington, C., & Scott, E. (2022). THE ENDURING IMPORTANCE OF PARENTAL RIGHTS. In Fordham Law Review (Vol. 90). https://ir.lawnet.fordham.edu/flr

Ibrahim, J. (2018). Teori dan Metodologi Penelitian Hukum Normatif. Bayu Media.

Loibl, E. C. (2021). The aftermath of transnational illegal adoptions: Redressing human rights violations in the intercountry adoption system with instruments of transitional justice. Childhood, 28(4), 477–491. https://doi.org/10.1177/09075682211064430

Martiana, A. A., Purwaningrum, A. F., & Rahayu, R. M. (2025). Analisis yuridis terhadap modus adopsi ilegal dalam praktik perdagangan bayi oleh bidan di Yogyakarta. Jurnal Kesehatan Wira Buana, 9(2), 2541–5387. https://doi.org/https://doi.org/10.55919/jk.v9i2.189

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.

ISSN [Online]: 2808-2923

Najoan, R. E., Pinasang, R., & Nachrawy, Nu. (2024). Perdagangan Anak Sebagai Tindak Pidana Menurut Pasal 83 Undang- Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak. 13(4), 1–11.

Nasrah, & Zubair, A. (2022). Hak Dan Kewajiban Orang Tua Terhadap Anak Setelah Putusnya Perkawinan. 03(01). https://doi.org/10.24256/maddika.v3i1.2500

Nur, D., Tanjung, F., & Yusuf, H. (2025). Analisis Kasus dan Implikasi Hukum terhadap Sindikat Jual Beli Bayi. JICN: Jurnal Intelek Dan Cendikiawan Nusantara, 2. https://jicnusantara.com/index.php/jicn

Nuraeny, H., & Utami, T. K. (2021). Pidana dan HAM: Perlindungan Hukum terhadap Anak dan Perempuan. Rajawali Pers.

Pratama, N. L., & Sulaiman, R. A. (2026). Reconstructing Criminal Liability Models for the Dissemination of False Information in the Indonesian Criminal Justice System (An Analysis of the ITE Law After the 2024 Amendment). 5, 401–411. https://doi.org/10.52970/grlspr.v5i2.2135

Putra, I. M. W. (2024). Asas kesalahan terkait pertanggungjawaban pidana atas tindak pidana dalam pelaksanaan jabatan notaris. 8, 116–131. https://doi.org/10.61104/alz.v4i1

Rande, S., & Asmarani, M. (2025). Breaking the Chain of Violence : A Study of Policy Implementation on Child Protection in Samarinda City , Indonesia. 4, 48–54. https://doi.org/10.52970/grlspr.v4i2.1228

Renaldy, D., Khalik, A. F., Andhika, H. R., & Jainah, Z. O. (2024). Perlindungan Hukum Terhadap Anak Korban Tindak Pidana Perdagangan Orang Di Indonesia. 10(1), 46–58. https://doi.org/10.24952/yurisprudentia.v10i1.10178

Sidun, N., & Dryjanska, L. (2025). Familial Trafficking: History, Consequences, and Clinical Recommendations. Family Journal, 33(1), 61–72. https://doi.org/10.1177/10664807241274993

Sinaga, M. B. A., & Rizal, M. (2025). Pertanggung Jawaban Pidana Terhadap Ibu Yang Melakukan Trafficking Pada Anaknya (Studi Kasus Jln. Bhayangkara No. 385) Criminal. 6(7), 1–10. https://doi.org/10.56370/jhlg.v6i7.1547

Susanto, A., & Setiadi, E. (2023). Pertanggungjawaban Pidana Terhadap Pelaku PerdaganganBayi Bermodus Adopsi diKabupaten Bogor Ditinjau dariUndang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak danUndang-Undang Nomor 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang. Bandung Conference Series: Law Studies, 3(2), 1016–1020. https://doi.org/10.29313/bcsls.v3i2.7290

Triwati, A. (2020). Pembaharuan Kebijakan Restitusi Bagi Anak Korban Tindak Pidana Perdagangan Orang. 171–177. https://doi.org/10.29313/bcsls.v3i2.7290

Vaghri, Z., Zermatten, J., Lansdown, G., & Ruggiero, R. (2022). Monitoring State Compliance with the UN Convention on the Rights of the Child.

2026. The Author(s). This open-access article is distributed under a Creative Commons Attribution (CC-BY-SA) 4.0 license.