

Law Enforcement Against Parents as Perpetrators Criminal Offense of Baby Dumping in Wonosobo Regency Leksono Sub-District

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ABSTRACT

The crime of baby dumping is an act committed by a person who intentionally leaves a newborn baby alive or dead somewhere with the intention of leaving his/her responsibility. Baby dumping is usually committed against children born out of wedlock. It is an act that is contrary to human values. This study aims to determine the law enforcement against parents as perpetrators of criminal acts of baby dumping and to find out what efforts can be made to overcome baby dumping that occurs in Wonosobo Regency, Leksono District. With the formulation of the problem: (1) How is law enforcement against parents as perpetrators of baby dumping in Wonosobo Regency, Leksono Subdistrict? (2) How are efforts to overcome baby dumping in Wonosobo Regency, Leksono Subdistrict? The type of research used by the author is normative juridical research. The approach method used is the statutory approach. The source of data in this research comes from secondary data obtained from reviewing literature studies. The data obtained is analyzed using normative descriptive. The results showed that law enforcement against perpetrators of baby dumping in the jurisdiction of Wonosobo Regency has not gone well, due to the search for perpetrators that takes a long time and with little evidence. The efforts to overcome the obstacles to the occurrence of criminal acts of baby dumping in the jurisdiction of Wonosobo Regency are by instilling moral and formal education, providing counseling, and maximum enforcement of regulations used.

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I. INTRODUCTION

Indonesia is a state of law that guarantees the rights and obligations of its citizens, advancing human welfare and social justice based on Pancasila. This shows that the State of Indonesia respects human rights. In a State of law, the protection, implementation and practice of human rights is the duty of every citizen. If a person's human rights are violated, then that person will fight for their human rights. This is done because human rights have been owned by each person since he was born. Thus, article 28 regulates the protection that each person receives since he was born. His right to live, grow and develop.¹

¹ Helfira Nabila, "Pentingnya HAM Yang Tidak Boleh Dilanggar," *Kompasiana*, last modified 2014, accessed April 30, 2023, [https://www.kompasiana.com/helfiranabila/54f5deb7a33311dd6d8b456a/pentingnya-ham-yang-tidak-boleh-dilanggar#:~:text=Karena](https://www.kompasiana.com/helfiranabila/54f5deb7a33311dd6d8b456a/pentingnya-ham-yang-tidak-boleh-dilanggar#:~:text=Karena%20hidup%20tumbuh%20dan%20berkembang) memang tiap poin dari, hidup%20tumbuh%20dan berkembang.

Children are an infinite gift from God Almighty. The form of human existence as a human being is to be able to maintain its existence and one way to maintain it is to have offspring. Offspring as the next generation that can continue and improve human existence. Regarding its nature in a broader scope, offspring as the next generation is a very valuable asset for a group of people who live in the same destination called the state.²

For children, legal protection is prioritized because of the nature of children who tend not to be able to become a complete person. So the protection of children has started since the child is in the womb. Article 2 of the *Burgelijk Wetboek* (BW) states that a child still in the mother's womb is considered a legal subject as long as the interests of the child require it. The absence or absence of specific laws and regulations governing infants makes it into the discussion, because infants are considered equivalent to children on the grounds that they have similar concepts, namely they are both immature. Thus, all laws and regulations governing children can also be applied to infants in every right and obligation attached to them.³

Baby dumping is a new term for a crime that falls under the heading of social crime. The crime of infanticide is an act committed by a person who intentionally leaves a newborn baby alive or dead in a certain place with the intention of abandoning his/her responsibility. Baby dumping is usually committed against children born out of wedlock. It is an act that goes against human values.

The various factors behind baby dumping cases include, among others, economic problems not being able to meet the needs of the baby and hoping that someone will pick up the baby, the baby suffering from a medical disorder, and to cover up the disgrace because the baby was born outside of a legal marriage and because the baby is not wanted by his biological parents.⁴

If the abandonment of a baby is carried out while it is still alive and is carried out by the parents, in this case the biological mother, who abandons the child after it is born, then the criminal sanctions related to this are contained in Article 308 of the Criminal Code which states that if a mother, fearing that someone will know about the birth of her child, shortly after giving birth, places the child to be found or leaves it with the intention of escaping from it, the maximum punishments mentioned in Articles 305 and 306 shall be reduced by half. The disposal of a living baby has been regulated in Article 305 of the Criminal Code which explains that a person who places, leaves a child under the age of seven years to be found or with the aim of escaping responsibility shall be punished with a maximum imprisonment of five years and six months.⁵ Article 306 of the Criminal Code adds to the punishment for the perpetrator, namely if the act causes injury to the infant, a maximum imprisonment of seven years and six months is imposed and if it results in death, a maximum imprisonment of nine years is imposed.⁶

Previous research conducted by Kadek Indra Adi Pranata, Ni Putu Rai Yulianti, and Dewa Gede Sudika Mangku with the title "Law Enforcement Against Perpetrators of Baby Dumping Crimes in the Legal Area of Buleleng Regency". The results of the study show that law enforcement against perpetrators of criminal acts of baby dumping in the jurisdiction of Buleleng Regency has been going well, which is carried out by the process of investigation, investigation followed by the process of arrest, prosecution and execution before the court by referring to Article 181 of the Criminal Code on the Disposal of Newborn Babies in a Dead State. The efforts to overcome the obstacles to the occurrence of criminal acts of infanticide in the jurisdiction of Buleleng Regency are by instilling moral and formal education, providing counseling, and maximum enforcement of regulations used.

There is another research conducted by Novita Siregar with the title "Criminal Liability for Perpetrators of Planned Dumping of Newborn Babies". The research shows that the legal provisions for the premeditated act of throwing away a newborn baby are regulated in Article 341 and Article 342 of the Criminal Code because they have committed premeditated murder of their own child. The application of the elements to the act of the perpetrator who planned to throw away the newborn baby based on Decision Number 666/Pid.B/2018/PN.Blb is in accordance with the elements in Article 342 of the Criminal Code. The elements are whoever and the element of a mother who to carry out the specified intention for fear of being discovered that she will give birth to a child, at the time the child is born or shortly thereafter deprives her child of life. Legal analysis of the burden of criminal responsibility of the perpetrator who planned to dispose of a newborn baby based on Decision Number 666/Pid.B/2018/PN.Blb although the judge's sentence is lower than the prosecutor's demand, namely

² Airlangga Justitia, "Pembuangan Bayi Dalam Perspektif Penelantaran Anak," *University Of Bengkulu Law Journal* 3, no. 1 (2019): 23–40.

³ Kadek Indra Adi Pranata, Ni Putu Rai Yulianti, and Dewa Gede Sudika Mangku, "Penegakan Hukum Terhadap Pelaku Tindak Pidana Pembuangan Bayi Di Wilayah Hukum Kabupaten Buleleng," *Jurnal Komunitas Yustisia*, 2022.

⁴ Ni Nyoman Muryatini, "Pembuangan Bayi Dalam Perspektif Hak Asasi Manusia," *Jurnal Hukum Saraswati (JHS)*, Volume. 3, no. 1 (2021): 59–69, file:///C:/Users/user/Downloads/JHS+Dewa+Gede+Edi+Praditha+31-41.pdf.

⁵ Andi Sofyan and Nur Azisa, *Hukum Pidana* (Makassar: Pustaka Pena Press, 2016).

⁶ Novita Siregar, "Pertanggungjawaban Pidana Terhadap Pelaku Pembuangan Bayi Yang Baru Dilahirkan Secara Berencana" (Universitas Muhammadiyah Sumatra Utara, 2022).

imprisonment for 6 (six) years, this decision is still not appropriate for the perpetrator, because the perpetrator is a victim, the history of violence and the psychological impact of the actions that have befallen him should be the main concern for the judge before imposing a punishment decision.

The difference between previous research and the author's research is that previous research number 1 is located in Buleleng Regency while the author's research is located in Wonosobo Regency. The difference between previous research number 2 and the author's research is that previous research number 2 discusses law enforcement against children as perpetrators of baby dumping, while the author's research discusses all perpetrators, whether parents, children, women, or men as perpetrators of baby dumping.

The murder of babies by their biological mothers is different from murder in general, both in terms of motives, methods, relationships between victims and perpetrators, and other related parties. The motives that influence the biological mother to kill her own baby are the fear of being found out for giving birth to a baby outside of marriage and the emotional and mental motives of the baby's mother. Therefore, this criminal offense is specifically regulated in the Criminal Code, as well as the Law on Child Protection Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Law on Domestic Violence Number 23 of 2014 concerning the Elimination of Domestic Violence.⁷

The crime of baby dumping is indeed very destructive of morals and norms in life, but besides that, this act also degrades the human being, because the matter of religious morality inherent in humans also plays a very important role and greatly influences whether or not the crime of baby dumping occurs.⁸

In recent years, many cases of baby dumping have been reported in the local and national media. Baby dumping cases have recently been rampant, especially in Wonosobo District. In 2023, there were 2 cases of baby dumping in Wonosobo District. One of them was a baby dumping case in Leksono Subdistrict.

II. RESEARCH PROBLEMS

1. How is law enforcement against parents as perpetrators of baby dumping in Wonosobo Regency, Leksono Sub-District?
2. How are efforts to overcome baby dumping in Wonosobo Regency, Leksono Sub-district?

III. RESEARCH METHODS

The type of research used by the author is normative juridical research. The approach taken is a statutory approach. By examining all laws and regulations related to related legal events, conceptual approaches that depart from the views and doctrines that develop in law, and case approaches. The data source in this research is secondary data obtained from reviewing literature studies. The legal materials used are as follows:

1. Primary Legal Materials
The primary legal materials used by the author include:
 - a. The Book of Criminal Law
 - b. Law Number 35 Year 2014 on Child Protection
 - c. Law No. 39 of 1999 on Human Rights

2. Secondary Legal Materials
Secondary legal materials are sourced from journals, doctrines, and research results related to law enforcement against parents as perpetrators of the crime of baby dumping.

The data collection method used by the author in this research is literature study. The data collection method used by the author in this research is literature study. The data analysis method used in this research is descriptive normative.

IV. RESULT AND DISCUSSION

1. Law Enforcement Against Parents as Perpetrators of Baby Dumping in Wonosobo Regency, Leksono Sub-District.

Baby dumping cases have recently been rampant, especially in Wonosobo District. In 2023, there were 2 cases of baby dumping in Wonosobo District. One of them was a case of baby dumping in Leksono Subdistrict. The case occurred on January 1, 2023 at 21.00, a male baby was found on the porch of Mingsadi's house, a resident of Wonokerto Village, RT 04 RW 04, Leksono District, Wonosobo Regency. The incident began when the owner of the house was watching TV and heard the sound of a baby crying. The baby's voice got louder and louder, until Mingsadi turned off the TV and confirmed the baby's voice. Increasingly curious, Mingsadi tried to find the

⁷ Yulian Ibadil Mukromin, "Penegakan Hukum Pidana Terhadap Pelaku Tindak Pidana Pembunuhan Anak Kandung" (Universitas Islam Sultan Agung, 2021).

⁸ I Made Indra Sastrawan, I Made Minggu Widyantara, and Ida Bagus Gede Agustya Mahaputra, "Upaya Penanggulangan Tindak Pidana Pembuangan Bayi Di Wilayah Hukum Polres Bangli," *Jurnal Analogi Hukum* 4, no. 3 (2022): 316–321, <https://www.ejournal.warmadewa.ac.id/index.php/analogihukum/article/view/5761>.

direction of the baby's voice outside the house. And it turned out that on the terrace of the house lay a baby wrapped in a red cloth with floral motifs. The baby was healthy, intact, and born normally weighing approximately 2.5 kg. Upon the discovery of the baby, the witness immediately informed the nearest neighbor and then reported the discovery to the Wonokerto Village Head and Leksono Police. As for knowing the baby's biological mother, Leksono Police are still conducting further investigations.⁹

Law enforcement is an effort to realize ideas about justice, legal certainty and social benefits into reality. Where law enforcement means an effort and process to uphold the laws that apply in society in real terms. In addition, law enforcement is carried out to determine the implementation of legal norms that have been created by the authorities whether it is running well or not as a guide to social life.

In criminal cases, law enforcement procedures begin from the investigation to the implementation of the decision even until a prisoner returns to the community. To carry out the law enforcement process, of course, it will involve law enforcement officials such as the police and judicial institutions. The implementation of the investigation of the crime of baby dumping in the Wonosobo Regency area has not gone well because there are still obstacles and shortcomings that must be immediately corrected by the police so that the goals to be achieved are realized. Law enforcement has not gone well because there are obstacles that cause less than optimal law enforcement against perpetrators of baby dumping crimes. The obstacles experienced are the lack of public participation in providing information related to the existence of infant neglect that occurs, so that investigators cannot find suspects or perpetrators of infant neglect.

The articles in the Criminal Code that can be imposed on the perpetrators of baby dumping are as follows:

- a. Article 181 of the Criminal Code Article 181 of the Criminal Code states that any person who conceals a death or birth shall be punished with 9 years imprisonment or a fine of 300 thousand rupiahs. This article explains that any person who conceals the death or birth, birth or death of a baby can be punished.
- b. Article 305 of the Criminal Code In this article, it is explained that the person who places the child, which is not yet 7 years old, so it can be from newborn to 7 years old who deliberately neglects the child in order to release the responsibility for the child can be threatened with a 5-year sentence.
- c. Article 308 of the Criminal Code In this article is a further provision of Article 305 of the Criminal Code where in this article it is more emphasized related to the perpetrator is a mother who places her child with the motive for fear of being known about the birth of her child with the aim of releasing her responsibility for the baby she gave birth to.
- d. Article 341 of the Criminal Code states that if a mother is afraid because she has given birth to a child, then she kills her child.
- e. Article 342 of the Criminal Code This article is the same as in Article 341 of the Criminal Code The difference in this article is that the mother did it intentionally, intentionally means that she was aware of the actions she committed and the consequences of her actions which were planned in advance.¹⁰

Law Number 35 of 2014 Amendment to Law Number 23 of 2002 concerning Child Protection explains that child protection is all activities to ensure and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity, and receive protection from violence and discrimination.¹¹ Article 20 of Law No. 35/2014 on Child Protection states that, "The state, government, local government, community, family, and parents or guardians are obliged and responsible for the implementation of child protection." Not only the government and the state have obligations and are responsible for child protection, the community is also obliged to oversee all actions related to child protection. The community can prevent and report to the authorities if something happens that threatens child protection, such as violence, mistreatment, and neglect. However, if the state, government and society do not play a role in the protection of children who have been abandoned then they cannot be held criminally responsible because it is only related to the obligations of the parties, not an unlawful act.¹²

According to article 1 paragraph (1) of Law Number 39 of 1999 concerning Human Rights, "Human rights are a set of rights inherent in the nature and existence of human beings as creatures of God Almighty and are His gifts that must be respected, upheld and protected by the state, law, government, and everyone for the sake of honor and protection of human dignity and worth. This shows that the right to life as part of human rights is

⁹ Agus Supriyadi, "Polisi Usut Pembuangan Bayi Berbalut Kain Merah Di Leksono Wonosobo, Begini Nasib Bayinya," *Magelang Ekspres*, last modified 2023, accessed Mei 22, 2023, <https://magalangekspres.disway.id/read/649562/polisi-usut-pembuang-bayi-berbalut-kain-merah-di-leksono-wonosobo-begini-nasib-bayinya>.

¹⁰ Binar Nugroho Nur Setyawan, "Penegakan Hukum Terhadap Anak Sebagai Pelaku Tindak Pidana Pembuangan Bayi," no. 21 (2018): 1–9.

¹¹ Elia Putri Pratiwi, "Penegakan Hukum Pelaku Tindak Pidana Pembuangan Bayi Analisis Putusan PN Banyuwangi Nomor: 853/Pid.Sus/2019/PN.Byw" (UIN Syarif Hidayatullah, 2022).

¹² Rizqi Mayang A., "Tindak Pidana Pembuangan Anak Yang Baru Dilahirkan Serta Pertanggungjawaban Pihak Terkait," *Jurist-Diction 2*, no. 2 (2019): 687–702.

automatically owned by babies even when they are still in their mother's womb, therefore the state, law and everyone is obliged to provide protection for the right to life of newborn babies.

Law No. 39/1999 on Human Rights clearly states that babies have the right to life, and have the right to protection from parents, society and the state. The concept of legal protection is one of the most important things to discuss in this problem, because the focus of this theoretical study is on legal protection provided to the community. The people targeted in this theory are people who are in a weak position, both in terms of economic and juridical aspects. Babies in this case are in a weak position and are obliged to get legal protection.

2. Efforts to Address Infant Abandonment in Wonosobo District Leksono Sub-district

Efforts to overcome crime are a task that needs to be carried out jointly by the police, government and society. In connection with the crime of baby dumping that occurred, various ways are needed to prevent and overcome crimes committed through positive activities to overcome these problems. Efforts made in preemptive crime prevention are by instilling good values or norms so that these norms are internalized in a person. Promotive efforts made by the Leksono Sector Police are socialization activities. Through socialization activities carried out by the Leksono Sector Police include counseling on violence, pornography and the consequences of crime in several schools, starting from the Junior High School (SMP), Senior High School (SMA) and Communities in the Wonosobo Regency area. The Leksono Sector Police, which is assisted by the participation of the community in providing counseling, is expected to provide education related to the socialized matters so that the community gets understanding and knowledge to be able to understand and understand what is good and what is not good to do. The community will be given knowledge and understanding of the issues by means of an age-appropriate approach from children and adults, so that they will be able to accept the things given through socialization activities by the police. Through socialization activities, namely by instilling good values to the community so that it can prevent someone from not doing deviant behavior that violates the law. Even though there is an opportunity to commit an offense but there is no intention to commit the offense, the crime will not occur.¹³

Preventive Measures:

- 1) Instilling moral and religious education from an early age to strengthen one's faith. Here the influential ones are parents and also the community.
- 2) Providing formal education that will add and broaden one's thinking.
- 3) Providing legal counseling with the media to increase public legal awareness.
- 4) Providing counseling to the public about the dangers and impacts of free sex. Providing understanding to the community that the existence of free sex can cause many negative impacts and the beginning of various criminal acts such as abortion, infanticide and baby dumping which are mostly carried out by women. The consequences of free sex will eventually have a bad and detrimental impact, especially on women. Increasing the sense of brotherhood in individual relationships in the community can also prevent the crime of baby dumping.
- 5) Providing employment. This effort is also important considering that baby dumping cases are motivated by weak economic factors. The need to improve the welfare of the community from the government can reduce and prevent the occurrence of criminal acts of baby dumping. The need for government attention to the poor by providing living allowances for them, providing hospital fee waivers for mothers who give birth and cannot afford hospital fees, so they will not leave their babies in the hospital on the grounds of not being able to pay hospital fees, providing employment opportunities for the unemployed, so that the crime rate of baby dumping for economic reasons can be suppressed.
- 6) Supervision from the community is also very important for its citizens who live together in one house without being bound by marriage. This needs to be eradicated and prevented by the community because cohabitation is also increasingly prevalent in Indonesia. Supervision of participation, awareness and cooperation from the community is needed in an effort to overcome the crime of baby dumping.

Repressive Measures:

Enforce the regulations used to ensnare the perpetrators of baby dumping. These regulations are contained in (1) Article 181, Article 305, Article 306, Article 307, Article 308 of the Criminal Code; (2) Article 76A, Article 76B, Article 77, Article 77B of Law Number 35 of 2015 on the Amendment to Law Number 23 of 2002 on Child Protection; (3) Article 9 Paragraph 1, Article 49 letter a of Law Number 23 of 2004 on the Elimination of Domestic Violence.¹⁴

¹³ Sastrawan, Widyantara, and Mahaputra, "Upaya Penanggulangan Tindak Pidana Pembuangan Bayi Di Wilayah Hukum Polres Bangli."

¹⁴ Herdian Ayu Andreana Tarigan, "Upaya Penanggulangan Tindak Pidana Pembuangan Bayi Di Kabupaten Boyolali," *Energies* 6, no. 1 (2018): 1–8, <http://journals.sagepub.com/doi/10.1177/1120700020921110%0Ahttps://doi.org/10.1016/j.reuma.2018.06.001%0Ahttps://doi.org/10.1016/j>.

Some of the efforts made by the Leksono Sector Police to overcome obstacles in law enforcement are:

- a. Addition of personnel
The addition of personnel is an effort to ensure the implementation of good investigations and investigations for each criminal case that occurs by adding police officers carried out by the leadership by submitting requests for additional personnel with tiered stages to the Polresta.
- b. Fostering good relations with the community
The disharmony between the police and the community is due to the fear of the community in contact with the police, because they think that the police are a scourge that complicates such thinking must be changed by the community so that there is a good relationship between the community and the police, this is usually done by members of the Leksono police station by holding meetings every Friday.
- c. Finding alternative uses of facilities and infrastructure and completing missing facilities and infrastructure.
The leadership of Leksono Police does not remain silent to always ask for additional equipment that is lacking, and strive for facilities that do not exist to try to have new ones, damaged ones are repaired.
- d. Making efforts in overcoming difficulties in revealing evidence
In overcoming the difficulties faced by Leksono Sector Police investigators in revealing evidence, namely investigators must listen, listen, and what is known is well collected, then investigators can find traces of the perpetrators of the baby dumping crime, can also find objects that will become additional evidence in the investigation process.¹⁵

V. CONCLUSION

The implementation of the investigation of the crime of baby dumping in the Wonosobo Regency area has not gone well because there are still obstacles and shortcomings that must be immediately corrected by the police so that the goals to be achieved are realized. Law enforcement has not gone well because there are obstacles that cause less than optimal law enforcement against perpetrators of criminal acts of baby dumping. The obstacles experienced are the lack of public participation in providing information related to the existence of infant neglect that occurs, so that investigators cannot find suspects or perpetrators of infant neglect.

Efforts made by the Leksono Sector Police to overcome the crime of baby dumping are Preventive efforts:

- 1) Instilling moral and religious education from an early age to strengthen one's faith. Here the influential ones are parents and also the community.
- 2) Providing formal education that will add and broaden one's thinking.
- 3) Providing legal counseling with the media to increase public legal awareness.
- 4) Providing counseling to the community on the dangers and impacts of free sex.
- 5) Provide employment
- 6) Supervision from the community is also very important for its citizens

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¹⁵ Fitri Ramadani, "Penyelidikan Oleh Kepolisian Sektor Tenayan Raya Terhadap Tindak Pidana Pembuangan Bayi Di Wilayah Hukum Tenayan Raya," *JOM Fakultas Hukum* III (2016): 1–23.

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