

Legal Protection of Children as a Victim Exploitation

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ABSTRACT

Crimes that occur in the community tend to be done by adults as well as victims who are adults as well. However, at this time children are also victims of crime, for example, child exploitation. The phenomenon of child labor is a picture of how complex the problem of children. In spite of all these things, honor, awareness and protection of human rights are exalted throughout the world. Since the beginning of the declaration of human rights, the sharing of universal regulation has been issued in support of human rights protection in the world. Safeguards are also followed by law enforcement for the sake of consistent human rights. If we talk about the phenomenon of child labor, the direct human rights field is the right of the child. Both internationally and in Indonesia, issues surrounding the child's life are a major concern for society and government. Many ideal circumstances can solve this social problem. However, other factors such as failure in social institutions also indicate the inability of the government. Based on the description used in this research, that is how the legal forms against children victims of exploitation and how law enforcement officers in taking action against the law of victims of exploitation. To find the answer of the problem, this research is analytical descriptive, the purpose of this research is expected to get a detailed and systematic description of the issues to be studied. Analysis is based on the facts obtained and will be analyzed carefully to answer the problem.

Keywords : *Legal Protection, Exploitation, Children*

1. INTRODUCTION

1.1 Background

Children are an asset of the nation, as part of the young generation of children play a very strategic role as the successor of a nation. The child is the successor of the ideals of the struggle of a nation, besides the child is the hope of the parents, the hope of the nation and the state that will continue the development and has a strategic role, has special features or traits that will ensure the continuity of the nation and state in the future. Every child should get coaching from an early age and need to get a chance to grow and develop optimally, both physical, mental and social. Moreover childhood is a period of character formation, personality and character of a human self, so that their life has the power and ability and stand upright in life.

According to positive law the child is defined as a person who is not yet adults (*minderjarig / person under age*), a person under the age or under age (*minderjarig heid / inferiority*) or commonly referred to as a child under the guidance of the guardian (*minderjarige ondervoordij*). The child's own meaning if we look further in terms of chronological age according to law may vary depending on place, time and for what purposes, it will also affect the limits used to determine the age of the child.

The phenomenon of child labor is a picture of how complex the problem of children. In spite of all these things, honor, awareness and protection of human rights are exalted throughout the world. Since the beginning of the declaration of human rights, the sharing of universal regulation has been issued in support of human rights protection in the world. Safeguards are also followed by law enforcement for the sake of consistent human rights. If we talk about the phenomenon of child labor, the direct human rights field is the right of the child. Both internationally and in Indonesia, issues surrounding the child's life are a major concern for society and government. Many ideal circumstances can solve this social problem. However, other factors such as failure in social institutions also indicate the inability of the government.

Children have basic rights. However, protection against it is not as big as when human rights issues concerning adults or gender issues are publicly disclosed. Protection of the rights of children is not too much thought in general. Similarly, concrete steps, even protective efforts itself is violated by the state and various places in this country, adults, even their own parents. Many children are the object of violation of children's rights due to economic development. In our country, child labor can be seen easily at the crossroads. Our view is clear to a group of

children singing, begging, or scavenging sustenance on the streets. This is just a little bit of how sad the condition of Indonesian children. There is still much that is not clear, the efforts of exploiting children in this country can even be equated with criminal acts. They are exploited as rough-and-tumble construction workers and traditional mines, pearl divers, kidnapping and trafficking, child abuse, child abuse and even commercial sex workers.

The child is the image and reflection of the future, family assets, religion, nation, state and is the next generation in the future. They are entitled to freedom, enjoy their world, protected their rights without any neglect by certain parties who wish to take advantage of opportunities for personal gain.

From the various social phenomena that are currently emerging to the surface, the problem of child labor becomes a problem in actual realization efforts. Critical awareness is needed for colleagues in reopening the existing horizons of social concern and knowledge. Not only competent in the field of expertise, but also responsive in helping to adjust the flow of community development, because after all, the nation's successors are in the hands of small children of Indonesia. Based on this the research is titled "Legal Protection Against Children as Victims of Explosion."

1.2 Formulation Of The Problem

What is the legal protection for child victims of exploitation?

What is the role of law enforcement officers in taking legal protection measures against child victims of exploitation?

1.3 Research Purposes

To know and analyze the form of legal protection against child victims of exploitation

To know and analyze the role of law enforcement officers in taking legal protection measures against child victims of exploitation

Practically, it is expected that this research can be an input for the community and the government and it is expected to increase awareness and its role in providing protection and legal certainty to the rights of children in criminal cases, since internal and external supervisory factors are needed to monitor children development.

1.4 Benefits Of Research

The theoretical benefits are it is hoped that the results of this study can contribute to the thinking of law that will develop discipline of law science.

Practical benefits that the results of this study will be expected to provide an accurate solution to the problems studied and besides this research can reveal new theories and the development of existing theories.

2. RESEARCH METHODOLOGY

2.1 Research Specification

Based on the formulation of the problem in preparing this research, the type of research used is the type of normative or doctrinal legal research. Normative or doctrinal legal research is a legal research method that uses secondary data sources or by examining existing library materials. The nature of this research is analytical descriptive research. Descriptive analytical research is a form of research aimed at describing the phenomena that exist, both natural phenomena and man-made phenomena. Analytical descriptive research is a study that attempts to describe and interpret something, such as existing conditions or relationships, opinions that develop, ongoing processes, effects or effects, or on ongoing tendencies are analyzed and concluded.

2.2 Approach Method

In relation to the type of research used, namely normative juridical research, the approach used is the statutory approach (statute approach). The statute approach is conducted by reviewing all laws and regulations relevant to the legal issues being addressed. The legislation approach is an approach using legislation and regulation.

2.3 Data Source

The secondary data used in this study include the following: Primary legal material is a regulatory document binding and determined by the authorities. In this study include the 1945 Constitution of the State of the Republic of Indonesia, the Criminal Code, the Criminal Procedure Code, Law No. 35 Amendment to Law Number 23 Year 2002 on Child Protection, Law Number 11 Year 2012 on the Criminal Justice System of Children, Law no. 13 Year 2003 on

Employment. Secondary legal materials are all documents that are relevant readings such as books, seminars, legal journals, magazines, scientific papers and some sources from the internet related to the material under study. Tertiary legal material is all documents containing the concepts and explanations that support the materials of primary law and secondary legal materials, such as dictionaries, Encyclopedias and so forth.

2.4 Data Collection Techniques

Technique of data collecting is done by library study (library research) and also by doing direct interview with informant (field research). The results of these assessment activities are then summarized systematically as the core of the study results of the document studies. The purpose of this documentation technique is to search for conceptions, theories, opinions or findings related to the problem

2.5 Data Analysis

Processing, analysis and construction of normative legal research data can be done by analyzing the rules of law and then construction is done by incorporating the articles into categories on the basis of the notions of the legal system. The conclusion to answer the problem is done by using deductive thinking logic. The deductive method is done by reading, interpreting and comparing the relationships of concepts, principles and related rules so as to derive conclusions in accordance with the purpose of writing formulated.

3. DISCUSSION

3.1 Legal Protection Against Child Exploit Victims

3.1.1 Definition of child exploitation

According to the Great Indonesian Dictionary (KBBI), the notion of child exploitation is Operation, Utilization, utilization for self-profit, impregnation, extortion (manpower); on others is an act that is not commendable. According to Law Number 4 of 1797 on Child Welfare, the intention of a child is a person under 21 years of age and unmarried, whereas according to Law No. 23 of 2002 on Child Protection, a child is a person not yet 18 years of age, including children who are still in the womb.

According to the law, the child is anyone who is not yet 18 years of age, unmarried, and

includes a child who is still in the womb (meaning any interest seeking child protection has been started from the womb until the age of 18). Child protection efforts should be implemented as well as possible, because child protection is a reflection of justice, benefit, and legal certainty in a society. Taking care of and tackling the issue of child protection is an obligation jointly by every member of the community and the government if it is to succeed in doing national development in various areas of life of the state and society.

The meaning of the exploitation of children by parents or other parties, namely placing, letting, doing, ordering to do, or participate in economic or sexual exploitation of children (Article 66 paragraph 3 of Law Number 23 Year 2002 on Childhood Degradation). Thus, it is clear that child exploitation is a disgraceful act, since child exploitation measures have robbed children's rights, such as obtaining parental love, appropriate education, and play facilities that are age-appropriate. In addition, child exploitation can have an impact in the physical and psychological disorders of children. Disorders in children can also have a long-term impact on the future of children who are less able to distinguish between right and wrong because of the low level of exploited child education.

3.1.2 Types of exploitation against children

1. Physical Exploitation

Physical exploitation is the abuse of child labor to be employed for the benefit of parents or others such as sending children to work and leading children to jobs that should not be lived. In this case, children are forced to work with all their energy and also threaten their souls. Severe physical stress can impede children's physique or physique by up to 30% as they secrete stamina reserves that must last into adulthood. Therefore, children often experience physical injuries that can be caused by punches, lashes, burns, abrasions and scratches, or bruises with varying degrees of healing, fractures, mouth sores, lips, jaws, and eyes.

2. Social Exploitation

Social exploitation is anything that can lead to inhibition of the child's emotional development. These can be words that threaten or frighten children, child abuse, child rejection, withdrawal or avoidance of children, disregard for children's feelings, negative behaviors in children, exclude bad words for the child's emotional development, extreme punishment in

children such as entering children in dark rooms, confining children in the bathroom, and binding children. In the service sector, especially hotels and entertainment, children are recruited by appearance, and are able to connect with others. They must serve customers who are mostly adults, so they are likely to experience the psychic pressure of having sexual seduction.

3. Sexual Exploitation

Sexual exploitation is the involvement of children in sexual activities that they do not understand. Sexual exploitation can be inappropriate treatment of others, activities that lead to pornography, pornographic words, embarrassing children, exposing children, child prostitution, using children for pornography and involving children in the prostitution business. Sexual exploitation can transmit HIV / AIDS or other sexually transmitted diseases to children because children are usually sold for the first time while still a virgin. Not only that, prostitute children are vulnerable to the use of illegal drugs while mentioning the general impact, ie physical and psychosocial damage.

3.1.3 Legal protection against child exploitation in Indonesia

Legal protection of children is an effort and activity of all levels of society in various positions and roles, who are aware of the importance of children for the nation and the nation in the future. If they have matured physical and mental and social growth, then it is time to replace the previous generation. Child protection is a manifestation of justice in a society, thus the protection of children in the effort in various areas of life of the state and society.

The issue of legal protection for children is one side of the approach to protecting children in Indonesia. As explained in Article 20 of Law Number 35 Year 2004 on Child Protection reads:

"... States, governments, communities, families and parents are responsible and responsible for the provision of child protection ..."

Furthermore, in Article 59 of Law No. 35 of 2004 on Child Protection, mention that

"... Governments and other state institutions are obliged and responsible for providing special protection to children in emergency situations, legal, minority and isolated children, children of economic and / or sexual exploitation, trafficked children, children who are victims of abuse of

narcotics, alcohol, psychotropic and other addictive substances (drugs), child abduction, sales and trafficking, child victims of physical and / or mental violence, children with disabilities, and child victims of mistreatment and neglect ... "

Victims of criminal offenses including criminal acts of child exploitation should be provided with legal assistance. When the victim decides to settle his case through legal means, the state must facilitate it. As Samuel Walker points out that the relationship between victims and perpetrators is a causal relationship. As a result of the act of the perpetrator, that is a crime and the victim who becomes the target of the perpetrator's actions causes the victim to suffer for the crime.

The State in this case represents the victim to prosecute the perpetrator of a crime. Non-Governmental Organizations also have a role in legal assistance to victims of crime including victims of criminal acts of child exploitation. This is because many of the victims are unaware of their rights and what legal steps they can take to resolve the cases they face. Reporting procedures to the police then how to get a visum to be used as evidence and other legal measures not known by the victim because they do not have specific knowledge for it.

Thus, the provision of legal aid to the victims is either requested or not requested by the victim because there are still many victims who are low level of legal awareness. Allowing victims of criminal offenses not to obtain proper legal assistance may result in a further deterioration in the condition of victims of crime, including the crime of child exploitation. As mandated in Law Number 23 Year 2002, "... Every child victim or offender is entitled to legal aid and other assistance ..."

3.2 The Role of Law Enforcement Officials in Taking Action of Legal Protection Against Child Victims of Exploitation

3.2.1 Law enforcement apparatus in performing legal protection against child exploit victims

Law enforcement officers in carrying out their duties to guide the child as a victim and must be active in providing protection. This implies that the Police, the Prosecutor's Office, or the Court must be genuine in providing legal protection against the victim's child from exploitation. Thus in conducting guidance on the child is determined by the other law enforcement officers who handle the problems undertaken by

the child.

Differences in understanding of legislation regulating the judicial system on children, in this case between law enforcement officers with each other, resulting in a lack of understanding in the handling of criminal cases involving children as victims. This difference of understanding resulted in the absence of better coordination between law enforcement officers in handling child cases.

Between judges, prosecutors, police, legal advisors and community guardians of the penitentiary goes hand in hand with existing legal rules and where and when such elements are absent, sanctions are necessary to safeguard or protect the rights of children as victims and the active role of each apparatus in performing its functions and roles in carrying out the guidance of the child as the victim of exploitation.

Need to improve coordination among law enforcers especially in the handling of guidance done by the child. Both the child prosecutor, the child judge and the correctional center coordinate to form a definition and understanding in handling the case. With the understanding of Law Number 11 Year 2012 on the Criminal Justice System of Child, both the child prosecutor, the child judge, and the social guard from the correctional center in carrying out the guidance on the child can run in accordance with the role and authority of each apparatus.

3.2.2 Criminal law policy against child exploiters

Criminal law policy in case of child exploitation in several perkara, judge sentenced to defendant and proven to violate article 88 of Law Number 35 Year 2004 regarding Child Protection article 53 KUHP

Article 88 of Law No. 35 of 2004 on the Protection of Children which reads, "Anyone who exploits the child's economic or sexual economy with the intent to benefit himself or others, is punished with imprisonment of no more than 10 (ten) years and / or the most fine many Rp.200.000.000,00 (two hundred million rupiah)."

Meanwhile, Article 53 of the Criminal Code regulates criminal trials or pogings. This provision reads,

1. Trying to commit a criminal offense, if the intention for it has turned out and the beginning of implementation, and

not the completion of the exercise, is not solely due to his own will.

2. Maximum criminal penalty, in case of trial minus one third.
3. If the crime is threatened with capital punishment or life imprisonment, a maximum imprisonment of fifteen years shall be imposed.
4. Additional criminal charges for experiments are equal to completed crimes.

An attempt to commit a crime is punishable, if the intent of the creator is real with the commencement of the act and the act does not come to an end only because it is independent of his own will. So in the case of the punishment of a criminal actor the child's exploit does not merely impose a corpus punishment on the offender but the offender must be counseled for the perpetrator after his or her term of detention, the perpetrator does not commit the same crime.

4. CONCLUSION AND SUGGESTION

4.1 Conclusion

1. Legal protection of children is an effort and activity of all levels of society in various positions and roles, who are aware of the importance of children for the nation and the nation in the future. If they have matured physical and mental and social growth, then it is time to replace the previous generation. Child protection is a manifestation of justice in a society, thus the protection of children in the effort in various areas of life of the state and society. The State in this case represents the victim to prosecute the perpetrator of a crime. Non-Governmental Organizations also have a role in legal assistance to victims of crime including victims of criminal acts of child exploitation. This is because many of the victims are unaware of their rights and what legal steps they can take to resolve the cases they face. Reporting procedures to the police then how to get a visum to be used as evidence and other legal measures not known by the victim because they do not have specific knowledge for it.
2. Law enforcement officers in carrying out their duties to guide the child as a victim and must be active in providing protection. This implies that the Police, the Prosecutor's Office, or the Court must be genuine in providing legal

protection against the victim's child from exploitation. Thus in conducting guidance on the child is determined by the other law enforcement officers who handle the problems undertaken by the child. improvement of coordination among law enforcers especially in the handling of guidance done by the child needs to be done. Both the child prosecutor, the child judge and the correctional center coordinate to form a definition and understanding in handling the case. With the understanding of Law Number 11 Year 2012 on the Criminal Justice System of Child, both the child prosecutor, the child judge, and the social guard from the correctional center in carrying out the guidance on the child can run in accordance with the role and authority of each apparatus.

4.2 Suggestion

1. Law enforcers should apply consequently diversi ideas that have been contained in Law No. 11 of 2012 on the Juvenile Justice System, as well as the wider community to realize if the perpetrator of a crime is related to the child to help implement the idea of this diversion with all law enforcement officers in the juvenile justice process with the aim of achieving such restorative justice.
2. Law enforcement officers are expected to change the paradigm of the retributive and restitutive justice approach to restorative justice. In addition, socialization to all law enforcement officers in every juvenile justice process by coordinating between law enforcement officers and socialization to the community to build law and interests of children better.

REFERENCES

- [1] Abdussalam, Hukum Perlindungan Anak, Jakarta: Restu Agung, 2007.
- [2] Dellyana, Shanty, Wanita Dan Anak Di Mata Hukum, Yogyakarta: Liberty, 1988.
- [3] Hamzah, Andi Bunga Rampai Hukum Pidana Dan Acara Pidana, Jakarta: GhaliaIndonesia, 1986.
- [4] Maidin Gultom, Perlindungan Hukum terhadap Anak dan Perempuan, PT Refika

- Aditama,Bandung, 2012.
- [5] Moeljatno, Asas-Asas Hukum Pidana, Jakarta: Reneka Cipta, 2009.
 - [6] Rahardjo, Satjipto, Ilmu Hukum, Cetakan Kelima, Bandung: Citra Aditya Bakti,2000.
 - [7] <http://anggunfatmawati.blogspot.co.id/2014/10makalah-eksploitasi-anak.html>
 - [8]<http://lbhmawarsaron.or.id/home/perlindungan-hukum-dan-keadilan-terhadap-anak-sebagai-korban-trafficking-di-indonesia/>

Constitution

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
 Kitab Undang-Undang Hukum Pidana
 Kitab Undang-Undang Hukum Acara Pidana
 Undang-Undang Nomor 35 Tahun 2004Tentang Perlindungan Anak
 Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak
 Undang-undang No 13 Tahun 2003 Tentang Ketenagakerjaan.