

Legal Study Of Violence And Exploitation Against Child Trafficking From A Human Rights Perspective

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Abstract

This study was conducted to determine the factors causing violence and exploitation of child trafficking in the Rokan Hilir jurisdiction and legal protection efforts in overcoming violence and exploitation of child trafficking. This type of research is empirical legal research, in the form of problem analysis carried out by combining legal materials, both primary ones obtained in the field and secondary data. The problem approaches used include the legislative approach, conceptual approach and case studies. The legislative approach is by examining the legislation related to the legal issues studied, namely the crime of human trafficking. Data or information sources include primary data and secondary data. Primary data is data obtained in raw form and then analyzed further, originating from the community directly or law enforcement officers related to this research. While secondary data is data obtained through literature studies by studying literature, scientific writings, laws and regulations, and documents obtained by agencies related to the research object and the problems raised. Discussion Results: 1. Factors causing violence and exploitation of child trafficking in the Rokan Hilir jurisdiction include: economic factors, educational factors, environmental factors, law enforcement factors. 2. 1. Legal efforts to protect children who are victims of trafficking crimes are divided into 3 stages, namely protection at the time of the crime, the trial stage of the perpetrator of the crime and the stage after the court decision. Legal efforts to protect children who are victims of trafficking crimes are regulated in Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. 2. Factors underlying the occurrence of child trafficking are economic factors, educational factors, environmental factors, law enforcement factors.

Keywords: Legal Study, Violence, Exploitation, Child Trafficking, Human Rights

INTRODUCTION

Cases of violence against children are often seen on television and even around us. Cases of violence and exploitation against children are important issues that must receive full attention from the government and especially law enforcement(Waworuntu et al., 2020).

(JASMINE, 2014)Children are the most beautiful gift given to humans. Children add perfection to family life. Children are innocent humans who do not yet understand the cause and effect of an action. With their innocence, (Pasal 34 UUD 1945, 2014)sometimes it becomes an arena for crime for child criminals. Cases of violence and exploitation of children are increasing day by day.

Data on the Online Information System for the Protection of Women and Children (SIMFONI-PPA) shows that in the last 3 years, the number of cases and victims of violence against children (0-17 years) has increased, as illustrated in the following table:

Table 1

Number of Cases and Violence against Children

No.	Year	Number of Cases	Number of Victims
1	2021	14,446	15,914
2	2022	16.106	17,641
3	2023	18.175	20,221

Source: Ministry of Empowerment and Child Protection (2024)

The number is quite high for a case and violence against children. Of course this is very important to get the attention of all people, government and law enforcement.

SIMFONI-PPA shows that child abuse has the same pattern from year to year. (Panjaitan, 2021) First, the perpetrators of child abuse are dominated by people closest to them, and parents are among the highest after the child's boyfriend/girlfriend. Parents who became perpetrators of child abuse in 2021, 2022, 2023, and 2024 were 20.05% (2,516 people), 21.01% (2,771 people), 19.47% (3,050 people), and 19.45% (2,389 people). Second, the largest number of cases occurred in the household. Cases of child abuse that occurred in the household in 2021, 2022, 2023, and 2024 were 48% (6,953 cases), 53% (8,565 cases), 52% (9,421 cases), and 53% (7,644 cases).

There are several definitions of the meaning of a child, which the author can describe as follows:

1. According to Law Number 11 of 2012 concerning the Juvenile Justice System, a child is a child who is 12 years old but not yet 18 years old.
2. In Law Number 23 of 2002 concerning Child Protection, the explanation regarding children is contained in Article 1 paragraph 1. A child is a person who is not yet 18 (eighteen) years old, including a child in the womb.
3. Law Number 13 of 2003 concerning employment states that a child is any person under the age of 18 (eighteen) years.
4. According to Law Number 39 of 1999 concerning Human Rights, a child is every human being under the age of 18 (eighteen) years and not yet married, including a child who is still in the womb if this is in their interest.

(Sari, 2022) So each law provides a different definition of a child. Meanwhile, the term violence comes from the Latin *violentia*, which means *violence*, which in Latin is called *violentia*. *Violence* is closely related to the combination of the Latin words "vis" (power, strength) and "latus" which comes from *ferre* (carry) which then means to bring strength. According to the big Indonesian dictionary, violence is a matter or nature of hardness, coercion, actions of a person or group of people that cause injury or death to another person (Suhardin, 2008).

Article 1 paragraph (1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, states that "violence is any act against a person which results in physical, sexual, psychological misery or suffering, and/or neglect of the household, including threats to commit acts, coercion and unlawful deprivation of liberty in the household environment."

So, the conclusion is that violence is any act that will cause misery and physical suffering because the act is done by force. So that the act causes injury or death to the victim (Diajukan et al., 2022).

Exploitation (English : *exploitation*) which means the policy of arbitrary or excessive use of a subject of exploitation only for economic interests without considering a sense of propriety, justice and welfare compensation. The purpose of this exploitation is use for self-interest that can empower others beyond the limits of propriety.

(Eviningrum et al., 2023) Definition of Human Trafficking based on Article 1 number 1 of Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking is defined as: "The act of recruiting, transporting, sheltering, sending, transferring, or receiving a person with the threat of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt trapping or giving payment or benefits, so as to obtain the consent of the person who holds control over the other person, whether carried out within the country or between countries, for the purpose of exploitation or resulting in people being exploited."

The state guarantees children in legislation that regulates children's rights. Children's rights are part of human rights that must be guaranteed to be protected and fulfilled by parents, families, communities, governments, and the state. Every child has the right to protection from physical and mental violence and discrimination as well as civil rights and freedoms. According to Law Number 23 of 2002 concerning child protection, children's rights are regulated in Articles 4 to 18 and Article 19 regulates children's obligations. Children's rights in the criminal justice process are the result of interactions that are interrelated and influence each other. (Daud & Sopoyono, 2019) Mental, physical, social, and economic aspects are factors that must be considered in the development of rights. To obtain justice, a balance between rights and obligations is needed. Law Number 23 of 2002 concerning Child Protection emphasizes that the responsibilities of parents, families, communities, governments and the state are a series of activities that are carried out continuously in order to protect children's rights. Efforts to protect children need to be implemented as early as possible, namely from the fetus in the womb until the child is 18 (eighteen) years old. Law Number 23 of 2002 concerning Child Protection places an obligation to provide protection to children based on the principles of a) non-discrimination; b) the best interests of the child; c) the right to life, survival, and development; and d) respect for the child's opinions.

Based on the facts above, the researcher formulated the problems including: what are the factors that cause violence and exploitation of child trafficking? and what are the efforts to overcome violence and exploitation of child trafficking?

RESEARCH METHODS

This type of research is empirical legal research, in the form of problem analysis carried out by combining legal materials, both primary ones obtained in the field and secondary data. The problem approaches used include the legislative approach, conceptual approach and case studies. The legislative approach is by examining the legislation related to the legal issues studied, namely the crime of human trafficking. Data or information sources include primary data and secondary data. Primary data is data obtained in raw form and then analyzed further, originating from the community directly or law enforcement officers related to this research. While secondary data is data obtained through literature studies by studying literature, scientific writings, laws and regulations, and documents obtained by agencies related to the research object and the problems raised.

RESULT AND DISCUSSION

Factors Causing Violence and Exploitation of Child Trafficking in Rokan Hilir

Protection of children who are victims of human trafficking crimes cannot be separated from the material on Human Rights which is regulated both in laws and regulations and the Constitution of the Republic of Indonesia.

As for the sentence "Human rights are the basic rights of all human beings without any differences. Considering that basic rights are a gift from God Almighty (Marlienna, 2017), the definition of Human Rights is a right as a gift from God Almighty that is inherent in humans, is natural, universal and eternal, related to human dignity and honor."

Several factors causing violence and exploitation of child trafficking in the Rokan Hilir jurisdiction that were successfully collected by the author include:

1. Economic Factors

Economy is the main factor in the occurrence of violence and exploitation of child trafficking. Poverty rates in several areas in Rokan Hilir greatly influence the occurrence of violence and exploitation of child trafficking. The low level of income of the community in several areas of Rokan Hilir makes people compete to find income from several sources of life. In addition, the current difficulty in finding employment makes many people think about exploiting children to meet their family's needs. Some ways that people often do to get money are some who do trading activities, some who open businesses, but not infrequently pawn children for commercial purposes. The poverty factor can make people willing to do anything, the most important thing is to make a profit even though it is not justified. This is what often happens in several areas in Rokan Hilir. The mode is like recruiting to be employed in strategic places with tempting salaries but unknowingly the victim is recruited to then be sold to pimps and made into Commercial Sex Workers (CSW) or children are told to work in order to meet family needs, finally there is exploitation of children.

2. Education Factor

The low level of education of a person affects the mindset and behavior of a person in doing something. Low education will be easily influenced by incitement or invitation of people to do something, for example what happens in the field that the author summarizes is that someone will find it easier to influence the child's parents or family to employ their child, or trade their child because they will get profit. Parents will be persuaded to do it, so that cases of child trafficking exploitation occur. People with low education usually do not think long term, only think about momentary interests.

3. Environmental Factors

Lack of parental and family attention can trigger violence against children. Children who are neglected by their parents are also easier to be trafficked. Criminals always monitor the movements of families to make it easier to get children. So the negligence of parents' attention makes it very easy for perpetrators to get and trade children to other people. However, on the other hand, there are also cases that occur where the environment supports the exploitation of children, because it has become a habitual factor in the environment for children to be employed for the sake of fulfilling the family's living needs. So children only have elementary or junior high school education and are already doing adult work.

4. Law Enforcement Factors

The current weak law enforcement is an indication of the determining factor of violence and exploitation against children, the increase in the number of child trafficking occurs continuously, where children are traded for commercial purposes by placing children in jobs that are not suitable / according to their age or even their skills. The lack of law enforcement by law enforcement officers against perpetrators of crimes who trade children, makes the same cases increase from year to year, perpetrators of crimes who trade children freely carry out child buying and selling transactions to be used as prostitutes, or work in entertainment venues both domestically and abroad are not punished severely to be held accountable for all their actions. Thus, the perpetrators are increasing and the latest cases related to children are emerging to the surface. Law enforcers should be the spearhead in overcoming crimes of violence and exploitation of child trafficking, but cannot enforce the law.

Legal Protection Efforts to Combat Violence and Exploitation of Child Trafficking

(Nugroho & Roesli, 2017) Legal efforts to protect children who are victims of human trafficking are regulated in Law Number 21 of 2007 concerning the Eradication of Human Trafficking and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Legal efforts to protect children who are victims of human trafficking are divided into 3 stages, namely protection at the time of the crime, the trial stage of

the perpetrator of the crime and the stage after the court decision(Wardani & Yustitiningtyas, 2021).

1. Protection when a crime occurs, this protection includes the threat of criminal punishment for anyone who knows and intentionally allows children to be exploited economically and/or sexually, children who are traded based on Article 78 of Law of the Republic of Indonesia No. 35 of 2014.
2. The protection stage during the trial of perpetrators of human trafficking crimes as stipulated in Law of the Republic of Indonesia No. 21 of 2007 includes: legal officers do not wear togas or uniforms, examination of witnesses and/or child victims is carried out in closed trials, both witnesses and victims must be accompanied by parents, guardians/foster parents, witnesses and/or victims are examined without the presence of the accused.
3. The stage after the trial is the granting of the right to file a lawsuit in the form of restitution rights. The right to restitution is the right of victims of criminal acts to receive compensation from the perpetrator. Restitution can be in the form of compensation for losses in material and immaterial forms.

CONCLUSION

1. Legal efforts to protect children who are victims of human trafficking are divided into 3 stages, namely protection at the time of the crime, the trial stage of the perpetrator of the crime and the stage after the court decision. Legal efforts to protect children who are victims of human trafficking are regulated in Law Number 21 of 2007 concerning the Eradication of Human Trafficking and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection
2. The factors underlying child trafficking are economic factors, educational factors, environmental factors and law enforcement factors.

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