



Legal Protection for Children Who Experience Sexual Violence and Exploitation

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Abstract. *A child is someone who is not yet eighteen years old, including children who are still in the womb. Every child has the right to receive a decent living and protection and to be able to grow and develop optimally. According to data from the National Commission for Child Protection, it shows that there will be 3,547 cases of child violence in 2023 and the most cases are cases of sexual violence with 1,915 cases, the second are cases of physical violence with 985 cases and in third place are cases of psychological violence with 674 cases. This research aims to find out what forms of legal protection exist for children who experience sexual violence and exploitation. The crime of sexual exploitation of children is different from the crime of sexual violence against children, both in the form of the case and its handling. The number of victims of criminal acts of sexual exploitation of children is very large and this criminal act can cause deep feelings of trauma, therefore as a form of protection for child victims, restitution and rehabilitation can be provided. This research is a type of library research, namely research that uses literature that is appropriate to the problem being studied as a data source. Several preventive steps must be taken to reduce the level of sexual violence and exploitation of children, including designing programs for perpetrators of sexual violence where perpetrators must be responsible for their actions and determine appropriate punishments for perpetrators, providing education to prevent sexual violence such as reproductive health education, socialization regarding sexually transmitted diseases and education about self-protection from sexual violence and exploitation. The role of the government and parents is very much needed in handling and preventing sexual violence and exploitation of children. Concrete cooperation is needed with various parties to be able to work together to combat sexual crimes and exploitation of children.*

Keywords: *Child Protection, Sexual Abuse and Exploitation.*

1. Introduction

In Law Number 23 of 2002 article 4 concerning Child Protection, namely that every child has the right to live, grow, develop and participate appropriately in accordance with human dignity and to receive protection from violence and discrimination. According to Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Article 1 number 12 states that "Children's rights are part of human rights man which must be guaranteed, protected and fulfilled by parents, families, communities, the state, government and regional governments."

According to ECPAT International, sexual exploitation of children is a fundamental violation of children's human rights which consists of sexual violence by adults and giving rewards of money or something valued in money where children are used as sex objects and commercial objects. The elements included in the act of sexual exploitation of children vary, starting from buying, offering, obtaining, producing, transferring, providing, and so on. Child sexual exploitation is a form of organized crime that is usually carried out by people who have power and authority.

The act of sexual exploitation of children is the most heinous act of humanity and deeply hurts feelings. Children who are in an emergency situation, one of which is economically and/or sexually exploited, must receive special protection from all parties, including the government, state institutions and also the community. Based on in the description above, the author is interested in conducting research related to forms of legal protection for children who experience sexual violence and exploitation.

2. Literature Review

2.1 Legal Basis for Child Protection

Every Indonesian child is a valuable national asset, the next generation and human resource who will determine the future of the nation and state. The state is obliged to provide a sense of security and provide legal protection to every Indonesian child so that they grow and develop naturally and participate in development. Children are an inseparable part of human survival and the survival of a nation and state. In the Indonesian constitution, children have a strategic role which is explicitly stated that the state guarantees every child's right to survival, growth and development as well as protection from violence and discrimination.

Therefore, the best interests of children should be considered as the best interests for the survival of humanity. Children need to receive protection from the negative impacts of rapid development, the flow of globalization in the fields of communication and information, advances in science and technology, as well as changes in the style and way of life of some parents which have brought about fundamental social changes in people's lives which have a big influence on values and child behavior (Nainggolan et al., 2016).

The definition of legal protection is protection provided to legal subjects in the form of legal instruments, both preventive and repressive, both written and unwritten. In other words, legal protection is an illustration of the function of law, namely the concept where law can provide justice, order, certainty, benefit and peace (Rahayu, 2009).

This child protection law also states that the implementation of child protection is based on Pancasila and based on the 1945 Constitution of the Republic of Indonesia as well as the basic principles of the rights convention including (Article 2):

- a. Non-discrimination.
- b. The best interests of children are in all actions concerning children carried out by the government, society, legislative bodies and judicial bodies, so the best interests of children must be the main consideration.
- c. The right to life, survival and development is the most basic human right for children which is protected by the state, government, society, family and parents.
- d. Respect for children's opinions is respect for children's rights to participate in expressing their opinions in decision making, especially when it concerns matters that affect their lives.

2.2 Definition of Sexual Violence and Child Exploitation

Etymologically, violence comes from the latin word violence, which is a combination of the word vis (power, strength) and "latus" (to carry) which is then translated as bringing strength. This definition in the general Indonesian dictionary means being defined as a characteristic or thing that is hard, strength, coercion, while coercion means pressure, strong pressure. These words are synonymous with the word rape, which means to subdue with violence, overpower, force with violence and violate with violence. So violence means bringing force, coercion and pressure (Hudiono, 2014).

According to Nuraini Ariswari, Chair of the Women and Children Information Services Unit, the forms of sexual violence against children are as follows:

1. Raped

Rape is an attack in the form of forced sexual intercourse by inserting the male genital organ (penis) into the female genital organ (vagina), anus or mouth of the victim. It could also be an attack via the perpetrator's hands or other objects. Attacks are carried out by violence, threats of violence, detention, psychological pressure, abuse of power or by taking advantage of an environment full of coercion.

2. Molested

Obscenity is another term for rape that is known in the Indonesian legal system. This term is used when rape is committed outside of forced penetration of the male genital organ (penis) into the vagina and when sexual intercourse occurs with a person who is not yet able to give full consent, for example a child or someone under 18 years of age.

Obscenity is sexual intercourse carried out by a man by forcing a minor to do so by groping, touching or even inserting the male's genitals into the female child's genitals.

3. Sexual Harassment

Sexual harassment is any sexual behavior that is unwanted by the victim, and this harassment usually occurs or is experienced by women because women are considered weak and vulnerable. Men tend to associate sexual harassment with their sexual desires, while women attribute it more to their tendency to play with them. For example touching (many women consider touching to be sexual harassment) or sex jokes, overall women describe a range of behavior that could potentially constitute harassment.

According to law No. 21 of 2007 exploitation is an action with or without the victim's consent which includes but is not limited to prostitution, forced labor or services, slavery or practices similar to slavery, oppression, blackmail, physical, sexual use of reproductive organs or unlawfully moving or transplanting organs or body tissue or the use of a person's energy or abilities by another party to obtain material and material benefits.

Exploitation Sexual and sexual violence are terms that cover a variety of sexually dangerous and wrongful behavior. In particular, it focuses on juveniles as defined by the united nations, namely anyone under the age of eighteen. The scope of sexual exploitation and sexual violence is all forms of sexual abuse, sexual violence, pornography, prostitution, trafficking for sexual purposes, sex tourism, forced and early marriage and slavery (Stephanie D. 2006).

2.3 Factors Causing Sexual Violence and Child Exploitation

The driving factors and causes of the problem of child exploitation in Indonesia are the interaction of several factors at both the micro and macro levels, from economic, social, cultural factors, to political issues. According to Harefa 2019, factors the causes and drivers of child labor problems are the economy, education, environment and also weak law enforcement against child exploitation. The following describes several main factors that cause child exploitation to frequently occur in Indonesia, including:

a) Economic Factors

Economic factors are the main factors causing economic exploitation of children. In the theory put forward by Mannheim, it is explained that economic life is very fundamental to the entire social and cultural structure, therefore determining almost all affairs within that structure. Thus, economic factors have a big influence on the occurrence of a crime.

b) Educational Factors

Basically, parents are the first environment for children to receive education. The education a child receives in a family environment is very important for the child's future, because it will determine the nature and character of the child in the future. Parental involvement in education is very important, this is proven by the many positive impacts on children. In the family, children are prepared to build knowledge about development before entering other levels of development in the world such as the world of adults, language, customs and culture. Apart from family, society is also the first place of education for children.

c) Environmental Factors

Apart from economic factors and educational factors, environmental factors are also a factor in the economic exploitation of children. In general, children who experience exploitation live in slum lower-level environments with irregular social conditions. Thus, this has a bad influence on those who live nearby, this is because the area is usually occupied by families who have low economic income. So when a new lower class family enters the area, they will indirectly be affected by the environment around where they live.

d) Weak Law Enforcement Against Child Exploitation

Weak law enforcement in Indonesia also has an impact on law enforcement against child exploitation. This form of weak law enforcement can be seen from the various obstacles experienced in handling child exploitation cases. These obstacles include the following. First, there are obstacles on the part of the victim (child). Children who are victims of exploitation often do not understand their position as victims. So in many cases acts of child exploitation

tend to be an act of awareness carried out by the victim, as a form of obeying, complying, and even respecting the perpetrator, who is usually someone close to the victim. Second, obstacles from the perpetrator. The occurrence of acts of exploitation of children is greatly influenced by the presence of the perpetrator. Efforts to resolve this problem are also very much determined by the awareness and willingness of the perpetrator. Third, obstacles from law enforcement. In enforcing the law against acts of exploitation of children, the police must also be able to overcome existing obstacles in law enforcement. The obstacle factors faced by police agencies in efforts to resolve cases of child exploitation are as follows: (1) Number of police personnel, (2) Capability of police personnel, (3) Limited police facilities and infrastructure for carrying out action. Apart from that, the obstacle factors faced from outside the police agency in efforts to resolve cases of child exploitation are as follows: (1) The existence of victims who are still minors, (2) The existence of perpetrators who are not cooperative, (3) Lack of environmental sensitivity in understanding cases of child exploitation.

2.4 Psychological Impact of Sexual Violence and Exploitation of Children

Sexual exploitation of children in any form seriously endangers a child's rights to enjoy their adolescence and their ability to live a productive life. Rehabilitation for child victims of child sexual exploitation is a complex and difficult process. Children who experience exploitation generally express feelings of shame, guilt and low self-esteem (Sofian, 2006). Some experts divide the impact of commercial sexual exploitation of children into several types, namely:

1. Post Traumatic Stress Disorder (PTSD): children who are or have been sexually exploited are very likely to experience severe feelings of anxiety, stress or fear. These symptoms are known as Post Traumatic Stress Disorder (PTSD). PTSD symptoms can be grouped into three main categories:
 - a. Repeating the initial experience. This is an activity to relive disturbing behavior. This category includes flashbacks, frightening experiences, recurring memories or nightmares, and physical reactions to situations that remind them of the target.
 - b. Avoidance. These symptoms stem from a person's desire to change their routine to escape a trauma-like situation. Victims may avoid places, events, or objects that remind them of the experience. The emotions associated with avoidance are numbness, guilt, and depression. Some have a reduced ability to feel certain emotions, such as happiness. They also may not be able to remember major parts of the trauma, and feel that their future offers less possibilities than others have.
 - c. The symptoms of excessive arousal-arousal are all physiological. They include difficulty concentrating or falling asleep, being easily startled, feeling tense, and angry outbursts. This makes it difficult for PTSD victims to complete normal daily tasks.
2. Substance Abuse: children who are or have been sexually exploited may turn to alcohol or other substances in an attempt to relieve their emotions. Some victims use substances to cope with the reality of what happened to them or to cope with the symptoms of Post Traumatic Stress Disorder, a common reaction to extreme situations such as sexual violence. However, it is not a healthy way to deal with the trauma of sexual violence and can cause additional problems, such as addiction or dependency, that hinder the healing process.
3. Depression: it is one of the most common emotional and psychological reactions that children who are or have been sexually exploited have symptoms of prolonged sadness with constant crying. Other symptoms are:
 - a. Changes in appetite are accompanied by significant weight loss. Loss of energy or persistent tiredness or lethargy.
 - b. Significant changes in sleep patterns (insomnia, sleeping too much, restless sleep and others).

- c. Loss of interest and pleasure in previously enjoyed activities, social withdrawal, feelings of worthlessness, hopelessness, or inappropriate guilt, pessimism or indifference.
- d. Aches and pains (headache, stomach ache).
- e. Inability to concentrate.
- f. Irritability, worry, anger, agitation or restlessness.

2.5 Sanctions for Perpetrators of Sexual Violence Against Children

1. According to law No. 23 of 2002 concerning Child Protection

Sanctions for perpetrators of sexual harassment according to Law no. 23 of 2002 concerning Child Protection are:

a. Intercourse

In this case, sexual intercourse is sexual intercourse carried out by an adult on a woman outside of marriage, in this case a minor, regulated in article 81, the contents of which are as follows:

- 1) Any person who intentionally uses violence or threatens violence to force a child to have sexual intercourse with him or another person, shall be punished with imprisonment for a maximum of 15 (fifteen) years and a minimum of 3 (three) years and a fine of a maximum of Rp. 300,000,000.00. (three hundred million rupiah) and at least Rp. 60,000,000.00 (sixty million rupiah);
- 2) The criminal provisions as intended in paragraph (1) also apply to every person who deliberately commits deception, a series of lies, or persuades a child to have sexual intercourse with him or another person.

b. Actions Obscene

Obscene acts that occur here are acts committed by adults against minors to carry out acts that are contrary to the honor of the victim, regulated in article 82 which contains the following: "Everyone who deliberately commits violence or threatens violence, coerces, commits deception, a series of lies, or persuading a child to commit or allow obscene acts to be committed, shall be punished with imprisonment for a maximum of 15 (fifteen) years and a minimum of 3 (three) years and a maximum fine of IDR 300,000,000.00 (three hundred million rupiah) and at least Rp. 60,000,000.00 (sixty million rupiah)".

c. Exploitation

Exploitation in this case is the sexual exploitation of minors for the perpetrator's interests, whether commercial or sexual gratification, this is contained in Article 88 of law No. 23 of 2002 concerning Child Protection: "Everyone who economically or sexually exploits children with the intention of benefiting themselves or others, shall be punished with a maximum imprisonment of 10 (ten) years and/or a maximum fine of IDR 200,000,000.00 (two hundred million rupiah)". Pedophilia perpetrators act in various ways, whether through the internet or through organizations, and pedophiles also have an international network, through forums among fellow perpetrators, they spread or share information about destination areas and anyone who could be a victim.

3. Methodology

The type of research used in this research is research literature, namely research that uses literature that is appropriate to the problem being studied as a data source. So that in collecting the required data using library sources that are related to the main research problem formulated, both primary sources and secondary sources. Secondary data is in the form of literature books, research results, journals, articles and legal regulations related to the object of research, namely legal protection for children who experience sexual violence and exploitation.

4. DISCUSSION AND FINDINGS

4.1 Forms of Legal Protection Against Child Sexual Violence

Appropriate it is known that legal protection for children who are victims of various forms of violence, including sexual violence and sexual harassment, can be seen not only in the Criminal Code, but also in several laws, including law No. 35 of 2014 concerning Amendments to law No. 23 of 2002 concerning Child Protection, and the Convention on Children's Rights (KHA) at the United Nations, as explained by Gultom as follows:

- a. In law No. 35 of 2014 concerning Amendments to law Number 23. Of 2002 concerning Child Protection, there is protection for children who are victims of violence, including: Article 59 determines: The government and other state institutions are obliged and responsible for providing special protection to children who are victims of violence. both physical and mental; contained in Articles 59, 64, 69, 80, 81 and 82.
- b. In the Convention on the Rights of the Child (KHA), among the articles in the CRC which provide legal protection for children who are victims of violence, namely: Articles 19 and 34. In connection with the provisions in these two laws, it is quite interesting to review which explains as follows: Protection against Children are a human right that children must obtain. In connection with this, Article 27 Paragraph (1) of the 1945 Constitution stipulates that every citizen has the same position under the law and government and is obliged to uphold that law and government without exception. The statement from this article shows that there is no difference in position in law and government for all citizens, whether women, men, adults and children, in receiving legal protection. The problem of legal protection for children is not only a human rights issue, but more broadly than that, it is a problem of law enforcement, especially law enforcement against children as victims of crimes committed with violence, for example victims of sexual violence.

4.2 Forms of Legal Protection Against Child Exploitation

Provision Invite-Law number 35 of 2014 is the result of adjustments or changes to law number 23 of 2002. This is based on careful consideration by legislators who in the process certainly take into account several studies about the children themselves. The Human Rights Law (Human Rights) has regulated the rights of children, the implementation and responsibilities of parents, families, communities, as well as the obligations of the government and state to provide protection to children, but legislation is still needed, especially as a legal basis for implementation of the child's rights.

a. Special Protection as a Form of Protection Against Child Exploitation

In the perspective of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which states that economic exploitation of children must be given special protection. In Article 1 paragraph (15) it is stated: "Special protection is a form of protection that children receive in certain situations and conditions to guarantee a sense of security against threats that endanger themselves and their lives in their growth and development."

Child protection as defined in Article 1 number 2 of Law Number 35 of 2014 concerning Child Protection can be realized if it gets support and responsibility from various parties. The support needed to realize the protection of children's rights in Indonesia is regulated by Article 20 of the Child Protection Law which states that the State, Government, Regional Government, community, family and parents or guardians are obliged and responsible for implementing child protection.

Community obligations and responsibilities for child protection are regulated in Article 25 of Law Number 35 of 2014 concerning Child Protection which states that "Community obligations and responsibilities for child protection are carried out through activities. The role of the community in implementing child protection is carried out by involving community organizations, academics, and child observers."

b. Prohibitions and Sanctions for Perpetrators of Child Exploitation

One form of providing legal certainty for child protection is by providing prohibitions and sanctions for perpetrators who exploit children. These prohibitions and sanctions are

enshrined in the provisions of Article Number 35 of 2014 concerning child protection. If it is related to the problems raised by the author, the focus of prohibitions and sanctions for perpetrators of child exploitation, especially economic exploitation. The provisions of Article 76I state: "Every person is prohibited from placing, allowing, carrying out, ordering to carry out, or participating in the economic and/or sexual exploitation of children." Regarding sanctions regulated in article 88, it states; "Any person who violates the provisions as intended in article 76I, shall be punished with imprisonment for a maximum of 10 (ten) years and/or a fine of a maximum of IDR 200,000,000.00 (two hundred rupiah)."

The imposition of sanctions occurs because there is a need from society for the crimes or violations that have occurred. These sanctions are needed to create order and security in society. Until now, the sanctions that are considered the most up-to-date for creating fear and overcoming crime in society are criminal sanctions. This phenomenon can be seen in the regulation of criminal provisions in various statutory regulations such as regional laws and regulations, although in the attachment to the Law on the Establishment of Legislative Regulations it is stated that criminal provisions are regulated if necessary.

5. Conclusions

Based on the results of research and discussion, it can be concluded that:

Law Number 35 of 2014 concerning Child Protection states that economic exploitation of children must be given special protection and attention. Special protection here is a form of legal protection for children. Regarding the obligation to provide protection for children, it is not only the responsibility of the Government but requires community participation.

There are several factors that cause exploitation of children, including: a) economic factors, b) educational factors, c) environmental factors, and d) weak law enforcement and protection factors.

Protection of children from sexual exploitation according to Law Number 17 of 2016 concerning Child Protection is carried out firstly, by disseminating and/or socializing the provisions of laws and regulations relating to the protection of children who are economically and/or sexually exploited. Second, monitoring, reporting and imposing sanctions. Third, the involvement of various government agencies, companies, trade unions, non-governmental organizations and the community in eliminating economic and/or sexual exploitation of children.

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