

Criminality of Children: Human Trafficking of Children as a Violation of Human Rights

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Abstract

Human Rights is an essential right of a person born as a creature of God. Protection of the implementation of rights for every element of society must be applied comprehensively, whether old, young, adult, or children. This study aims to describe the motives for the emergence of human trafficking, the fulfillment of the rights of victims of human trafficking, and ways to minimize human trafficking to children. Researchers investigated three things about human trafficking in children associated with one of the areas of study of citizenship, namely Human Rights (HAM). This research is a qualitative research by analyzing existing problems based on existing theories in previous relevant studies. The application of this method is expected to provide a forum for a deeper analysis of the problem gap between the implementation of child rights protection and the practice of child human trafficking in Indonesia. The findings of this study shows there are 3 focuses highlighted in this study regarding human trafficking in children, including (1) The cause of human trafficking occurs due to several reasons, namely the motive for adoption. work motives, as well as sexual exploitation motives, (2) The fulfillment of the rights of victims of human trafficking which can be done in 4 ways, namely damage, compensation, rehabilitation of victims, establishing an integrated service center, (3) Efforts to overcome human trafficking to children, as has been done by the government of Indonesia and the government of Batam since 2009 have proactively carried out various efforts to prevent and deal with human trafficking.

Keywords: human trafficking; child; human rights.

Introduction

Children are a gift given by God Almighty and are inherent in the

dignity of all mankind. Every child has a dignity that must be upheld, and every born child must get his rights without being asked. Likewise,

children are an important part of the survival of the nation and state. The Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection in article 1 explains that a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. Children's rights are part of human rights that must be guaranteed, protected and fulfilled by parents, family, community, government and the state.

Article 28B paragraph (2) Constitution of the Republic of Indonesia states that every child has the right to live, grow and develop and is entitled to protection from violence and discrimination. The protection mandated in the Basic Law provides the spearhead in fulfilling children's rights so that child exploitation or trafficking does not occur. The definition of the Crime of Trafficking in Persons in Article 1 and Article 2 of Law of the Republic of Indonesia No. 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons is "the act of recruiting, transporting, detaining, sending, transferring, or accepting a person with threats of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, slavery or payment or profit, in order to obtain the consent of the person who has control over another person, whether done within the country or between countries.

Reporting from tempo.com during the Covid-19 pandemic, the Indonesian Child Protection Commission (KPAI) received many complaints that children aged 15 and 16 would be employed in Bali for

prostitution. The Indonesian Child Protection Commission received a report from parents about the child leaving the house found in an apartment in East Jakarta, allegedly for the benefit of online-based sexual exploitation. Data from the Indonesian Child Protection Commission (KPAI) in 2019 recorded were 244 cases of child victims of trafficking and exploitation, including child victims of labor. Specifically, the data on child victims of worker exploitation were 53 cases.

Humans basically have the same rights and are attached to themselves without exception, such as the right to life, the right to security, the right to be free from all kinds of oppression and other rights that are universally called Human Rights (HAM). Everyone has the right to obtain protection according to the law, children as part of a society, of course they also have the right to receive protection. In obtaining this protection, a child certainly needs the participation of parents, for example by not committing violence, exploiting or employing him. Children are a potential hope for a generation to continue the ideals of the nation's struggle. The existence of a child is so special that it is necessary for children to get proper rights in life.

However, the reality on the ground is not as ideal as the policy makers have planned. There are various forms of violations that occur in a child's life. Some of them are the fact that there are many criminal acts targeting children. Forms of criminality include immoral acts against children, children trafficking

(selling children), child exploitation, and acts of violence against children.

Based on the problems, it encourages the author to conduct research in order to explore the motives for the emergence of human trafficking, explore the fulfillment of the rights of victims of human trafficking, and how to minimize human trafficking to children.

Literature Review

Concept of Human Trafficking

In the Law of the Republic of Indonesia No. 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons Article 1, Trafficking in Persons is the act of recruiting, transporting, holding, sending, transferring, or receiving a person with threats of violence, the use of force, kidnapping, imprisonment, forgery, fraud, abuse of power or a vulnerable position, bondage or payment or benefit, so as to obtain the consent of the person who has control over another person, whether done within the country or between countries, for the purpose of exploitation or causing people to be exploited.

Meanwhile, the Global Alliance Against Traffic in Woman (GAATW) defines human trafficking as any effort or action related to recruiting, buying, selling, transferring, sending, or receiving someone using deception or pressure, including the use of threats of violence or abuse of power or debt bondage. for the purpose of placing or detaining the person, whether paid or not, for unwanted work (sexual or domestic reproduction) in forced labor or in

conditions of slavery, who is in an environment other than the person's residence at the time of fraud, pressure or debt bondage the first time (www.gaatw.org).

Therefore, children must be protected from acts of violence and exploitation as regulated in Article 1 point 15 of Law No. 23 of 2002 concerning Child Protection, which essentially contains special protection which refers to the protection for children in emergency situations. children face the law, minorities and isolated children, economic and sexual exploitation, children who are trafficked, become victims of abuse of narcotics, alcohol, psychotropic substances and other addictive substances (drugs), victims of kidnapping, sale, trafficking, children who experience physical or mental abuse, children with disabilities and victims of abuse and neglect.

Definition of Child Trafficking Crimes

According to Law No. 11 of 2012 concerning the Juvenile Justice System Article 1 point 1, "A child is a person who in the case of a naughty child has reached the age of 8 (eight) years but has not reached the age of 18 (eighteen) years and has never been married". In Article 330 paragraph (1) The Civil Code states that affirming that a child is an immature person if the person is not yet 21 years old, unless the person is married before the age of 21 years". So from the definition, it can be concluded that a child is a

valuable asset given by God Almighty, who must be provided with adequate protection and proper fulfillment.

The Definition of the Crime of Child Trafficking

Trafficking of women and children is part of the worst form of action by syndicates that must be eliminated, because as a result of this trafficking of women and children is in a very bad situation. The practice of trafficking in girls is a crime that goes underground or is still shrouded in a long chain, quite complex innature, which is very closed, between the links do not know each other but there is also a short path where one another knows each other, even still in touch with relatives or friends. (Andri Yoga Utami and Pandji Putranto, 2002).

Human Rights

Law of the Republic of Indonesia No. 39 of 1999 concerning Human Rights Article 1 paragraph (1) stipulates that human rights are a set of rights inherent in human nature and existence as a creature of God Almighty and are His gifts that must be upheld, enforced high, and protected by state, law, government, and everyone for the honor, and protection of human dignity (Kimura, 2006).

John Locke and JJ Rousseau are the originators of natural law theory. In his classic book: "*The Second Trities of Civil Government and a Letter Concerning Toleration*", John Locke proposes a postulation of the

thought that all individuals are given inherent life, liberty and property, which are theirs, and the state cannot deprive them or dismantle them. If the ruler of a state ignores or violates the social contract of individual natural rights, and then the people of that country can put down the ruler and replace him with a government that is willing to respect these rights (Rhona KM Smith, et. Al., 2008).

Based on the description, it can be concluded that human rights are rights that are owned by all living things from birth as a gift from God Almighty to equalize the position of human dignity. Human rights are inseparable from the right to education, the right to protection, the right to health, and so on

Method

The research method used in this research is a qualitative method of literature review. Through analysis and exploration of the problem based on theory. It is called a literature review because the data obtained in research are taken from library sources in the form of books, encyclopedias, dictionaries, magazines, documents, journals or proceedings (Harahap, 2015). A figure named Maleong, defines a qualitative method is a scientific research that aims to understand a phenomenon in social contact naturally by advancing the process of deep communication interaction between the researcher and the phenomenon under study (Heradiansyah Haris, 2010).

Data Collection

Data collection is an important stage in research. Through data collection, the data needed to achieve the objectives of the study can be obtained to further be collected and processed. Data collection in this study was done by analyzing previous journals.

The data successfully obtained from the data collection process will then be continued for analysis. The analysis in this study is by using interactive data analysis technique model. In performing data analysis, the steps taken after the data collection stage are as follows:

Data Reduction

Reducing data means summarizing, selecting main things, focusing on important things, looking for themes and patterns and removing unnecessary ones (Sugiyono, 2017). In this study, the data obtained from the data collection process through documentation were then reduced by summarizing and selecting the data. This is done so that researchers get a clear picture of the data.

Data Display

In qualitative research, data presentation can be done in the form of brief descriptions, charts, relationships between categories, flowcharts, and the like (Sugiyono, 2017). Researchers in this study present the data in the form of a brief description in the form of narrative text.

Conclusion Drawing/Verifying

Drawing conclusions or verification, namely the stages where researchers must understand and be responsive to everything that is directly researched in the field by compiling patterns of direction and cause and effect (Anggito & Setiawan, 2018). Sugiyono in his book stated that if the display data is supported by valid data, it will be a credible conclusion. Conclusions can be in the form of causal or interactive relationships, hypotheses, or theories (Sugiyono, 2017)

Result and Discussion

Human Trafficking Crime Motives

Trafficking occurs for several reasons, namely the motive for adoption. the motive of work, by employing children does not need to pay high, even not paid at all except for inappropriate bedding and food. And also sexual exploitation motives (Supeno Hadi, 2007).

The motive for adoption, Modernization in Western countries has given birth to a high level of prosperity which has led to a change in the way of thinking about marriage and family. In Scandinavian countries, women choose not to marry, or even if they are married, they do not want to have children. The government even has to lure big prizes for women who want to bear children. But they are citizens who have been successful in building the economy. They ignore all the lure, and are even willing to spend large sums of money to adopt children. The need for mass adoption has resulted in the birth of baby sellers, child brokers and their entire

network. On the other hand, developing countries are still full of poor people with all their problems, which then become the target of finding children to be adopted through the trafficking process. The news of the disappearance of 300 children after the tsunami disaster in Aceh that had fled World Help to this day is not clear about the resolution, and many people suspect that these children were taken to America. During 2007, for example, the Anti-trafficking Task Force for the State Minister for Women's Empowerment (GTA MNPP) found that 500 Indonesian children were trafficked to Sweden.

The motive of work, by employing children, does not need to be high paying, even not being paid at all except for inappropriate bedding and food. By employing children, the benefits can be obtained many times over. This is what is called slavery. The motive to employ also occurs in the entertainment world, by employing girls can bring huge profits.

The motive for sexual exploitation is the most common. Data in KPAI shows that currently there are 3 million TKW abroad, 10% of whom have problems such as problems with payment of salaries that are not right, being victims of violence, lost passports, and so on. Of the problematic numbers, between 1 and 2% or between 30,000 and 60,000 are migrant workers who are victims of trafficking the majority of whom are still children.

Fulfillment of Human Trafficking Victims Rights

According to Stephen Schafer, quoted in H.R. Abdusallam's book in his book *Victimology*, that there are four ways the system of providing restitution and compensation to victims of a crime can be carried out, as follows:

1. Restitution (damage)
Damages are civil, provided through civil proceedings. The system separates victims' compensation claims from criminal proceedings.
2. Compensation
Compensation that is civil in nature and mixed with a criminal nature is given through criminal proceedings. Compensation that is civil in nature, is given through criminal proceedings and is supported by sources of state income. So compensation is still a pure civil institution, but it is the state that meets or bears the compensation obligations imposed by the court on the perpetrators. This is an acknowledgment that the state has failed to carry out its duty to protect victims and has failed to prevent criminal acts from occurring.
3. Another legal protection are rehabilitation of victims, to some extent. Medical, psychological and social assistance, repatriation and integration must be provided, especially for victims who have experienced physical, mental and physical illness. The law also provides provisions for the prevention and treatment of victims of crime. Human

trafficking is the responsibility of the government, local government, communities, families, and working groups to implement comprehensive measures to implement prevention measures and human trafficking response (Farhan, 2010).

4. In addition, it also improves the protection of victims of human trafficking by establishing an integrated service center in the central, provincial and district/city government hospitals, as well as the Police Hospital and Bhayangkara Hospital in their regions, to improve community accessibility. The number of Sector Police managed by Police Force of the Republic of Indonesia is increasing, currently there are 226 units in 26 Resort Police (provincial) districts, and will continue to grow to other Resort Police and Resort Police (Regent/City) throughout Indonesia. In addition, more and more non-governmental organizations and community organizations are establishing women's crisis centers, shelter centers, currently there are 23 units spread across 15 provinces. In addition, the Ministry of Social Affairs is working with UNICEF and, at least 20 child center have been established for refugees.

Efforts to Overcome Human Trafficking to Children

Since 2009 the Government of

Indonesia and the Government of Batam in particular have been proactively carrying out various efforts to prevent and deal with human trafficking. This effort is divided into two forms, namely internal efforts and external efforts. The main effort in this TPPO Task Force is handling and repatriating trafficking victims. This effort is made in cooperation with the relevant agencies and NGOs, known as the Integrated Service Center (PPT). The process of handling victims organized by the PPT is seen like this, among others:

1. Victims who come in person, through a referral process or those obtained through outreach are carried out an identification process which includes screening, assessment and intervention planning according to the victim's needs.
2. If the victim is injured, the victim will be given medical rehabilitation as soon as possible, which includes non-critical services, semi-critical services, critical services, and medication legal services in accordance with the victim's condition. The record of the victim must contain as completely as possible the results of the examination of the victim because they can be used in examination in court.
3. If the victim does not have physical injuries and after being identified, it has known that the victim needs counseling for psychological recovery, then the victim enters the social rehabilitation stage which includes a social

contract, namely obtaining the victim's consent to get social services, social services, initial counseling, advanced counseling, mental and spiritual guidance, mentoring, referrals, as well as a home visit to prepare families and the environment to receive victims through coordination with agencies/social services and other related agencies/offices.

4. If the victim requires legal assistance, this assistance is given after the health and social rehabilitation processes have been carried out, or it can be given directly if the victim does not need rehabilitation. Legal assistance is provided starting from the protection of witnesses and / or victims, the process of implementing BAP investigations and investigations at the police, the prosecution process in the prosecutor's office to the examination process at court proceedings.
5. The final process of service for victims is the process of social reintegration, where the victim is reunited with his family or substitute family and efforts are made to make the victim re-accepted by his family and community.

National efforts in the form of the 2009- 2014 National Action Plan for the Eradication of the Crime of Trafficking in Persons (PTPPO) and Child Sexual Exploitation (ESA) and the result of this effort is that the United States Ministry of Foreign Affairs published the "Trafficking in

Persons Report" in July 2015 placing Indonesia in Tier status. 2. This means that Indonesia has not fully met the minimum standards of The Trafficking Victims Protection Act of 2000 (TVPA), but has made significant efforts to bring itself to conform to the standards in TVPA. In 2015 collaborating with community organizations that care about the prevention of TPPO by compiling references / guidelines, and modules on TPPO and children's participation and partnering without prevention save the children in the implementation of human trafficking.

Meanwhile, the external efforts of the Indonesian government are the Ratification of the *ASEAN Convention Against Trafficking in Persons, Especially Women And Children/ACTIP*. Regarding the handling of *Human trafficking* in ASEAN, Indonesia views importance of the formation of binding regional legal instruments as a basis for enhancing cooperation in eradicating *Human trafficking* in the ASEAN region to issue an Action Plan (*ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children*) which has been signed by all members of ASEAN countries on November 21, 2015 (Putri Utami, 2017)

Conclusion

Human Trafficking is a condition where children's rights are violated in its implementation. This violation is not in accordance with human rights. There are 3 focuses highlighted in this study regarding

human trafficking in children. The first is the cause. Human Trafficking occurs for several reasons, namely because of motive for adoption, a motive for work, and motive for sexual exploitation. The second is the compliance of human trafficking victims' rights that can be conducted in 4 ways, namely damage, compensation, rehabilitation of victims, establishing integrated service center at the central, provincial, and district/city government-owned hospitals, as well as the National Police Hospital and Bhayangkara Hospital in their region, to improve community accessibility. The third is about efforts to overcome human trafficking to children, as has been done by the Government of Indonesia and the Government of Batam since 2009 to proactively carry out various efforts to prevent and handle human trafficking. This effort is divided into two forms, namely internal efforts and external efforts.

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