

Child Exploitation as a Phenomenon of Human Trafficking

Henny Nuraeny

Faculty of Law, Suryakencana University, Cianjur, Indonesia

Abstract: Currently, the mode of human trafficking has been done in a variety of ways, one of which is through child exploitation. There are many forms of child exploitation such as sexual abuse, rape, molestation, sodomy and pedophilia which are done in many different modes with murder as the most alarming one. To stop child exploitation, awareness and cooperation of all sides are required. It is very important that tolerance, differences, human rights and pluralism should be highly appreciated as a form of the effort of legal protection. The impact suffered by children after becoming victims is not only the trauma but it can also be a long term suffering which is very worrying. Hence, children who become victims of exploitation must get legal protection so that they can have such a physical and psychological atmosphere as to develop a normal and sound mental condition. The government already made some policies concerning legal protection of children. However, in reality, these rules of criminal law do not result in a deterrent effect for the perpetrators of child exploitation.

Key words: Children, exploitation, human trafficking, legal protection, perpetrators, pluralism

INTRODUCTION

A child is regarded as God's grace because every child has value, dignity and pride as a whole person. A child has the potential to improve and continue the ambition of what the nation has been struggling as well as become a guarantee for the nation's existence in the future (Yildiz and Kayili, 2015; Thipayasothorn *et al.*, 2016). This is so because of a child's typicality and uniqueness and also his or her strategic roles. Based on this, a child has a responsibility and big role in the future; consequently, a child needs to get an opportunity to grow up and develop as optimally as possible physically, mentally and socially; besides they also need to have good morals, especially in their comprehension of religion values. To realize this, a child must get protection and guarantee of their rights. They must get the welfare and treatment without discrimination. Therefore, the country's support and legislations to guarantee all that is to be done.

The legal arrangements for a child's rights in Indonesia are the incarnation of one of the five points in Pancasila, namely the social justice. In a lawful country, the country has a limitation of power for individuals. The country is not almighty, not arbitrary as they are limited by law. This is what is called Rule of Law (Gautama, 1982). In Indonesia, the position of a citizen in law is different from other countries which are based on racial supremacy or religion or in a feudalistic monarchy or the capitalistic country. In Indonesia, the legal arrangements for children

are found in several rules such as Act No. 4 in 1979 about Child's Welfare; Act No. 11 in 2012 about the Judicial System of Child's crimes; Act No. 35 in 2014 about child's protection and other acts which are more general such as Act No. 23 in 2004 about Abolition of Domestic Violence; Act No. 21 in 2007 about eradication of the Criminal Act of Human Trafficking and it is also arranged in President's Regulation No. 18 in 2014 about Protection and Women and Children's Empowerment in social conflicts.

According to the minimum age convention number 138 in 1973 a child is defined to be a person who is 15 years old and below. However, in convention on the right of the child in 1989 which has been ratified by the Indonesian government in presidential Decree No. 39 in 1990, it is said that a child is those aged 18 years old and below. Furthermore, UNICEF defines a child as a citizen with the age of between 0 until 18 years old. Act No. 4 in 1979 about child welfare states that a child is those below 21 years old and not married yet. In addition, Marital Law determines the age limit of 16 years old (Huraerah, 2006).

MATERIALS AND METHODS

Forms of child exploitation: Currently child exploitation often happens and it becomes one of the modes of human trafficking which is increasing in number every year. Exploitation can mean abuse, make the most of. (Poerwadarmita, 1996) child exploitation takes place when a child is treated not only as an object but also a commodity. A child is generally exploited by the

closest people, both inside the family circle and the neighbourhood. This is due to the fact that it is easy to attract a child in a variety of ways. Because of this, it is necessary to have a collaboration of all sides in handling and giving protection to a child from all kinds of exploitation.

Considering that the expectation for a child as the nation's next generation is high it is logical that his rights to grow and develop himself according to his nature should be guaranteed. The guarantee of a child's rights as an individual must be done because a child is God's creation who must be protected and whose honor must be preserved so that he can be free from all kinds of discrimination, violence and exploitation which can affect his development physically, spiritually and socially.

The Indonesian government pays close attention to the phenomenon of child protection, especially the criminal act of violence toward children which is considered one of human rights violations. Moreover, the violent acts toward children usually happen along with various threatening acts which will cause the victim to feel tortured in the future, not to mention that the victim is usually the powerless one physically, psychologically and economically. Hence, to stop violence towards children, it is time that all sides should respect tolerance, differences, human rights and pluralism.

Based on the data from Indonesia Child Protection Commission in 2016 there is a 15% increase of the number of complaints about violence and children's involvement in legal problems. The chairman of Indonesia Child Protection Commission Asrorun Ni'am Sholeh, said that the legal complaints and violence towards children are increasing in number in the quarterly period of the year. "The total number has reached 645 reports," out of the total number, 167 are cases about children facing some legal problems such as theft, bullying and others. In the second rank there are 152 cases about domestic problems dealing with child custody. The sad thing is, said asrorun, the doers of the violence toward children involve public figures and politicians as well. "The impact is quite big and Indonesia is declaring war against violence toward children; therefore, it is important to have the right regulations, not just socialization". The violence problems and law violations will occur again.

Child exploitation generally is in the form of violence, both physical and psychological violence. The term violence usually refers to behavior, both open and closed. Physical violence is the form of violence which deals with injury not caused by accidents but by tortures like hitting using a thing or repeated assaults. The forms of physical violence can be tweaking, pinching, grabbing,

biting, pushing, throwing, dragging and other forms as stated in the Book of Criminal Law, especially Chapters 351-355; Chapters 338-341; Chapters 229; Chapter 347; Chapter 269; Chapter 330-332; and Chapter 301.

Furthermore, psychological or emotional violence refers to the situation when a parent/guardian does not give love to his child to grow and develop. The acts of emotional violence are discriminating, terrorizing, threatening, snapping, scolding, etc. as stated in the Book of Criminal Law Chapter 310; 311 and 335. Sexual violence refers to such sexual activities as assaults resulting in sufferings like physical or emotional injuries, for example seducing, hugging by force oral sex, anal sex and rape as stated in the Book of Criminal Law Chapters 281-287; 289; 290; 294 and 295.

Violence can be offensive and defensive, using other strength to other people. Generally, violence can be done in the following ways:

- Open violence, violence that can be seen, for example a fight
- Closed violence, hidden violence or indirect violence, for example threatening
- Aggressive violence, violence done not for protecting but for gaining something for example mugging
- Defensive violence, violence done to protect oneself (Santoso, 2002)

Children get various forms of violence such as verbal violence, physical violence, psychological/emotional violence and sexual abuse. Ironically, the ones doing the violence toward children are those having a close relationship with the children like family, teachers or playmates. Surely this leads children to trauma for example, rejecting to go to school, isolating themselves in the room or mental depression.

This condition is alarming yet, it is not impossible to find the solution. The right coordination in the child's surroundings is needed, especially for the family circle in educating children without violence, selecting television programs and reading materials and giving protection and love so that the children do not later on become violent people. The problem is whether the Indonesian laws and regulations appreciate the phenomenon, both the violent action and the children as victims of violence.

The factors causing violence toward children are: the weak parent's control on children in watching television, playing and so on. This does not mean that parents should be dictators or over protective but the many forms of criminality in this country make it necessary to raise

parent's awareness of the surroundings. Children having physical disability, behavior disorders, autism being too naive. Poverty of the family (caused by the big number of children). Broken home because of divorce, the lack of mother in a long term. Families who are psychologically immature, the inability to educate children, unwanted children or children born out of wedlock. The repetition of the violence done by parents who often treat their children in the same pattern. The bad condition of the surrounding, backwardness. Busy parents who make children by themselves which will become the trigger of violence towards children. The shortage of children education by parents. The forms of violence toward children in general are:

Physical violence: This form of violence is easy to recognize because the effect can be clearly seen on the victim's body. Physical abuse cases: the highest percentage ages 0-5 tahun (32.3%) and the lowest 13-15 years old (16.2%). The violence usually involves hitting, strangling, pressing hot things to the victim's body, etc. The impact is not only injuries but also trauma. It also often happens that the victims die.

Verbal violence: This form of violence is often ignored and considered something common or even a joke. This violence usually involves insult or curse. As an impact, children learn to use rude words, do not respect other people and also have low self esteem.

Mental violence: This form of violence is not seen but the impact is greater than verbal violence. Emotional abuse cases: the highest percentage ages 6-12 years old (28.8%) and the lowest 16-18 years old (0.9%). The violence involves parents' neglect of children who need attention, terror, insult and also parents who often compare their children with others which all can result in the children's weak mental. As a result, they become easily worried, reserved have no self confidence and being envious of others without being able to be motivated.

Sexual abuse: This form of violence is usually done by people whom the children already know well such as family, neighbors, teachers and playmates. Sexual abuse cases: the biggest percentage ages 6-12 years old (33%) and the lowest ages 0-5 years old (7.7%). The violence involves abuse, harassment and rape. The impact of this kind of violence is besides having severe trauma, it can also cause physical injuries.

Violent criminal acts can be in the forms of: discrimination toward children which causes the children to have material and moral loss so that their social function is disturbed. Neglecting children which causes

children to suffer physically, mentally and socially. Letting children in emergency situations such as in evacuation, chaos, natural disaster and/or armed conflict situation. Letting children be in law problem such as children from the minority and isolated community, economically-and/or sexually-exploited children, children in human trafficking, children who become addicted to narcotics, alcohol, psychotropic and addictive substances, kidnapped children, despite the fact that these children need help and must be helped. Child adoption which is not in accordance with Chapter 39. Doing cruelty, violence or torture toward children. Doing violence to children in order to have an intercourse. Doing violence, forcing, deceiving, lying or persuading children to do or let harlotry. Trading, selling or kidnapping children for oneself or to be sold. Having a child's organ and/or body tissue transplant for another side for the purpose of taking advantage for oneself or another person by disobeying the law. Having a transaction of a child's organ and/or body tissue. Taking a child's organ and/or body tissue without paying attention to the child's health or making a health experiment with a child as the object without prioritizing what is best for the child and against the law. Persuading a child to choose another religion by misleading and deceiving. Exploiting a child economically and sexually for the purpose of taking advantage for oneself or other people. Placing, letting, involving, instructing children in producing or distributing narcotics, psychotropic, alcohol and/or other addictive substances.

The Minister of Women's Empowerment and Child Protection Yohana Yembise feels furious about the child exploitation practice which often takes place because this practice really takes the life of children. According to her child exploitation has really violated the child's rights. Children are the nation's next generation and they must be protected. Whoever the doer is they must be punished with the most severe punishment so that they get a deterrent effect. memberikan efek jera. "Our job is to protect children and the government must protect children with no exception. If something happens to children, particularly violence and exploitation, the government must be present to protect these children" (Marhaenjati, 2016). This is because these children have rights to protect and the government pays very much attention to children.

RESULTS AND DISCUSSION

Child exploitation as a mode of human trafficking: The problem of human trafficking is not alien to people in the world. Human trafficking is the most evil thing in the world. Child trafficking is defined by Office for Drug

Control and Crime Prevention (ODCCP) as recruiting, moving, sending, placing, receiving underaged children for the purpose of exploiting them by using threats, violence or other forms of force like kidnapping, deceiving, fraud, abuse of authority or important position, giving or receiving money or help to get agreement from the person who has full control over the child. The intention of child trafficking usually is:

- Trading young girls to become domestic assistants
- Trading young girls to become workers in entertainment business or elsewhere
- Trading young girls to become sex workers
- Trading young girls to become models or actresses in pornography industry
- Young girl exploitation to become drug distributor after making them addicted first to drugs
- Migrant workers
- Girls hired for a contract marriage to get advantage
- Baby trading
- Child trading in a fishing building in the middle of the sea
- Child exploitation to become beggars (Harkrisnowo, 2003)

The level of violence toward children in Indonesia is considered high. According to the Chairman of the Indonesian Commission of Child Protection asrorun Ni'am Sholeh, about 70% of the violence doers are parents. Based on this fact, the commission is trying hard to give educational programs to parents in order to prevent violence toward children. "It is not through socialization only but we are also open for hearing and consultation to children and parents." Asrorun hopes that people who see and know all kinds of violence to report to the commission. "We will also give some reward to those who are willing to report to the commission because usually violence towards children is only known by the family members" (KPAI, 2016).

Efforts of children's protection from exploitation:

Generally, a child cannot protect himself or herself from all kinds of acts in their lives so that he or she needs protection mentally, physically, socially and legally (legal protection). According to Arif Gosita, child protection is an effort to protect children in order that they can exercise their rights and obligation (Gosita, 1989). Because of this, a child must be protected so that they will not become victims of individuals, groups, private and governmental organizations, both directly and indirectly.

Seen from the nature of protection, child protection can be categorized into juridical protection, including the civil law and criminal law non-juridical protection, including the social protection health protection and education protection (Wadong, 2002).

The effort for child protection needs to be done as early as possible that is since the child is a fetus or still in the womb until the child is 18 years of age. Based on the concept of a whole, complete and comprehensive child protection the law should put obligations to give protection to children on the basic foundations of non-discrimination; the best interest of the children; the rights to live, life survival and life development; respect for a child's opinion.

Legal protection for children can be said to be a legal protection effort of various forms of children's fundamental right and freedom as well as all various interests dealing with a child's welfare. Thus, legal protection for children is vast (Arief, 1998). The juridical commitment from the government is stated in the 1945 Constitution of Indonesia Paragraph IV which is further elaborated in CHAPTER X A about human rights, Chapter 28 B Sentence 2 which says: "All children have the right to grow up free of violence and discrimination. According to Waluyadi this becomes a special arrangement about children's rights. Which is very beneficial for children" (Waluyadi, 2009).

The preventive effort of child exploitation can be done through prevention and enforcement law. Law must be enforced to each doer and participation from the society is required, through child protection organizations, religion organizations, non-governmental organizations organizations in the society, social organizations, businesses, mass media or education institutions. This is based on the natural rights of a human being to get legal protection and guarantee so that law is not seen as mere power reflection but it must also represent the protection of the citizen's rights.

In the implementation, legal protection for children cannot be exaggerated but it must be based on rational, responsible and beneficial things which reflect an effective and efficient effort. Besides, child protection efforts cannot cause lack of initiatives, creativity and other things which depend on other people and which cause uncontrollable attitudes which makes children unable and unwilling to use their rights and perform their obligations (Fig. 1).

In general, efforts to protect children from violence is the responsibility of all people, of which the components can be illustrated as follows:

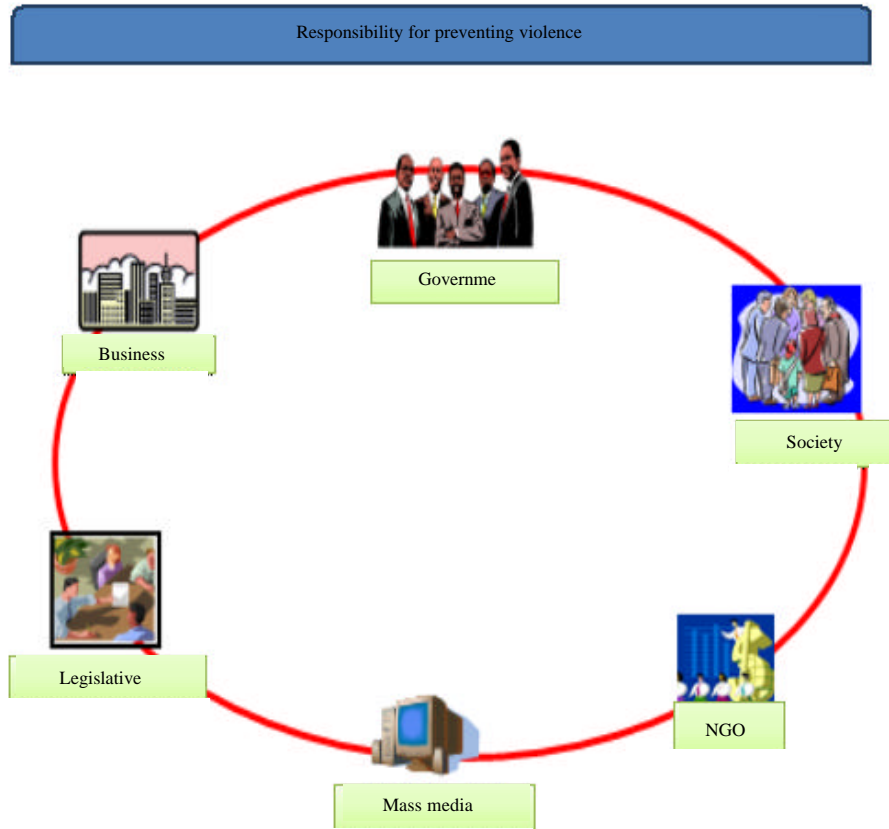


Fig. 1: This figure show the responsibility for preventing violence in society

CONCLUSION

All justification of child exploitation cannot be considered right because children are the nation's next generation. Besides, a child also has the same rights as other human beings so that all kinds of exploitation must be prevented.

The efforts to prevent child exploitation can be done in many ways, one of which is through law enforcement, namely giving the most severe punishment in order that the doer learns his or her lesson well.

Preventing and minimalizing violence toward children are all people's responsibility. The government, society, family members, individuals, media, non-governmental organizations, religious figures and all sides must be involved and care.

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