

LEGAL PROTECTION TO THE VICTIMS OF CHILDREN EXPLOITATION

KUNARTO, S.H., M.Hum

ABSTRACT

As a human, child is an invaluable treasure, therefore having a child is an extraordinary happiness and that also must be well protected, physically and socially. Children are the assets of the State as the nation's next generation, so it needs to be maintained and fostered for the future of the nation. But sometimes when there are still many parents who are less attention to children, are indifferent and sometimes even until there is exploitation in the child to be employed in various things, therefore the protection of children should need to get good attention, especially children who exploited so that causes children to be unable to develop, lack of study time, play and even socialize with the surrounding community. From there the problem arises, namely how legal protection against child exploitation and what factors cause the child's exploitation. From the results of the discussion can be that, the legal protection of child exploitation can be done with two things that are preventive with guidance and counseling, provide free teaching and other forms of counseling, then in a repressive way that is by calling the perpetrator if happened eklpoetasi child and processed by law under applicable law. Then the factors - the occurrence of child exploitation there are some that is the poverty, social culture of society, the environment of children grow and mature, low education, friend environment and the factor encouragement of parents or family. From the results of the analysis that children's exploitation tends to be economic factors that become dominant.

Keywords: Legal protection, Children exploitation

INTRODUCTION

Children exploitation, children trafficking, children abuse and various acts of human rights abuses against children in Indonesia always color the portrait of our nation's life. Almost on every street we encounter street children who try to earn money in any way such as singing, begging, being street jockeys, selling newspapers, hawkers and even in big cities like Jakarta children does a lot of criminality.

Unfortunately the issue of child protection is not yet fully a primary concern for holders of our country's power. Political, legal and economic issues are seen as more important to note than the issue of child education and child protection. Whereas the future of Indonesian children is the future for the Indonesian nation itself. Such phenomenon above certainly arises because of the lack of law enforcement on child protection in Indonesia. In the midst of the nation's condition in the atmosphere of multimedimensional crisis as a result of prolonged monetary crisis. National law has produced a lot of progress, among others by increasing public security. Legal progress has been achieved, this is because there is encouragement from the government and law enforcement officials.

Children are the next generation of the nation that has significance for national development in running the life of the nation and state. Children are entitled to protection grow and develop and participate to carry out the National development as well as human adults. For every child can and develop well needed protection against children from acts of physical, psychological, discrimination, sexual exploitation of children, civil rights and freedom. With the protection of children, the existence of children who are the responsibility of the nation is expected to welcome the future well in life in the family environment and in the community.

Violence, harassment and sexual exploitation not only affects adult women, but also women who are classified as underage (children). Sexual crime is also usually common in business environments, offices or in certain places that provide opportunities for people of different types of can be mutual communicating even happening in the family environment.

Children should have the protection, love and supervision of their parents, be taken care of, cared for and cared for or well trained through the traits that children have in their umm in order not to realize the crime against the child. Children should not rely on themselves without giving attention or protection. Parents play an active role in preventing child abuse, abuse and exploitation.

So far, the legislation regulating the protection of child victims of exploitation has not set the protection efforts thoroughly so that necessary institutional and regulatory support that can guarantee its implementation, comprehensively so that the implementation of the field can run well.

FORMULATION OF THE PROBLEM

Based on the background above, we can formulate the following problems;

1. How is the legal protection of victims of child abuse exploitation?
2. What factors cause child exploitation?

DISCUSSION

Definition of Children Exploitation

In Big Indonesian Dictionary the notion of exploitation is utilization for its own benefit, exploitation, extortion of others which is a dishonorable action. According to Law No. 4 of 1979 on Child Welfare, the meaning of a child is a person under 21 years of age and unmarried, whereas according to Law No. 35 of 2014 on Child Protection, a child is a person who is 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 since the child is in the womb until the age of 18 years). The child protection effort should be implemented as possible, because child protection is a reflection of the existence of justice, benefit, and legal certainty in a society. Attention and overcome the problem of child protection is a joint obligation by every member of society and government if the life sphere of the state and community.

The purpose 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 Law No. 35 of 2014 on Special Protection for children in the exploitation economically and/or sexually as referred to in article 59 section (2) letter d is carried out through:

- a. Dissemination and/or dissemination of the provisions of legislation relating to the protection of children who are exploited economically and/or sexually.
- b. Monitoring, reporting, and sanctioning and
- c. The involvement of various companies, trade unions, non-governmental organizations, and communities in the elimination of economic and/or sexual exploitation of children. Thus, it is clear that child exploitation is a disgraceful act, since child exploitation measures have deprived children of their rights, such as obtaining parental love, proper education, and appropriate means of play according to their age. In addition, exploitation of children can have an impact on physical and psychological disorders of children. Disorders in children can also have a long impact on the future of children who are less able to distinguish between right and wrong because of the low level of education of children who are exploited.

Types of Children Exploitation

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, the children are forced to work with all their energy and also threaten their soul. The heavy physical pressure can impede the physique or the physical of the children up to 30% because they release the stamina reserves that must last until adulthood. Therefore, the children often suffer 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, insulting children, rejecting children, withdrawing or avoiding children, issuing unfavorable words for the child's emotional development, giving extreme punishment to children such as entering a child in a room dark, confining children in the bathroom, and binding children. In the service sector, especially in hotels and entertainment, children are recruited by appearance, and are capable of undergoing relationships with others. They must serve customers who are mostly adults, so they are likely to experience the psychic pressure of sexual seduction.

3. Sexual Exploitation

Sexual exploitation is the involvement of children in sexual activities that they do not understand. Sexual exploitation can be in the form of indecent treatment from other people, activities that lead to pornography, pornographic words, making children embarrassed, child abuse, child prostitution, using children for pornographic products and involving children in the prostitution business.

The impact of child exploitation that can occur in general is:

1. Children lie, fear, less able to know love or affection, and difficult to believe in others.
2. Children's self-esteem is low and shows destructive behavior.
3. Having disruption in psychological development and social interaction.
4. In older children children abuse their friends, and younger children.
5. Difficulty to foster relationships with others.
6. Severe anxiety, panic, and depression (children experience physical pain and problems at school).
7. Low self esteem
8. Abnormalities or distortions regarding views on sex.
9. Personality disorders
10. Difficulties in fostering relationships with other people in terms of sexuality.
11. Has a tendency to prostitution.
12. Having serious problems in adulthood.

Legal Protection against Victims of Children Exploitation

As we say at the beginning that, the legal protection against the exploitation of children is less effective or less well run, of course this needs the seriousness and the government's commitment so that cases of child exploitation do not always happen again. The protection of victims of child exploitation can be done two things, namely by preventive way by way of guidance and counseling, education for free and other forms of introduction, but it can also be done in a repressive way by calling the victim and processing the law to sipelaku fairly based on to applicable law.

The economic exploitation of children is an act with or without the consent of the victim's child, which is not limited to prostitution, forced labor or services, slavery or the practice of enslavement, oppression, extortion, physical, sexual, reproductive organs in illegal or transplanting or exploiting energy or ability of the child by other parties to gain material advantage.

Child work is children who do work regularly for their parents or for others who need a large amount of time, by receiving rewards or not. Child labor is a workforce undertaken by children under 15 years of age. Understanding children according to Putranto mention that child labor is a man or woman who is aged less than 15 years in addition to membantuk family, in certain communities such as the agricultural sector, fisheries, and industry kerajinan from their childhood have been educated to work. According to Manurung child workers are those aged 10-14 years and are working at least one hour continuously in a week.

Hiring a child to increase income outhga or household directly or indirectly, working relationships applied to child labor there are various forms, namely labor, apprenticeship, and family power. As laborers, children are rewarded or paid. For their work as apprentices, and family workers, they are paid and some are not paid.

According to Usman and Nachrowi (2004), in terms of child labor education, child laborers in both the garment and rattan or wood sector are children who are at least elementary school, or elementary school graduates. But because of this work that causes children who are still sitting in elementary school must be dropped out of school because their time is mostly spent to work.

The forms of child labor mentioned above are a form of eco-exploitation in children, so that children will lose time to learn, play and social interaction to friends and other communities, such things will certainly affect the child's self both sicilogi and physically, the child is forced to working on the grounds of necessity could add to the family economy.

Legal protection of children is any activity that can guarantee and can provide protection for children and the rights of children to live, grow and develop in accordance with their rights and adapt or adapt the optimal seraca in accordance with human dignity and status, as has been regulated in the legislation. Legal protection of children may include:

- a. Protection of the rights and rights of children.
- b. Child protection in the judicial process.
- c. Protection of child welfare (in family, education and social environment)
- d. Child protection in matters of detention and deprivation of liberty.
- e. Child protection from all forms of exploitation (slavery, child trafficking, prostitution, pornography, trafficking/drug abuse, infecting children in crime).
- f. Protection of street children.
- g. Child protection from war or conflict, and
- h. Child protection from violence.

Then in Article 333 of the Criminal Code, it is stated that the act can be punished, if it takes away someone's independence, continues detention or provides a place to detain, by opposing the right, with a penalty of 9 years if the victim is seriously injured and a maximum of 12 years, if the victim dies world. Furthermore, Article 88 states that everyone who exploits children in economic or sexual form, with the intention of benefiting themselves and others will be sentenced to a maximum of 10 years or a fine of Rp. 200.000.000,00.

The things mentioned above are part of a form of legal protection against child exploitation carried out by someone for the sake of gaining profit, both for themselves and others. Another form of protection is by making donations to children, when there are problems of exploitation so that children feel that someone is paying attention and protecting and the child can be more confident and able to deal with problems - problems that have been experienced.

Child protection is important, because children are the next generation of the nation, as State assets, so it needs to get serious attention, it needs guidance, direction and educative approach, in the end the child will feel mature and work for the sake of the nation, but when children get the problem seems to get less attention and even be ruled out or used as a commodity that does not have humanity.

Factors Caused Children Exploitation

Basically there are no parents who do not give love to children, but sometimes there are also parents who have the heart or treat children improperly or alienate children who are far from compassion. The factors that cause child exploitation are:

1. Poverty

Opinions of social science experts on the problem of poverty, especially regarding the reasons why the emergence of poverty in a society is different. A group of social scientists sees the emergence of poverty in one society related to the culture that lives in a society. In this context, poverty is often associated with the low work ethic of community members, or with more popular language the causes of poverty are linked diligently or not someone in working/processing the available

natural resources. When people work diligently, it is certain that the person will live with sufficiency. Besides being diligent, the person has a frugal nature. Humans who have a high work ethic and frugality will surely live more adequately.

Poverty occurs because the ability of the economic actors is not the same, so that there are people who cannot participate in the development process or enjoy the results of development.

According to Korten there are two basic needs that are difficult to meet by the poor, namely:

- a. Many of the poor do not have productive wealth jam their physical strength. The development and maintenance of wealth depends on more opportunities to obtain public services, such as education, health care, and the provision of clean water which are generally not available to those who need it most.
- b. Increasing the income of the poor may not improve their standard of living if goods and services are in accordance with their needs and income levels are not available.

Poverty can be interpreted as a situation where a person, family, or members of the community do not have the ability to fulfill their daily needs as normal as other members of society in general. According to Emil Salim poverty is usually described as a lack of income to meet basic living needs. They are said to be below the poverty line if the income is not enough to meet the most basic necessities of life, such as food, clothing, shelter, etc.

The condition of the poor is generally characterized by their rotting, home-made homes made of low-quality building materials, minimal household equipment, no own toilets and a family economy characterized by an economic hole-digging hole. Their income is not doomed and in a very inadequate amount. With a small and erratic income the poor families spend what they earn on the same day.

Poverty is also defined as a situation in which a person is incapable of maintaining oneself in accordance with the standard of living of a group and also unable to utilize the energy, mental, or poverty can be measured by comparing the income level of a person or household with the level of income needed to meet his or her minimum needs. This is absolute poverty and relative poverty.

A person is said to be absolute poor if his income level is lower than the absolute poverty line applied, or else the amount of income is not sufficient to meet the minimum requirements reflected by the absolute poverty line. The minimum income level is a barrier between the so-called poor and non-poor, or often called the poverty line. The poverty line is the ability of a person or family to meet a standard living need at a given time and location to carry on. The standard of living reflects the minimum level of need to meet food, clothing, housing, education and health.

Meanwhile, relative poverty is a state of comparison between natural groups of society, ie between groups that may not be poor (because of higher levels of income from the poverty line) and richer community groups. In other words, even though the income level has already reached the minimum level of basic needs, but still far in comparison with the incomes of the surrounding community, the person or household is still categorized as poor.

Poverty reduction factors:

1. The low level of education. Low levels of education lead to limited self-development capabilities and lead to a narrower of accessible jobs.
2. Limited employment. Poverty due to the educational conditions exacerbated by limited employment. As long as there is employment or business activity, during which there is also hope to break the cycle of poverty.
3. Isolated condition. Many of the poor are economically helpless because they are isolated and isolated. They live so isolated that it is difficult or inaccessible for the education, health and movement services that other people enjoy.

According to that, poverty in a sociological perspective has several patterns, namely:

1. Individual Poverty

Individual poverty occurs because of the deficiencies that a person perceives about the conditions necessary to overcome himself from the poverty basin.

2. Relative Poverty

Relative poverty is a term called social economics status or abbreviated as SES (usually for families or households). In this connection there is a comparison between the material wealth of the family or the neighborhoods within a territorial community.

3. Structural Poverty

Structural poverty is the poverty caused by the socio-economic structure in such a way that society becomes part and gradually experiences poverty due to the low economic structure.

4. Cultural Poverty

Cultural poverty is the poverty suffered by a society in the midst of a natural environment that contains many materials that can be utilized to improve the standard of living. As for the term poverty is a living order that contains a system of rules and a value system that considers that the poor living standard that is viewed as a the community at a time is reasonable and there is no need to make improvements.

The prolonged economic crisis causes many families to experience poverty and economic difficulties. Poverty experienced by families negatively affects their children by sending their children to work to help earn a living for the survival of the family and the child itself. As a result of this poverty it encourages the occurrence of exploitation of children.

The involvement of children to work is influenced by the existence of poverty factor. For poor families the smallest income of working children was able to support the survival of the family. This means that the economic contribution provided by the child is considered important for the parents' income and there will be a decrease in the income of parents when their children stop working. It is clear that poverty is the worst and chronic problem for humanity in today's increasingly complex society. The inability of parents to meet their daily needs forces them to employ their children to help meet the family's economic needs.

1. The Influence of the Social Environment

In the context of the social environment in Indonesian society, children who work are considered as a positive vehicle to introduce discipline and instill a work ethic in children. This has become part of the culture and governance of Indonesian families. Many people feel that working is a positive thing for the development of children so that early childhood is included in the work process.

In certain communities, children have been educated from work since childhood, for example in the agricultural, fisheries, handicraft, fishermen, and others sectors. However, the work done is not harmful to the child's health condition physically, mentally, and socially so that it does not violate their rights as children. Unfortunately in subsequent developments, the process of learning to work no longer develops as it should. Various factors cause children to work in situations and unacceptable and harmful work ingredients for its development.

Scarcity of educational facilities, low quality of basic education, low awareness of the public (especially parents) of the importance of education, an educational curriculum that is less accommodating to future work challenges, and the high cost of education causes education to be seen as elite and luxurious, especially among the poor. This condition encourages children to enter the workforce. Some research results indicate that children who work most have low education.

2. Motivation of Child and Family Workers

Now childhood should be the time spent for school to study the knowledge that will be the provision of his life in the future and the time where past age to start learning to know and understand everything about life. Life passes with joy, innocence, no heavy burden and problems that can twist an adult should be avoided by losing childhood and losing the right to learn, play and socialize with friends of his age and affection from parents due to economic or poverty factors so they have the responsibility to seek additional income for the family by having to work or be required to work. The age that should not have the responsibility to work and contribute in the form of money to the family should be done child.

Economic poverty has created a lot of child labor. Motivated parents mobilize their children as workers to help the family economy. At this point the emergence of a tendency, because children can change the role of "just helping" to be the main breadwinner. In addition, poverty which is closely related to the lower classes by most Indonesians as a reason for justifying the practice of employing children in an effort to help meet the needs of families.

Another thing that can affect working children in addition to economic factors is the family itself, where the family is an economic unit or consumption is influenced by external and internal conditions including in determining the amount of labor devoted to work. The internal state of the family (the size of the dependents, the staff, the income of the head of the household, the need for consumption and others), is a factor that affects the involvement of family members into the business of earning a living, with the factor causing the child to work also determined by the circumstances of the household.

3. Friend Factor and Sociocultural

The influence of friends can also be the cause of a child exploited. They persuaded his friend who first plunge into the world of work. A child's aims in choosing a good friend in the association, because the association has a very big influence for a child.

Social culture becomes one of the causes of the inclusion of one child to the world of work at an early age. This factor is closely related to the lifestyle of adolescents and urbanist problems. In addition, the company's trust that young workers are cheaper, more agile and stronger in creating demand for more and more children. On the other hand, however, there are patterns of child exploitation into the socio-culturally institutionalized world of generations within a given society, this being a supply factor for early child labor.

Characteristics of Child Labor

Children work to increase their family or household income directly or indirectly. Working relationships applied to child laborers are various forms, ie laborers, apprentices, and family workers. As laborers, children are given rewards or wages. For employment as an apprentice, and family workers, some of them are paid for not being paid in terms of education of child laborers, child laborers from garment or rattan or wood are children who are at least elementary school elementary school must drop-out of the school because their time is mostly spent on work. Most child laborers in the manufacturing industry have only low education. In terms of education, children who work allegedly tend to drop out of school first and then work. In the formal industrial sector, child labor is generally in long working conditions, low-paid, facing the risks of occupational injuries and health problems, or being subjected to harassment and arbitrary adulthood. In general, the characteristics of child labor are not much different, except in terms of age, with the characteristics of female adult workers, even male workers.

Government Policies on Child Labor principles of the worldwide declaration on Human Rights, in this case are children (in the collection of Child Rights protection, 2006): among others mentioned in Article 32

- 1) States Parties recognize the right of the child to protection and economic exploitation and from the exercise of any work that may be hazardous or harmful to the child's physical, mental, spiritual or social health or development.
- 2) States Parties shall take legislative, administrative and educational measures to ensure the implementation of this article. To achieve this objective and with due observance of other relevant international provisions and instruments. Then in Article 36 it is further mentioned that; The state will protect the child from all forms of exploitation, because it will harm the child and the future.

States Parties shall protect the child against all forms of exploitation which harm any aspect of child welfare.

- 1) Mining and excavation.
- 2) Direct contact with fire (including welding).
- 3) All kinds of work that require saving the sea floor.
- 4) Direct contact with heavy equipment, electricity, and cutting tools.
- 5) Lifting and carrying heavy items.
- 6) Construction and demolition work.
- 7) Correct contact with hazardous chemicals or substances.
- 8) All types of work related to prostitution and pornography.
- 9) Any type of work related to the production and sale of liquor.

The desired working conditions for children working in accordance with government policies, are:

- 1) Not employed more than 4 hours a day.
- 2) During work, rest periods of at least ½ hour are provided.
- 3) Not employed at night.
- 4) Not working with hazardous materials / machinery.
- 5) Wages are paid in accordance with applicable regulations.
- 6) Given social security in the form of accident or health insurance.

CONCLUSION

Based on the description above, the writer can conclude:

1. In the legal protection of victims of child exploitation, the need for law enforcement as well as influencing factors such as social culture of the community, in addition to the implementation of the rules of the executor, for example Law no. 35 of 2014 which regulates child protection and children's rights as a legal umbrella to provide legal protection, then affirmed in Article 333 of the Criminal Code, namely the existence of criminal penalties as a result of his actions depriving a child of independence of at most 9 years and if the victim is seriously injured or died within 12 years.
2. Factor that causes child exploitation is poverty, poverty is sometimes related to the existence of a culture that lives in a society that is associated with a low work ethic that influences income or possibly poverty because the ability of the economic actors is not the same, so there are people who can not live forward. In addition, the existence of environmental social factors of society, children who do the job is a good thing and positive can help parents. Then the factors of friend and sociocultural, the influence of friends to work is also a matter of siring we find, social culture is one of the causes of the entry of a child into the world of work, with a romantic lifestyle.

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KUNARTO, S.H., M.Hum.

Lecturer on Faculty of Law

University of 17 Agustus 1945 Semarang

Email: kunartosh@yahoo.com