

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Legal Protection for Child Victims of Trafficking in Indonesian Legislation

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Abstract. *The increasing number of child trafficking cases in Indonesia is very worrying for the nation's future generations. Children's lives are a reflection of the nation's future, and they are a reflection of the nation and state. However, objectively, what is happening to children in Indonesia is that the problem is still not resolved and tolerated by common sense. This paper aims to provide a policy for protecting child trafficking victims within existing regulations in Indonesia. This research uses a normative legal approach and a descriptive research type. The data types and sources use secondary data in the form of primary legal materials, secondary legal materials, and tertiary legal data. The data collection method uses literature and qualitative analysis methods. The research results show that existing laws and regulations in Indonesia are less effective in imposing sanctions on perpetrators and there is no safe protection for victims of trafficking, especially children.*

Keywords: *Child; Human; Protection; Trafficking; Victims.*

1. Introduction

According to the UUPA, a child is a person who is not yet 18 years old, including babies who are still in the womb. The main understanding of children is understanding children's rights so that they can live, grow, develop, and participate well in accordance with human values and dignity. According to Arif Gosita, a victim is a person who experiences physical and spiritual suffering due to the actions of others that are contrary to their own interests or those of others, and seeks to fulfill their own interests or those of others that are contrary to human rights (Mansur, DMA, & Gultom, E, 2007). State Guarantee for Child Protection is the Unitary State of the Republic of Indonesia which guarantees the welfare of every citizen, one of which is by providing protection for children's rights which are part of human rights. The Indonesian government

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strives to ensure and achieve the protection and welfare of children through the creation of Law Number 23 of 2002 concerning Child Protection.

The state and government of the Republic of Indonesia have the obligation and responsibility to respect and guarantee the human rights of every child, without discrimination based on race, religion, race, social class, gender, ethnicity, culture, language, legal status, birth order, and physical and/or mental condition. The state and government are also obliged and responsible for providing support in the form of facilities and infrastructure to protect children. Statements regarding the obligations and responsibilities of the state and government are contained in the provisions of Articles 21 and 22 of the UUPA. Articles 23 and 24 of the UUPA explain the guarantees provided by the state and government in managing child protection. The state and government ensure the protection, care, and welfare of children by taking into account the rights and obligations of parents, guardians, or other parties legally responsible for the child. The state and government also ensure that children can exercise their right to express opinions in accordance with the child's age and ability. The guarantees provided by the state and government are also accompanied by supervision in the implementation of child protection (Fitriani, R, 2019).

Human trafficking refers to the act of trading in human beings. The terminology

of human trafficking is still relatively new in Indonesia. Human trafficking has occurred since 1949, when the Convention on Trafficking in Persons was signed. Human trafficking is the act of recruiting, transporting, transferring, harboring, or receiving a person by means of bribery, use of force, coercion, abduction, falsification of documents, deception, or abuse of power or a situation of vulnerability, or benefits to achieve the consent of a person having control over that person for exploitation, which at a minimum includes exploitation through prostitution or other forms of sexual exploitation, forced labor or services, slavery or practices similar to it, illegal adoption or the removal of body organs (Rahmat Syafaat, 2002). Children are the next generation of the nation, therefore special guidance is needed starting from the smallest aspects of life, namely family, society and the state so that children's growth and development can proceed as expected (R. Soeroso, 2009). In the Indonesian constitution, children have a significant role which is explained that the Indonesian state recognizes the right of children to live, grow and develop as well as to protection from violence and discrimination (General Explanation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System).

The increasing number of child trafficking cases in Indonesia is very worrying for the nation's future generations. Children's lives are a reflection of the life of the nation to come, the lives of children are a reflection of the life of the nation and state. However, objectively, what is

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happening to the lives of children in Indonesia is that the problem is still not resolved and tolerated by common sense. In carrying out daily life activities in society, children have very basic rights, including (Article 4 ± 18 of Law Number 23 of 2002 concerning Child Protection):

- a. Children have the right to live, grow and develop.
- b. Children have the right to a name as a form of identity and citizenship status;
- c. Children have the right to carry out worship in accordance with their religion and beliefs;
- d. Children have the right to know their parents;
- e. Children have the right to obtain health services;
- f. Children have the right to receive education and teaching;
- g. Children have the right to express opinions and have their opinions heard; Recently, Indonesia has been under international scrutiny due to its status as a source country for human trafficking. Based on the Annual Trafficking in Persons Report from the US Department of State to Congress, as mandated by the Trafficking Protection Act of 2000, for the period April 2001-March 2002, Indonesia is categorized as a Tier 3 country. This means that countries do not meet the minimum standards for combating human trafficking (IOM Indonesia, 2006). Examining Law Number 21 of 2007 concerning the Eradication of the Criminal

Act of Human Trafficking at a glance, it is comprehensive in its prevention and handling. The imposition of sanctions for perpetrators is already very heavy when compared to the sanctions in the Criminal Code.¹⁵ However, in its implementation, the law enforcement process has not yet run in accordance with the spirit and mandate of Law Number 21 of 2007 concerning the Eradication of the Criminal Act of Human Trafficking.

2. Research Methods

The normative juridical approach is the author's choice in compiling the discussion because this approach leads to knowing the child protection policy in trafficking cases, then the statute approach is carried out by examining all laws and regulations related to the legal issues being handled, for practical activity research, this statute approach will open up opportunities for researchers to study whether there is consistency and conformity between a law and other laws or between laws and the Constitution or between regulations and laws (Peter Mahmudi Marzuki). In this study, the primary legal materials used by the author are Law No. 35 of 2014 concerning amendments to Law No. 23 of 2002 concerning child protection, Law No. 21 of 2007

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and the Criminal Code. Secondary legal materials used by the author in this study are legal materials in the form of textbooks and legal journals, and comments on legal protection for children who are victims of human trafficking, as support or supporters who strengthen the author's opinion.

3. Results and Discussion

Protection for victims of human trafficking can take the form of indirect or abstract protection, as well as direct and concrete protection. Abstract protection is essentially a form of protection that can only be felt and enjoyed emotionally (psychologically). Real protection means a form of protection that can be felt, either in the form of physical assistance or non-physical support. This protection is very important for victims of human trafficking because they need physical (economic, health) and psychological (trauma) recovery. Protection for victims of human trafficking in Indonesia is provided by several laws and regulations, namely Article 329, Article 330, Article 331, Article 332, and Article 333 paragraph 2. The Criminal

Procedure Code, in Articles 98 and 101, provides an opportunity for victims of human trafficking crimes to seek compensation from the perpetrators of human trafficking by combining the case for compensation.

Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking provides a more specific explanation than in the Criminal Code. This law also provides heavier penalties for perpetrators of the crime of human trafficking, as a form of protection for victims of human trafficking. These articles include: Article 2, Article 3, Article 4, Article 5, Article 6, Article 9, Article 10, Article 11, Article 12, Article 17, Article 19, Article 20, Article 21, Article 22, Article 23, Article 3, Article 4. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System has several articles, including Article 1 paragraph 4, Article 2, and Article 3. Article 4 paragraph (1), Article 6, Article 18, Article 19, Article 21, Article 22, Article 30, Article 40, Article 79, Article 89, Article 9 paragraph (1), and Article 92 paragraph (1). Law Number 13 of 2006 concerning the protection of witnesses and victims contains several articles, namely Article 1 point 6, Article 37, Article 38, Article 39, Article 40 Law Number 35 of 2014 concerning amendments to several articles of Law Number 23 of 2002 concerning child protection, including Article 78. In legal protection for children who are victims of child trafficking in Indonesia, we can compare the law with the Convention on the Rights of the Child (CRC).

1) Principles of the Convention on the Rights of the Child a) The principle of non-discrimination is that every child must be protected from all discriminatory treatment, whether because of ethnicity, religion, race, class, gender, culture, or language. b) The principle of the

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best interests of the child is that in all actions concerning children carried out by the government, society, legislative bodies and judicial bodies. Then the best interests of the child must be the main consideration. c) The principle of the right to life, survival and development is the most basic human right for children that is protected by the State 11 d) The principle of respect for children's rights is respect for children's rights to participate and express their opinions in making decisions.

2) Legal protection for children in the Convention on the Rights of the Child (CRC).

a) Children have the right to enjoy their rights without exception and must guarantee their rights without differentiating between ethnicity, skin color, gender, language, religion and other views.

b) Children have the right to receive special protection and must receive opportunities guaranteed by law and the government.

c) children have the right to a name and nationality from birth

d) Children have the right and must be guaranteed socially to grow and develop healthily.

e) Children who are physically or mentally disabled and have a weak social status due to certain circumstances must receive special education, care and behavior.

f) Children have the right to receive free compulsory education.

g) In any circumstances, children must be prioritized in receiving protection or assistance. Children must be protected from actions that lead to social discrimination.

Regarding Child Labor Cases, Indonesia has ratified the ILO (International Labor Organization) convention To protect child laborers in Indonesia, the government has ratified the ILO Convention Number: 138 concerning Minimum Age for Admission to Work with Law Number: 20 of 1999 and the ILO Convention Number: 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Labor for Children with Law Number: 1 of 2000. The ratification of the ILO Convention shows the government's commitment to eliminating child labor Referring to the case of Child Labor, especially the case of Commercial Sexual Exploitation of Children, which is a form of violation of Children's Human Rights contained in the 1945

Constitution and the UN Convention 12 concerning the Rights of the Child. Universally, Children's Rights are regulated in The Declaration on the right of the Child, or commonly known as the

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Convention on the Rights of the Child. In the convention it is emphasized that children must always be kept away from all forms of violence, discrimination, exploitation, pornography and sexual harassment. As contained in the Convention on the Rights of the Child in Articles 34 and 36 concerning the exploitation of children, as follows:

Article 34: States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. To that end, States Parties shall, in particular, take national, bilateral and multilateral measures to prevent:

1. Inducement or coercion of children to engage in any sexual activity that is against the law;
2. Exploitation of children in prostitution or sexual practices that are contrary to other laws;
3. Exploitation of children in pornographic shows and materials.

Article 36 of the CRC: States Parties shall protect children against all forms of exploitation that are detrimental to any aspect of their welfare. The Convention on the Rights of the Child is an international agreement that recognizes and guarantees respect, protection, and fulfillment of children's rights. There are articles that specifically regulate cases of Commercial Sexual Exploitation of Children, including Article 34, which reads: States Parties shall strive to protect children from all forms of sexual exploitation and abuse. To that end, States Parties shall specifically take national, bilateral, and multilateral measures to prevent;

- (a) Inducement or coercion of a child to engage in any sexual activity that is against the law;
- (b) Exploitative use of children in prostitution or sexual practices that are contrary to other laws;
- (c) Exploitative use of children in pornographic performances and materials.

Article 35 reads as follows: States Parties will take appropriate national, bilateral and multilateral measures to prevent the abduction, sale or smuggling of children for any purpose or in any form.

Children who are victims of human trafficking, hereinafter referred to as child victims, are children under 18 (eighteen) years of age who suffer physical, mental, and/or economic harm caused by a crime. Child victims can experience physical or non-physical harm. Physical harm can be in the form of disability, injury, or even death. Non-physical harm can manifest itself in the form of mental illness in children or endless fear felt by children.

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Article 1 number 2 of the UUPA explains that child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and dignity, and receive protection from violence and discrimination. Child protection can also be defined as all efforts aimed at preventing, rehabilitating and empowering children who experience acts of mistreatment, exploitation and neglect in order to ensure their survival and growth naturally, both physically, mentally and socially. Child protection is an effort to protect children so that they can exercise their rights and obligations. Legal protection for children can be defined as an effort to protect the law against various freedoms and human rights (fundamental rights and freedoms of children) as well as various interests related to the welfare of children. So the issue of legal protection for children covers a very broad scope. Departing from the problems above, the scope of legal protection for children includes:

1. Protection of children's freedom;
2. Protection of children's human rights;
3. Legal protection of all children's interests related to welfare (Safitri, NIT, Ali, M., & Hidayat, WA., 2024).

Child protection can be distinguished into legal and non-legal protection. Legal protection includes protection in the fields of public law and civil law, while non-legal protection covers social, health, and education. Legal protection concerns all legal regulations that have a direct impact on a child's life, meaning all legal regulations that regulate a child's life. Sexual exploitation of children in any form seriously endangers a child's rights to enjoy their adolescence and their ability to live productively. 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. Psychologically, these children do not have a life support that provides a sense of security later in life as adults (Limadibrata, RW, & Jamaluddin, A., 2025). The crime of human trafficking (TPPO) is certainly a crime that seriously violates human rights, which is not only seen from the form of the act but also the consequences for victims of human trafficking, especially children.

Guarantees for the protection of children who are victims of child trafficking have generally been mandated in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia "The right of children to survive, grow and develop and the right to protection from violence and discrimination". In addition to the 1945 Constitution of the Republic of Indonesia, Article 59 of the UUPA emphasizes that the Government, Regional Governments and other state institutions

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are obliged and responsible for providing special protection to children who are exploited economically and/or sexually, children who are victims of kidnapping, sale and/or trade.

The form of protection is regulated in Article 68 of the UUPA, legal protection efforts for children who are victims of human trafficking are not only aimed at children but also aimed as a preventive effort so that the crime of human trafficking does not occur which makes children as victims. Article 71D of the UUPA states that children who are exploited economically and/or sexually, trafficked children have the right to file a lawsuit in court in the form of the right to restitution which is the responsibility of the perpetrator of the crime. Thus, the provisions of Article 71D of the UUPA relate to the rights obtained by children as victims after the trial process. The PTPPO Law only focuses on the prevention and handling of human trafficking crimes.

For children as victims of human trafficking, this law only regulates what is stated in 9 articles, namely Article 1 number 5, Article 5, Article 6, Article 17, Article 38, Article 39 and Article 40. Legal efforts to protect children who are victims of human trafficking in both the PTPPO Law and the UUPA are divided into 3 (three) stages, namely protection at the time the crime occurs, the trial stage of the perpetrator of the crime and the stage after the court decision.

The description of the 3 stages is as follows (Yanggolo, M., CJ Waha and DJ Paseki., 2024):

1. The protection stage when the crime of human trafficking occurs includes the threat of criminal punishment for anyone who knows and intentionally allows children to be exploited economically and/or sexually, children who are trafficked (Article 78

UUPA).

2. The protection stages during the trial of perpetrators of human trafficking crimes include: (PTPPO Law):

a. Investigations, prosecutions and examinations in court of child witnesses and/or

victims are carried out with due regard to the best interests of the child by not wearing a toga or uniform.

b. Human trafficking criminal trials to examine witnesses and/or child victims are conducted in closed sessions.

c. Examination of witnesses and/or child victims must be accompanied by parents, guardians, foster parents, advocates or other companions.

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d. Examination of witnesses and/or child victims as referred to in paragraph (1) is

carried out without the presence of the accused.

e. Examination of witnesses and/or child victims, with the judge's approval, may be conducted outside the courtroom with recordings made in the presence of an authorized official.

3. The stage after the trial is the granting of the right to submit to the court the right to restitution which is the responsibility of the perpetrator of the crime (Article 71D UUPA and Articles 48 to 50 UU PTPPO).

Of these three stages, legal efforts to protect children as victims of human trafficking after a court decision against the perpetrator is issued are limited to granting restitution rights, which must first be requested by the victim and/or their heirs. According to applicable law, this compensation or restitution can be claimed

through a civil lawsuit or through criminal court proceedings. In the criminal justice process, this is done by filing a combined claim for compensation/restitution based on Article 99 of the Criminal Procedure Code. In such a combined case, the victim can only claim compensation for actual costs or expenses incurred as a result of the defendant's actions (material losses).

4. Conclusion

Existing laws and regulations in Indonesia are less effective in imposing sanctions on perpetrators and there is no safe protection for victims of trafficking, especially children. The form of legal protection for children who are victims of kidnapping, selling, and/or trafficking in persons is regulated in Article 68 of Law Number 35 of 2014 concerning Child Protection. The article explains that these children receive special protection through various efforts such as supervision, protection, prevention, care, and rehabilitation. Protection for children who are victims of trafficking in persons, in accordance with the law. Law Number 21 of 2007 concerning Handling of Criminal Acts of Trafficking in Persons includes protection for witnesses and victims. Victims and reporters should receive protection and legal assistance at the place where the crime was committed, in accordance with the law. Regulation Number 13 of 2006 concerning the protection of witnesses and victims. The protection model regulated in the PTPPO Law does not differentiate between children and adults.

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