

LEGAL PROTECTION AGAINST GIRL VICTIMS OF TRAFFICKING FOR PROSTITUTION

Henny Saida Flora
Maidin Gultom

ABSTRACT

Legal protection for victims of human trafficking is to protect everyone who becomes a crime of human trafficking to get the same treatment and protection by law and by law, therefore they are entitled to receive the necessary assistance and protection in accordance with legal principles. The need to be given legal protection and rehabilitation, victims of human trafficking never recover from the physical, sexual and psychological harm that has befallen them. The crime of trafficking in persons contains aspects that are contrary to protection and also contrary to the general welfare. Moreover, the practice of the criminal act of trafficking in persons is always accompanied by various acts of threats and violence so as to cause torment for the victims in the future, especially since the victims of the crime of trafficking in persons in general are parties who are in a state of helplessness both physically (women and children) and economy. In providing protection for victims, this cannot be separated from the issue of justice and human rights, where many incidents were found that victims of crime did not receive adequate legal protection. The government needs serious attention in law enforcement efforts. The purpose of this study is to determine the factors that cause girls to be trafficked for the purpose of prostitution and to find out the legal protection for girls victims of trafficking in prostitution and exploitation.

Keywords: Legal Protection, Girls, Trafficking Victims, Prostitution

INTRODUCTION

The Indonesian nation is a nation that has the fourth largest population in the world after China, India and the United States, which is 237.6 million people. In addition, the Indonesian people also have complex problems, both in terms of economy, politics and social. Indonesia is one of the granaries for human trafficking (trafficking) in the world. Every year an average of 3,000 to 4,000 women and children are trafficked with the lure of jobs and big salaries and minors are persuaded with promises to be sent to school and equip school equipment and they are taken abroad with illegal way or without an official letter.

Every day millions of children and women around the world are exposed to danger. They are victims of war, violence, discrimination, racism, apartheid, aggression, population and annexation. Every day millions of children and women suffer from poverty and economic crises. In Indonesia, tens of thousands of women and children under the age of eighteen, roam day and night as sex commodities, both to the domestic and foreign sex markets. International institutions introduce Indonesia will soon become sex travelers from abroad.

The source of the causes of trafficking victims is from poor families, rural children with social conflicts, children who have dropped out of school, obsessed by their friends who have worked abroad or abroad who have phenomenally succeeded in improving their welfare and who are looking for work. Traffickers work very neatly and organized. Generally they search for victims in various ways, such as luring potential victims with various efforts. Among them are those who directly contact potential victims or use other methods by using the mode of sending labor, either between regions, between countries, transfers or departure transfers, the reception of receipts is carried out very neatly.

The factors that most support the existence of human trafficking include the demand for jobs in the informal sector that do not require special skills, are paid relatively lower wages and do not require complicated work agreements, thus causing traffickers to be encouraged to do trafficking business. .

In terms of economics, the lack of employment opportunities for parents or other people so that to fulfill family life, very young parents sell their children to traffickers so that they will benefit from these actions without thinking about the survival and future of the children themselves.

Weak law enforcement in Indonesia in prosecuting traffickers, including owners of managers of labor mobilizing companies so that they can take advantage of victims and potential victims of trafficking in persons. The way the perpetrator works is working alone or in an organized manner working with a network that uses a variety of simple methods. Ways to find and trap victims in areas ranging from persuading, deceiving, and exploiting the vulnerability of potential victims and their parents. Even to violence using advanced technology and how to place advertisements, contacting with mobile phones that can be accessed anywhere, up to using the internet.

Transit areas in human trafficking are shelter areas where victims stop temporarily before reaching their destination. On average, this area has a value of adequate transportation access to dispatch victims. The purpose of human trafficking in Indonesia is domestic and foreign areas including island cities as tourist destinations.

The problem of the crime of trafficking in persons is a crime against humanity in this century. It is a violation of human rights. Humans who have the same dignity before God Almighty, then fellow human beings, anyone is not allowed to treat fellow human beings like objects, or goods by trading them for any purpose.

The crime of trafficking in persons contains aspects that are contrary to protection and also contrary to the general welfare. Moreover, the practice of the criminal act of trafficking in persons is always accompanied by various acts of threats and violence so as to cause torment for the victims in the future, especially since the victims of the crime of trafficking in persons are generally parties who are physically powerless (women and children), as well as economics. In providing protection for victims, this cannot be separated from the issue of justice and human rights, where many incidents were found that victims of crime did not receive adequate legal protection. It needs serious attention from the government, and it is not a simple job to be realized in an effort to enforce the law.

LITERATURE REVIEW

FORMS OF LEGAL PROTECTION

Legal protection is an action or deed carried out in certain ways according to the law or legislation in force. Legal protection is the right of every citizen and on the other hand that legal protection is an obligation for the state itself, therefore the state is obliged to provide legal protection to the community based on the concept of recognition and protection of human dignity and dignity. So that the recognition and protection of the rights of suspects as part of human rights without discrimination.

In carrying out and providing legal protection, a place or container in its implementation is needed which is often referred to as a means of legal protection. In relation to legal protection for the people, Philipus M. Hadjon distinguishes two kinds of means of legal protection, namely:

1. Means of preventive legal protection. In this preventive legal protection, legal subjects are given the opportunity to submit their objections or opinions before a government decision gets a definitive form. The goal is to prevent disputes from occurring.
2. Means of repressive legal protection. Repressive legal protection aims to resolve disputes. The handling of legal protection by the general courts and administrative courts in Indonesia belongs to this category of legal protection. The second principle that underlies legal protection against acts of government is the rule of law. Associated with the recognition and protection of human rights, the recognition and protection of human rights has the main place and can be linked to the objectives of the rule of law.

From these two opinions, the legal protection given to legal subjects is in the form of legal rules and certain methods, both preventive and repressive. This is a representation of the function of the law itself to provide justice, order, certainty, benefit, and peace.

CHILDREN'S RIGHTS AND OBLIGATIONS

The Child Protection Act regulates the rights of children that must be protected as follows:

1. The right to live, grow and develop and participate fairly in accordance with human dignity, as well as get protection from discrimination (Article 4)
2. Entitled to a name as self-identity and citizenship status (Article 5)
3. The right to worship according to their religion, to think, to express themselves according to their level of intelligence and age, under the guidance of their parents (Article 6)
4. The right to know his parents, raised and cared for by his own parents in the event that for some reason the parents cannot guarantee the child's growth and development, or the child is in an abandoned state, the child has the right to be cared for or adopted by another person in accordance with the provisions of the legislation. - applicable law (Article 7)
5. The right to obtain health services and social security in accordance with the physical, mental, spiritual and social (Article 8)
6. Children have the right to receive education and teaching in the context of their personal development and their level of intelligence in accordance with their interests and talents, especially for children with disabilities who are also entitled to special education. Children have the right to get protection in the education unit from sexual crimes and violence committed by educators, educational staff among students, and/or other parties (Article 9).
7. Has the right to express and have his opinion heard, receive, seek, and provide information according to the level of intelligence and age for the sake of self-development in accordance with the values of decency and propriety (Article 10)
8. The right to rest and take advantage of free time, socialize, with children of the same age, play, be creative, according to their interests, talents and intelligence level for the sake of self-development (Article 11)
9. Every child with a disability has the right to receive rehabilitation, social assistance and maintenance of the level of social welfare (Article 12)
10. The right to protection from discrimination, economic and sexual exploitation, neglect, cruelty, violence and persecution, injustice, and other mistreatment (Article 13)
11. The right to be cared for by his own parents unless there are valid reasons and/or legal rules indicating that the separation is in the best interests of the child and is a final consideration (Article 14).
12. The right to obtain protection from abuse in political activities, involvement in armed conflicts, involvement in social unrest, involvement in events containing elements of violence, involvement in war, and sexual crimes (Article 15).
13. The right to obtain protection from the target of persecution, torture or inhumane punishment, the right to obtain freedom in accordance with the law, arrest, detention or punishment is only carried out if it is in accordance with applicable law and can only be done as a last resort (Article 16) .

14. Every child who is deprived of his freedom has the right to receive humane treatment and his placement is separated from adults, to obtain legal aid or other assistance effectively in every stage of legal remedies in force and to defend himself and obtain justice before an objective and impartial juvenile court. in a closed session to the public. Every child who is a victim or perpetrator of sexual violence or who is in conflict with the law has the right to be kept confidential (Article 17).
15. Every child who is a victim or perpetrator of a criminal act is entitled to legal aid and other assistance (Article 18).

Regarding who is obliged to carry out child protection, Article 20 of the Child Protection Act stipulates that those who are obliged and responsible for the implementation of child protection include the state, government, community, family and parents. So those who seek child protection are every member of the community according to their abilities with various kinds of efforts in certain situations or conditions.

In Article 2 of Law Number 4 of 1979 concerning Child Welfare, it is regulated that children's rights must be protected as follows:

1. Children have the right to welfare, care, upbringing and guidance based on affection both within their families and in special care to grow and develop properly.
2. Children have the right to services to develop their abilities and social life in accordance with the culture and personality of the nation to become good and useful citizens.
3. Children have the right to care and protection both during the womb and after birth.
4. Children have the right to protection of the environment that can harm or hinder their growth and development properly.

In a dangerous situation, the child is the first to be entitled to help, assistance, and protection (Article 5 of the Child Welfare Law). Children who experience behavior problems are given services and care that aims to help them overcome obstacles that occur during their growth and development. services and care are also provided to children who have been found guilty of violating the law based on a judge's decision (Article 4 of the Child Welfare Act).

Children also have obligations that must be carried out. In Article 47 of the Marriage Law, the obligations of children are:

1. Children must respect their parents and obey their good wishes
2. If the child is an adult, he is obliged to maintain according to his ability, parents and family in a straight line up, blah they need his help.

FORMS OF TRAFFICKING

Trafficking in persons according to the definition of Article 3 of the UN Protocol means the recruitment, transfer, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of deception, of deception, or of the abuse of power or of a position of vulnerability or of giving or receiving payments or obtaining benefits in order to obtain the consent of a person having power over another person, for the purpose of exploitation. There are three elements in trafficking, namely:

1. Moving people, both within and outside national borders (including recruitment, transportation, harboring, shipping, transfer, or reception)
2. Unlawful means (including threats, use of force, kidnapping, confinement, fraud, fraud, abuse of power or a position of vulnerability, debt bondage or giving payments or benefits to obtain the consent of the person having control over the other person).
3. The goal is exploitation or causing people to be exploited.

The essence of child trafficking is the existence of elements of exploitation and unilateral profit taking. Exploitation here is defined as an act of oppression, extortion, and the use of physical, sexual, energy, and or one's abilities by another party which is carried out at least in an arbitrary or fraudulent manner to obtain greater benefits for some parties.

There are several forms of human trafficking that must be watched out for, because sometimes people are not aware that they have become victims of human trafficking. The forms of Human Trafficking or Human Trafficking can be classified as follows:

1. Sexual exploitation, prostitution or forced sex work, on many occasions many people are offered to work abroad as domestic workers, restaurant workers, hotel workers, or jobs that do not require special skills. But when they have reached the destination country, they do not get the promised work and are very forced to work like prostitutes, carried out in order to survive in other people's countries.
2. Domestic helpers, many domestic workers are arbitrarily treated with long working hours, without rest, not getting enough food and also torture treatment which often results in physical contact and torture of domestic helpers. This is also included in Human Trafficking
3. Dancers & Entertainers, Traditional dancers or professional dancers who are usually used as sex dancers, and entertainers and sexual gratification, under the guise of a dancer's job.
4. The ordered bride. Some women and girls who immigrated as wives of foreign nationals have been duped into marital status. In such cases, their husbands force their new wives to work for their families under conditions akin to slavery or even sell them into the prostitution industry.
5. Child labor. Exploitation of children, or coercion of minors to work. Some children who are on the streets begging, fishing off the coast, and working on plantations are also one of the things that can be called Human Trafficking.

6. Baby Sales. The existence of Indonesian workers who are abroad such as Indonesian migrant workers who are tricked into fake marriages and then forced to give up their children or be adopted illegally, or in the end the babies are sold on the black market.
7. Trafficking of human organs. In order to earn money and provide for their families, sometimes humans can do unacceptable things. One of them is the sale of human organs, one of which is the illegal sale of kidneys. In order to get a lot of money in a fast time, they are willing to sell part of their body as long as they can survive. In addition, other human body parts are also traded, usually humans who have died or humans who are in slavery who cannot refuse or defend themselves.

FACTORS CAUSED GIRL TO BE VICTIM OF TRAFFICKING FOR PROSTITUTIONAL PURPOSE

Children in society are carriers of happiness as creatures of God Almighty and social beings from the time they are in the womb until they give birth have the right to live and be independent and receive good protection from parents, family, society, nation and state. Child

At present, the position of children in Indonesia is very vulnerable with a slumping economic situation, many children are forced and forced to work to help meet the economic needs of their parents in providing food to sustain their daily life, many children, especially women, are trafficked. . The facts show that in the world community, including Indonesia, there are still acts similar to slavery, and acts of human trafficking, especially girls.

Factors that encourage trafficking in girls include:

1. Poverty has pushed children out of school so that the opportunity to acquire honesty skills as well as honesty skills and job opportunities has decreased. Poverty is also what drives the departure of mothers as female workers who get neglected children without protection so that they are at risk of becoming victims of human trafficking.
2. The desire to get rich quick/consumptive, the desire to live a better life, but with minimal skills and lack of information on the labor market, causes them to be trapped in debt bondage by labor suppliers and encourages them to enter for prostitution.
3. The socio-cultural influence of marriage at a young age is very vulnerable to divorce, which encourages children to enter into commercial sexual exploitation.
4. Lack of birth registration and low birth registration, especially among rural communities, facilitate human trafficking as agents and traffickers take advantage of the absence of original birth certificates to fake the age of young women so that they can work abroad.
5. Weak law enforcement for investigating and prosecuting trafficking cases, Indonesia's legal system is still weak, slow, and expensive. There is very little transparency, so few victims entrust their interests to the system. Criminal behavior has the resources and connections to take advantage of the system as a result, many victims of trafficking do not want to solve problems through the legal process. This has resulted in increased trading practices and is still ongoing.
6. The mass media still do not give full attention to news and complete information about trafficking and have not made an optimal contribution to efforts to prevent and eliminate it. In fact, not a few actually report that is less educative and pornographic which encourages the strengthening of trafficking activities and immoral crimes.

The poverty factor continues to be phenomenal throughout the history of Indonesia as a nation state. Poverty has made millions of Indonesian children unable to get an education, poverty is very synonymous with neglect of children so that it has a major impact on the fate of children. For example, children drop out of school at school age so that most children take to the streets, this makes foreign countries to make these children as victims of trafficking.

It is not only poverty that makes children victims of trafficking, there is also the desire to get rich, socio-cultural influences, lack of birth registration, weak law enforcement and the mass media. These factors affect society very much, trafficking in persons is a form of crime that earns big profits, and small risks destroying the quality of life and loss of life of the victims. Trafficking in human beings, especially trafficking in children for the purpose of sexual exploitation, housemaids, bride orders, forced labor, and contract marriage, can basically be called modern-day slavery.

LEGAL PROTECTION EFFORT AGAINST GIRL VICTIMS OF TRAFFICKING FOR PROSTITUTIONAL PURPOSE

The legal protection of victims of human trafficking is to protect everyone who becomes a crime of human trafficking to get the same treatment and protection by law and by law, therefore they will be entitled to the necessary assistance and protection in accordance with legal principles. The need to be given legal protection and rehabilitation, victims of human trafficking never recover from the physical, sexual and psychological harm that has befallen them.

However, it is very important for victims to have access to assistance and available services to assist victims in the recovery process and it is an obligation but also an obligation for all parties, therefore this issue needs serious attention. The number of events in people's lives shows that these two things have not received serious attention from the government, even though it is very clear in Pancasila, as the philosophy of life of the Indonesian people, just and civilized humanitarian issues and social justice for all Indonesian people. Victims are those who suffer physically and spiritually as a result of the actions of others who seek the fulfillment of their own or other people's interests that are contrary to the interests and human rights of those who suffer.

Suffering from victims can be caused purely because of other parties, victims of trafficking in girls with the aim of being prostituted will generally experience various sufferings, suffer physically, great mental stress, such as feeling dirty, sinful, and have no future and sometimes get unfair treatment from others. Society due to the cultural taboo on sex outside of marriage. Legal protection for the community is very important, in an effort to provide legal protection for victims of trafficking for the purpose of commercial sexual exploitation. All parties must play an active role in cooperation such as the police, prosecutors, judges must be consistent in handling cases of trafficking in women and children

In the context of protecting human rights, essentially the protection of women and children is one of the manifestations of the right to be free from obstacles or slavery. Human rights are eternal and universal, meaning that they apply to everyone without distinction of origin, gender, religion and age, so that every country is obliged to enforce them without exception. Efforts to protect women and children from law, one of which is through the prevention and eradication of human trafficking, which is continuously carried out by maintaining quality human resources.

Prevention of trafficking through the creation of legal instruments, dissemination of information, increased supervision, increased education for the formation of special agencies and prosecution by law enforcement officials to the protection of victims. For this reason, significant, systematic and strategic efforts are needed, especially by policy makers and all components of the nation in a comprehensive and integrated manner. For this, the following steps are taken:

1. Establishment of clear, firm and enforceable laws and regulations with the protection of women and can be affirmed with regard to the protection of women and children in various aspects.
2. Effective and responsive institutional arrangement to deal specifically with women and children.
3. Development of human resource capacity for more reliable and reliable management.
4. Strengthening community empowerment through economic activities based on the people's economy, providing affordable education and developing social and harmonious relationships.
5. Building community participation and awareness that is more genuine or the essence of the problem of trafficking in women and children.

CONCLUSION

1. The factor that causes girls to become victims of trafficking for the purpose of prostitution is poverty has encouraged children not to go to school so that the opportunity to acquire vocational skills as well as opportunities for honest skills and job opportunities is reduced. Poverty also encourages the departure of mothers as female workers who get neglected children without protection so that they are at risk of becoming victims of human trafficking. The desire to get rich quick/consumptive, the desire to live a better life, but with minimal skills and lack of knowledge of the labor market, causes them to be trapped in debt bondage by labor suppliers and pushes them into the world of prostitution, the socio-cultural influence of marriage at a young age is very high. vulnerable to divorce, which encourages children to enter into commercial sexual exploitation, lack of birth registration, low birth registration, especially among rural communities, facilitating human trafficking as agents and traffickers taking advantage of the absence of original birth certificates to fake the age of young women so that they can work abroad. Weak law enforcement for the investigation and prosecution of trafficking cases, Indonesia's legal system is still weak, slow and expensive. there is so little transparency that few victims entrust their interests to the system. criminal behavior has the resources and connections to take advantage of the system as a result many victims of trafficking do not want to resolve legal process issues. this has resulted in increased trading practices and is still ongoing. the mass media still have not given full attention to news and complete information about trafficking and have not made an optimal contribution to efforts to prevent and eliminate it, even not a few have even informed them that they are not educating and pornographic which encourage the strengthening of trafficking activities and other immoral crimes.
2. legal protection efforts for girl trafficking victims are providing knowledge to prevent this problem, playing an active role in preventing trafficking problems and needing assistance and handling cases, when there are complaints or case findings, reporting cases to the authorities, playing a role in the cluster team the task of trafficking encourages the activities of the existing task force for the crime of trafficking in persons in accordance with their respective roles and duties as stipulated in the law on the prevention of the crime of trafficking in persons

REFERENCES

- Ali Zainuddin, (2013), *Metode Penelitian*, Sinar Grafika, Jakarta
- Bagong Suyanto, (2012), *Masalah Sosial Anak*, Prenada Media Grup, Jakarta
- Bambang Waluyo, (2017), *Penegakan Hukum di Indonesia*, Sinar Grafika, Jakarta
- Farhana, (2015), *Aspek Hukum Perdagangan Orang di Indonesia*, Sinar Grafika, Jakarta.
- Henny Nuraeny, (2014), *Tindak Pidana Perdagangan Orang Kebijakan Hukum Pidana dan Pencegahannya*, Sinar Grafika, Jakarta.
- Maidin Gultom, (2014), *Perlindungan Hukum Terhadap Anak dan Perempuan*, Refika Aditama, Bandung

Kartini Kartono, (2005), *Patologi Sosial*, Raja Grafindo Persada, Jakarta

Philipus M Hadjon, (2013), *Pengantar Hukum Administrasi Indonesia*, Gajah Mada University Press, Yogyakarta

Satjipto Rahardjo, (2000), *Ilmu Hukum*, Citra Aditya Bakti, Bandung

Yohanes, Suhardin, (2008), *Tinjauan Yuridis Mengenai Perdagangan Orang*, Jurnal Mimbar Hukum, Fakultas Hukum, Universitas Gajah Mada, Yogyakarta, Volume 20, ISSN 08520100

Republik Indonesia, Undang-Undang Nomor 21 Tahun 2007 tentang *Pemberantasan Tindak Pidana Perdagangan Orang*,

-----, Undang-Undang Nomor 35 Tahun 2014 tentang *Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Orang*.

Henny Saida Flora
Fakultas Hukum,
Universitas Katolik Santo Thomas, Medan, Indonesia
Email: hennysaida@yahoo.com

Maidin Gultom
Fakultas Hukum,
Universitas Katolik Santo Thomas, Medan, Indonesia
Email : gultommaidin@gmail.com