

# Examining the Protection Aspects for Children: A Literature Review

Sinta Rizky Alviasari<sup>1,\*</sup>

<sup>1</sup> *Department of Early Childhood Education, Faculty of Education, Universitas Negeri Malang, Malang 65145, Indonesia*

\* *Corresponding author. Email: sintarizkyalviasari@gmail.com*

**Abstract:** Child protection is important since the child is still in the womb until the age of 18 years. Children must be given education from an early age to avoid increasing child trafficking. Children are the next generation of the nation so as early as possible children should be given protection that concerns the rights of children. Child care and education are an obligation that must be done starting from parents, family, community and country. The importance of early childhood education is given and instill morals for the next life. So that the next generation of education will develop and be well embedded in accordance with the goals of an education in Indonesia.

**Keywords:** child trafficking, child protection, education

## 1. INTRODUCTION

In preparing the nation's next generation, children are the main asset. Growth and development of children from an early age is the responsibility of the family, community, and country. But in the process of growth and development of children is much influenced by various factors both biological, psychological, social, economic and cultural that cause children's rights are not fulfilled.

Children are the mandate and the gift of God that we must always guard because inherent dignity and human rights must be upheld. From the side of the child's life is the future of the nation and the next generation of national ideals [1]. So that every child has the right to survival, grow and develop, participate and are entitled to protection from violence and discrimination. Parents, families, and communities are responsible for safeguarding and maintaining these human rights in accordance with the obligations imposed by law.

Likewise, in the context of implementing child protection, the state and the government are also responsible for providing facilities and accessibility for children, especially in ensuring optimal growth and development. Preparing Indonesia in the future is not enough when it comes to per capita income, economic growth, investment value, or other macro indicators. The most basic thing is the extent to which the condition of the child is prepared by the family, community, and country. Children with disabilities, dependencies and immaturity both physically and mentally need to get protection, care and guidance from parents. Child care, nurturing and education are religious and humanitarian obligations that must be carried out starting from parents, family, community, nation and state. Efforts to protect children

need to be carried out as early as possible, namely from the fetus in the womb to children aged 18 years. In developing, developing and protecting children, there needs to be a role for the community, social organizations, social organizations, the business world, the mass media and educational institutions.

Seeing the increasing cases of child trafficking, the government needs to focus on being serious in efforts to eradicate the crime of child trafficking. The effort is not only in the form of preventive, repressive, or responsive law enforcement but also business related to the recovery or protection of children who are victims of trafficking after the completion of the criminal justice process aimed at restoring the child's future.

Child protection is any effort made to create conditions so that every child can carry out their rights and obligations for the sake of natural development and growth of children physically, mentally and socially [2].

## 2. CHILD TRAFFICKING

Trafficking in person can be interpreted as recruitment, transportation, transfer, concealment or acceptance of a person, with threats or the use of violence or other forms of pressure, kidnapping, forgery, fraud or theft or abuse of power or vulnerable position, or acceptance or giving payment, or benefit so that it gets the approval of the person in control the person to be exploited, which minimally includes exploitation through prostitution or other forms of sexual exploitation, work or service of custom, slavery or practices that resemble it, illegal adoption or harvesting of bodily organs. Trafficking of women and children is a form of immigration with pressure, namely people who are recruited, traded and

moved to other places forced, threats of violence and fraud. The factors causing child trafficking are as follows:

**a. Individual Factors**

In trafficking of children for the purpose of prostitution or prostitution, it is only because the child is not in a strong capacity to give consent to make himself a prostitute. Increasing trafficking of children for the purpose of prostitution or prostitution, children tend not to use their reasoning in making decisions, they rather use their emotions so that these children are trapped in a circle of prostitution or prostitution. In addition to not using their minds, because it is caused by a desire in the children themselves to get or get a large enough money so that they are less careful in accepting job offers with high salaries. This is what ultimately leads the child into future destruction.

**b. Economic Factors**

Although poverty is considered as a major factor causing child trafficking, poverty is not the only indicator for child trafficking. However, poverty will put people in a desperate position that makes them the range to experience exploitation. Nevertheless, poverty and one's desire to improving economic conditions remains a factor that must be considered in the program and the wisdom to eliminate trading practices.

**c. Family factors**

Other factors in the family that can encourage children to become victims trafficking for prostitution or prostitution is the establishment of discipline in the family itself the lack of discipline in the family is caused by: (1) the difference between parent and child in terms of discipline; (2) the moral, physical and intelligence weaknesses that parents make weak discipline; (3) lack of discipline due to absence of parents; (4) differences of opinion about supervision of their children; (5) because the application of discipline is less strict; and (6) parents in sharing love and affection for children are lacking equitable or favoritism in the application of discipline in the household.

Compliance with parents is also very important be observed. The existence of non-compliance with parents makes the child no longer heed the advice or guidance of his parents, so that the child it acts and behaves solely on its emotional grounds. Thus, how big is the influence of family factors on the child within mental development and behavior of the child himself. This is the one should be noticed by parents in providing supervision so that children do not become victims of trafficking for prostitution or purposes prostitution.

**d. Education Factors**

One factor that causes children to become victims trafficking for prostitution or prostitution in general education the child is very lacking, both formal education and education informal, in terms of children's education

most parents submit children's education absolutely to the school without giving enough attention towards the interests of children's education, while their educational abilities at limited school. In addition, the lack of teacher supervision and not specifically, discipline and responsibility towards the child.

Lack of formal education in the form of religious education as well is a contributing factor to the increase in child trafficking for purposes prostitution or prostitution. This might be due to limitations religious knowledge or lack of faith in oneself the child is in control of himself, and makes it easier for traffickers (offender) to recruit children to be made prostitutes.

**e. Environmental Factors**

Environmental factors or the child's association with the community its surroundings can be one of the causes of trading child victims. This crime of trafficking is a social phenomenon which does not stand alone but rather a condition or relationship with various developments in social, economic, legal as well as existence technology and other developments due to negative side effects of every progress and social change in society. In this case parents must provide experience in fostering and shaping the child's personality, so it does not fall into the environment of prostitution or prostitution as often happens.

**f. Cultural Factors**

Trafficking is inseparable from the culture of each region manifested in several ways, for example the role of women in the family, power, hierarchy and social values, and the role of children and their responsibilities. This culture has the power that will later affect the occurrence of trafficking. For example, children are vulnerable when faced with the demands and demands of those who are older, especially parents.

There is a belief that children are not allowed to ask questions to their parents. Then, for women, usually vulnerable facing trafficking because of the social demands that require them take care and care for their children, help add income, and position as a second-class citizen.

Poor people, men or women are vulnerable to experience trafficking and violence. Besides being limited by education, it is also not having social strength and does not have a lot of income. They also usually feel powerless in the face of social forces greater, in this case the employment contract and working conditions.

**g. Factors of Weak Law Enforcement**

Aside from this weak understanding of child trafficking, existing products are also still very minimal in giving attention against this child trafficking to do. Legal device in Indonesia is still too weak in giving attention to the problem these women and children, because the arrangements are global and not specifically regulates trafficking of women and children, so not touch the segment of trafficking of women and children for purpose

prostitution or prostitution (trafficking on women and children), and bringing as a result many cases are not resolved legally and are the inability of law enforcement to dismantle and break eyes chain of trafficking of women and children for prostitution or purposes prostitution.

In addition to the factors mentioned above, there are also other factors influence in relation to child trafficking in between marriage at a young age. This young marriage invites many problems, because high-risk marriages, especially when followed by pregnancy. Socially, girls who marry at a young age tend to be experience many difficulties especially when they are divorced by her husband. When a girl divorces, she loses status his rights as a child. This prevents him from entering the system formal education if he wants it. Even worse is since he married, a daughter is considered a person an independent adult and no longer the responsibility of his parents. If she divorces with her husband, her parents are no longer responsible for giving him a living or bearing his life as a result, many daughters have been returned by their husbands tend to be brave enough to go to big cities to get better job opportunities and to survive. Unfortunately, the girl has no skills or diplomas let's get a decent job so they are finally entered into a prostitution or prostitution environment [3].

Some of the factors above are the most dominant occurrence of child inflammation, namely education. Education. Low education and illiteracy contributed to the occurrence of trade. Low education and skills make it difficult for young girls to find work or other ways to help their families besides working in the informal sector. Workers in the informal sector do not get protection from the government, labor regulations, labor unions or from employers. Further consequences, if they experience problems because they are unable to read or understand leaflets or announcements about safe houses or important phones, or do not have enough confidence. Other than that, illiterate women and children will not be able to understand the contract agreements or other documents, such as travel documents and passports.

Falsifying a child's identity in the management of documents is a mode of trafficking network actors, including agents of Indonesian Workers or Illegal Female Workers to send workers who are aged 18 (eighteen) years and under to be employed abroad. Some underage girls qualify abroad and work abroad without proper protection and pay attention to children's rights. The position of this child is vulnerable to becoming victims of violence, crime and exploitation. A small portion of the sending of prospective child laborers abroad was foiled by checking the identity and physicality of the child at the port entrance and exit by officers. The vulnerability of children to become victims also affects children who live in their own area.

The problem of child trafficking has always been a serious concern of various parties ranging from the Government, the community, social groups, religious

leaders and the community. Children are always the target of human trafficking for sexual purposes. Perpetrators often target and ensnare children who have problems both problems in the family which include economic problems or financial problems, problems in friendships that surround promiscuity, free sex or narcotics use.

Research from ECPAT Indonesia in 2014 obtained data on the existence of one hundred and fifty thousand (150,000) Indonesian children who were prostituted and trafficked for sexual purposes. Most children who are victims of prostitution and child trafficking are children from the lower middle class who are victims or involved in work in the area of prostitution and trafficking. Most of these human trafficking problems occur because of poverty, domestic violence, access to media that is received very openly, have been victims of sexual violence, harassment and the desire of adults or children to seek a better life that makes their parents who sell their children for trading for the purpose of sexual exploitation for children.

Perpetrators often approach and trap victims by seducing, persuading, cheating, empowering, promising children, threatening, intimidating, debt bondage where both victims 'parents are in debt and mortgaged their daughters to redeem their parents' debt or family debt. In addition, victims often experience repeated violence either by the perpetrators, pimps, or by intermediaries who are looking for victims.

#### **h. Requires the role of family and community**

To reduce the case of human trafficking, it really needs the role of the community and family. The family should be a protector or fortress in the fight against trafficking cases. Most of the problems of human trafficking occur because of the first few things due to the emergence of various problems that occur in the family and also the lack of the role of the family in supervising and controlling children starting from the social environment of children in school and outside of school, the family also does not control changing lifestyles of children, lack of religious and ethical education that are the basis or footing for children [4]. the second problem is due to poverty factors that occur in the family, for the sake of wanting to change and help the family economy there are children who take the initiative to work and there is also the desire of parents, or adults who tell children to work to help the family economy.

However, most children do not know the situation and condition of the work to be done. Perpetrators always take advantage of this condition, by providing many attractive jobs offers by getting a large salary, bonuses and other attractive prizes. In this condition family and community should start from religious leaders and also community leader's role to provide information about the positive and negative effects of work to be done by children, looking for information about work that will be done by children. Thus, to stop children from working in vulnerable areas,

the role of family and community is needed. With the role of various parties can help children to be free from the threat of human trafficking for sexual purposes.

### **3. CHILD PROTECTION**

Child protection is an area of national development, because protecting children means also protecting humans and developing a whole person. Efforts to protect children must be started as early as possible, so that later they can participate optimally for the development of the nation and state. In Article 2 paragraph (3) and paragraph (4) of Law Number 4 of 1979 concerning Child Welfare, it is determined that “children have the right to care and protection, both during their womb and have been born. Children have the right to protection from the environment that can harm or hinder natural growth and development.

The two verses above clearly state and encourage the need for child protection in order to promote child welfare and fair treatment of children. the protection of children in a national society is a benchmark of the nation’s civilization, so it must be pursued in accordance with the capabilities of the interests of the homeland and the nation. Child protection activities are legal actions that bring legal consequences. Therefore, there is a need for legal guarantees for child protection activities. legal certainty needs to be endeavored for the sake of the continuity of child protection activities and to prevent abuse that has undesirable negative consequences in the implementation of child protection activities. for this reason, child protection activities have at least two aspects.

The first aspect relates to policies and legislation governing the protection of children’s rights. the second aspect concerns the implementation of the policies and regulations. Child protection is a business that holds conditions where every child can carry out their rights and obligations. The protection is a manifestation of the existence of justice in a society. Thus, child protection must be endeavored in various fields of national and social life.

Child protection is also an area of national development, and protecting children is protecting humans, is building complete humanity because child protection will always be interesting to talk about, whether the child as a victim, perpetrator or as a witness. Day by day the cases of children are becoming more prevalent, of course this can be seen from the mass media that broadcast cases of children in online media. Protection is increasingly needed today, if not realized, it will create an Indonesian nation without a reliable future generation. Child protection must start from the community itself, both those who live on the border, urban or rural. Seeing Indonesia’s large territory, the greater the challenges of child protection in Indonesia.

### **4. LEGAL PROTECTION EFFORTS AGAINST CHILDREN AS VICTIMS OF CHILD TRAFFICKING**

Protection of children who are victims of trafficking people are inseparable from human rights material that is regulated both in regulations the laws and the Constitution of the Republic of Indonesia. TAP MPR Number XVII / MPR / 1998 concerning Human Rights (HAM), among others, states that the understanding of human rights for the Indonesian people is as follows: “Human rights are the basic rights of all human beings without any difference. Considering that basic rights are gifts from God Almighty, the understanding of human rights is rights as gifts from God, which is inherent in human beings, natural, universal and eternal, related to human dignity.

The crime of trafficking in persons (TPPO) is certainly an act crime that violate human rights which are not only seen from the form of the action but also the consequences caused to victims of criminal acts human trafficking especially in children. Guarantees for the protection of children who are victims of trafficking people (child trafficking) in general have been mandated in the State Constitution Republic of Indonesia 1945 Article 28 b paragraph (2), namely the right of children to survival, growth and development as well as the right to protection from violence and discrimination.

In addition to the 1945 Constitution of the Republic of Indonesia, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection in Article 59 confirms that the Government, Regional Governments and other state institutions are obliged and responsible to provide special protection to children who are exploited economically and / or sexually, children who are abducted, sold and / or trafficked.

The form of protection provided by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child protection is regulated in Article 68 which reads “Special protection for child victims of abduction, sale and / or trafficking are carried out through surveillance, protection, prevention, care and rehabilitation efforts.

Legal protection efforts for children who are victims of trafficking in persons are not only aimed at children but also are intended as prevention efforts to prevent trafficking in persons who make children victims. Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection does not specifically specify how the details of the protection of children who are victims of abduction, trafficking in persons. Only Article 78 states that anyone who knows and deliberately lets children be exploited is exploited economically and / or sexually, trafficked children will be subject to criminal acts.

Article 71 D states that children are exploited economically and / or sexually, trafficked children have the

right to submit to court in the form of rights to restitution which is the responsibility of the perpetrator. Article 71 D is related with the rights obtained by the child as a victim after the process the judge.

Law Number 21 of 2007 concerning Eradication of Criminal Acts Trafficking in Persons, only focuses on prevention and treatment of acts criminal trafficking in persons. For children as victims of trafficking offenses people, this law only regulates to what is regulated in 9 pieces Article namely Article 1 number 5, Article 5, Article 6, Article 17, Article 38, Article 39 and Article 40.

Efforts that can be made in providing legal protection against children as victims of the crime of trafficking in persons based on legality have been regulated in the 1945 Constitution of the Republic of Indonesia and the rules of law nation in the form of laws and Presidential Regulations and TAP MPR and also regulated in the provisions of international law which have been adapted into law positive Indonesia. Efforts can be made to ensure legal protection against children as victims of trafficking in persons is reflected in 3 stages i.e. at the time of the crime of trafficking in persons, the trial stage of the offender the crime of trafficking in persons and the stage after the court's ruling of the offender the crime of trafficking in persons concluded from the provisions of Law No. 21 of 2007 concerning Eradication of the Criminal Act of Trafficking in Persons and Law No. 35 of 2014 concerning Amendments to Law Number 23 2002 concerning Child Protection.

## 5. CONCLUSION

Efforts that can be made in providing legal protection to children as victims of criminal acts of trafficking in persons on the basis of legality have been regulated in the 1945 Constitution of the Republic of Indonesia and national legal rules in the form of laws and Presidential Regulations and TAP MPR and also regulated in the provisions of international law which have been adapted into positive Indonesian law.

Efforts that can be made to ensure legal protection of children as victims of trafficking in persons are reflected in 3 stages, namely at the time of the crime of trafficking in persons, the stage of trial of the perpetrators of trafficking in persons and the stage after the court's decision on the perpetrators of trafficking in persons concluded from provisions of Law Number 21 of 2007 concerning Eradication of Trafficking in Persons and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

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