

Analysis of Child Exploitation Cases According to Law 35 of 2014 concerning Child Protection (Case Study of Supreme Court Decision Number (58/Pid. Sus/2013/PN Pti.)

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Abstract

Based on the Central Bureau of Statistics for the 2022-2023 Interim Population Projection Results, the number of children aged 0-19 is 94,377.6 people. Children are a mandate and a gift that comes from God Almighty, which must be maintained because in a child human dignity and dignity are inherent. Supposedly, children who are under 18 years old are not allowed to know about the concept of work. The child's task is to get the right to education and teaching to develop the level of intelligence and in accordance with the child's interests and talents.

Keywords: Child Exploitation, Underage, Crime



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INTRODUCTION

Based on the Central Bureau of Statistics for the 2022-2023 Interim Population Projection Results, the number of children aged 0-19 is 94,377.6 people. Children are a mandate and a gift that comes from God Almighty, which must be maintained because in a child human dignity and dignity are inherent. Meanwhile, according to the Law article 35 of 2014 concerning Child Protection means that a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. If the child is considered an adult in the eyes of the law, the child can have an identity card that shows the child's identity. Furthermore, identity cards can also be used to apply for a job and also as a guarantee for Indonesian citizenship. Based on Law no. 13 of 2003 concerning manpower article 68 which reads that "employers are prohibited from employing children". However, continued with article 69 which states that if it does not interfere with development and is obliged to support the development of the child's talents and interests, it can be excluded.

In understanding the meaning of child labor, we must be able to distinguish between child labor and working children. Children who work are helping their parents and practicing skills. Work that children can do must meet several conditions, namely, there is an educational element in the work, the child remains in school, the work is done in leisure time and does not interfere with the child's development. Meanwhile, the meaning of child labor is that the child works every day, disrupts the child's education and development, does work for a long time, the child is exploited. Supposedly, children who are under 18 years old are not allowed to know about the concept of work. According to Law no. 35 of 2014 concerning child protection states that the child's task is to obtain the right to education and teaching to develop a level of intelligence and in accordance with the child's interests and talents.

Therefore, children who are underage must fulfill all their rights, both from health, education and nutritional growth. Cases related to child exploitation in Indonesia have become commonplace due to the large number of children who are forced to work. One of them, in the Supreme Court decision no. 58/Pid.Sus/2013/PN.Pt. on the exploitation of children in the economic field. A child is hired to guide the karaoke. Whereas based on the facts at trial, the

defendant knew that the victim-witness was underage to be used as labour, and was burdened by employing the victim-witness as a karaoke guide which disturbed the victim-witness's mentality. All elements are met by the trial of the defendant using the first charge. The judge's considerations in deciding this case were in accordance with the regulations in force at that time, Law no. 23 of 2002 which has now been updated to become Law no. 35 of 2002. Based on the background described by the author, the problem in this study is formulated as follows: How is the judge's consideration in the case of the Supreme Court decision No. 58/Pid.Sus/2013/PN.Pt.? The role of government and the impact in cases of child exploitation?

RESEARCH METHODS

This research uses the juridical-normative research method, which means that this research uses legal material that has been written in national institutions and is a social guideline that is used as a standard of behavior. (Marzuki, 2005). Or it can be interpreted, this research examines library materials and secondary data or regulations/regulations related to this research topic. By using a juridical approach, this research focuses on legal rules or regulations regarding the Trademark Law which are located in "UU 20 of 2016" concerning Trademarks and Geographical Indications. This study collected data using a literature approach, namely research using legal sources/materials that can be accounted for. The primary legal materials used in this study are the 1945 Constitution, Law number 13 of 2003 concerning employment, Law no. 35 of 2014 concerning child protection MA Decision Number 58/Pid.Sus/2013/PN.Pt. The tertiary legal materials used in this research are journals, literature, theses, articles obtained from library research and can be accounted for. The analytical method used to examine the data in this study is the qualitative data analysis method.

RESEARCH RESULTS AND DISCUSSION

Judge's considerations in the Supreme Court decision Number 58/Pid.Sus/2013/PN.Pt.

According to the Big Indonesian Dictionary, exploitation is the use for one's own benefit, which commits acts of extortion against others. While the notion of child exploitation is arbitrary acts that are discriminatory against children carried out by the community or family with the aim of coercing the child without regard to children's rights such as their mental and physical development. Children are a nation's future asset which is the guarantee of a nation. Therefore, all children must obtain children's rights that have been written in the applicable regulations. Based on Law no. 35 of 2014 concerning child protection article 9, every child has the right to education and teaching to develop their talents and interests. Article 15 states that children have the right to protection from abuse in political activities, weapons involvement, sexual crimes, etc.

Based on the case in the Supreme Court Decision No. 58/Pid.Sus/2013/PN.Pt. Whereas the Defendant already knew that the victim witness was underage, the Defendant recruited them to become karaoke guides which were freely used by visitors. This no longer reflects the existence of a child protection law which explains that children must receive a balanced education and health. Based on the facts that exist in Indonesia, it is not just one case related to child exploitation, cases related to this matter are considered normal and common. Many factors make this happen, one of which is the low family economic factor. This factor greatly influences the occurrence of exploitation of minors. Based on existing research, most people in Indonesia find it difficult to meet basic needs such as food, shelter, clothing. Apart from these factors there are environmental factors and the child's community. This factor is also one of the biggest reasons for child exploitation.

The basis of this research is primary legal material based on the Supreme Court decision no. 58/Pid.Sus/2013/PN.Pt. This decision is a factual or actual case involving the criminal act of exploitation of minors.

1. Main case in Supreme Court Decision Number 58/Pid.Sus/2013/PN.Pt.
 - a. The defendant was guilty of committing the crime of Child Exploitation or child sex with the intention of benefiting himself or others as stipulated in the applicable laws and regulations.
 - b. The defendant was sentenced to imprisonment for 1 (one) year with a probation period of 2 (two) years and a fine of RP. 5,000,000.00 (five million rupiah)
 - c. The defendant admitted his guilt before the law.
2. Consideration of the Judge's Decision. After considering the facts produced before the trial, the defendant admitted all of his guilt. That it was true that the defendant owned the place. That it was true that the defendant employed the witness-victim and knew that the witness-victim was underage. It was true that the defendant took advantage by employing the victim. That it was true that the defendant employed the witness-victim so that the place would be crowded.

Based on the facts available the judge considered that all the elements in the prosecutor's indictment had been fulfilled, taking into account that based on the applicable regulations that the crime could be subject to more than one type of principal crime, by considering the aggravating and mitigating factors for the defendant, namely, the aggravating that the defendant harmed the future of the victim-witness, the mitigating factor was that the defendant was polite during the trial and admitted and regretted his actions. The judge's decision handed down by the defendant hereby adjudicates. Declare the Defendant JOKO MUSTIKO bin RUKANI mentioned above, has been proven legally and convincingly guilty of committing the crime of "Exploiting Children Economically with the Intention to Benefit Yourself"; and impose a sentence of 7 (seven) months on the defendant. Whereas based on the explanation above, it is stated that the Judge has considered based on the facts revealed in the decision and has considered all matters along with the regulations that are in force.

The role of government and the impact in cases of child exploitation

Exploitation of children itself is divided into 2, namely Economic Exploitation and Sexual Exploitation. Exploitation in the form of an economy is an act carried out with the main aim of giving profit to the perpetrator in the form of money. Forms of sexual exploitation are usually in the form of coercion accompanied by threats to perform sexual acts. Actions like this can occur in the child's school, family, or community environment. The act of child exploitation itself greatly affects the psyche and physique of the child, the child's psyche becomes disturbed by this happening. The child's physique affects its development. Based on the case above, it is stated that the form of exploitation that occurs is sexual exploitation. This affects the psyche, the victim becomes ashamed to live his life. The education and development of the victim's talents is hampered by this exploitation. There are many cases of child exploitation that occur and this affects the quality of the nation's future generations. The government stipulates child protection laws to ensure the quality of the nation's future. The next generation of the nation must fulfill the right to education and its development process. The government facilitates public schools for children in order to meet educational needs. The government is preparing a smart Jakarta card for children from underprivileged families. However, there are still many cases in Indonesia related to this, one of which is the case in the decision.

CONCLUSION

From the results and discussion related to similar trademarks, this research can be concluded as follows: Considerations made by the Judge in the decision of the Supreme Court number 58/Pid.Sus/2013/PN.Pt. ", is based on regulations / regulations that have been set. That based on prominent facts in court. The defendant was found guilty of exploiting minors by employing a karaoke mixer while wearing minimal clothing to serve guests. The impact on victims of the crime of child exploitation is psychological and physical, as well as children's education and the nation's future. The government has established regulations to ensure quality in the nation's next generation.

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