

JURIDICAL REVIEW OF THE CRIME OF THEFT WITH VIOLENCE AGAINST CHILD PERPETRATORS

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ABSTRACT

This study aims to analyze the judge's legal considerations in the Medan District Court Decision Number 2207/Pid.Sus/2022 concerning the criminal act of human trafficking involving minors and to examine the government's role in protecting child victims. The research method used is normative juridical with a case study approach, supported by primary data in the form of court decisions and secondary data from legal literature. The results indicate that the judge has considered relevant criminal elements as regulated in Law Number 21 of 2007 and Law Number 35 of 2014. Although law enforcement efforts exist, the implementation of child protection still faces challenges, such as difficulties in proving elements of exploitation, lack of understanding among law enforcers about child rights-based approaches, and limited recovery facilities for victims. This study recommends improving law enforcement capacity, strengthening the child protection system, and optimizing the government's role in victim rehabilitation and social reintegration.

Keywords: Human Trafficking, Minors, Child Protection, Judicial Consideration, Law Number 21 of 2007, Law Number 35 of 2014.

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1. INTRODUCTION

Indonesia as a state of law, as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, places law as the main foundation in the administration of the life of the nation and state. In this context, the law not only functions as a means of social control, but also as a means of protecting human rights, including the rights of children.

Children are part of a vulnerable group that requires special protection from the state, community and family. Law No. 35/2014 on Child Protection affirms that children have the right to live, grow, develop, and participate optimally in accordance with human dignity. Unfortunately, in social reality, children are often the target of crimes that are very detrimental, one of which is Trafficking in Persons (TPPO).

TPPO against children is the most heinous and inhumane form of exploitation that deprives children of their right to a decent future. This phenomenon not only occurs physically, but also psychologically and socially, leaving deep trauma for victims. Based on data from relevant institutions, thousands of Indonesian children become victims of trafficking every year, whether for the purpose of sexual exploitation, forced labor, or illegal adoption. In order to tackle this crime, the Indonesian government has passed Law

No. 21/2007 on the Eradication of the Crime of Trafficking in Persons, as a *lex specialis* that specifically regulates the definition, elements, and sanctions against traffickers. However, in its implementation, there are still various obstacles in the field, such as difficulties in proof, weak understanding of law enforcement officials towards a child rights-based approach, and lack of recovery facilities for victims.

One concrete case that reflects the complexity of this issue is Medan District Court Decision Number 2207/Pid.Sus/2022, which involved the defendant Angelica Syahfitri as a perpetrator of TPPO against minors. This case is interesting to study because it provides a real picture of how the law is applied in protecting child victims of TPPO and how judges consider legal and humanitarian aspects in making decisions.

2. METHODS

This research uses the normative-empirical juridical method, which examines laws and regulations and relates them to real case studies. Primary data is obtained from Medan District Court Decision Number 2207/Pid.Sus/2022, while secondary data comes from legal literature, journals, and related regulations. Data collection techniques were conducted through document studies and literature studies, then analyzed qualitatively to understand the application of law and judges' considerations in child trafficking cases. The research was conducted at the Medan District Court as the case location.

3. FINDINGS AND DISCUSSION

a. Judges' Legal Considerations in Decision Number 2207/Pid.Sus/2022/PN Medan.

In this case, the defendant Angelica Syahfitri was found legally and convincingly proven to have committed the crime of trafficking in children for the purpose of sexual exploitation. The judge used Article 88 jo. Article 76I of Law Number 35 Year 2014 as the basis for legal considerations. Elements such as "any

person" and "committing sexual exploitation of a child" were considered to have been fulfilled based on the facts of the trial, witness testimony, and evidence.

The judge considered that the defendant's actions of facilitating and posting the victim's child through an online application (Michat) constituted a form of sexual exploitation. The judge also stated that there was no justification or excuse for the defendant's actions, so the sentence was imposed in full. The legal considerations were compiled with a normative juridical approach and took into account the sense of justice for victims, society, and the state.

b. The Role of the Government in the Protection of Child Victims of Human Trafficking Crime

The government has a constitutional obligation to protect children from the crime of human trafficking. In practice, despite the existence of regulations such as Law No. 21 of 2007 and Law No. 35 of 2014, the implementation of protection still faces obstacles.

Some of the obstacles identified in this study include:

- a) There is still a weak understanding of law enforcement officials about the child rights-based approach;
- b) Limited rehabilitation facilities and psychological recovery for victims;
- c) Low coordination between relevant agencies in handling cases comprehensively.

This research emphasizes the importance of the government's active role in providing recovery services for child victims, improving the training of law enforcement officers, and strengthening data collection and monitoring systems for potential child trafficking.

4. CONCLUSION

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