

THE ROLE OF BUSINESS IN FULFILLING CHILDREN'S RIGHTS AND PREVENTING THE MISUSE OF FINANCIAL INSTITUTIONS FOR THE SEXUAL EXPLOITATION OF CHILDREN

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ABSTRACT

Children are the next generation of the nation who will continue their struggles and ideals, so they must always be given attention and supervision and, most importantly, their rights are protected. Child protection is an effort to ensure continuity in ensuring the continuity of children's rights to live, grow, develop and participate optimally in accordance with human dignity, as well as receive protection from violence and discrimination. The business world can play a role in providing full protection and responsibility for respecting children's rights regarding their human rights by paying attention to the code of ethics for child protection and decent work, emergency situations and the best interests of children and can prevent acts of sexual exploitation of children, including criminal acts of pornography and human trafficking (*extra ordinary crimes*). In this way, the business world and financial providing institutions must always coordinate and cooperate in monitoring transactions carried out for human trafficking, and one form of preventing sexual exploitation of children is by building a high sense of legal awareness among the parties involved so that this does not happen. actions that are detrimental to children's human rights.

Keywords: *children, business world, exploitation, sexual*

INTRODUCTION

The protection and well-being of children is a responsibility that extends to all parties without exception. The protection afforded to children should be linked to the fulfillment of their rights, including the right to life and freedom from torture^[1] or other cruel, inhuman, or degrading treatment or punishment, as well as the right to be free from discrimination and intimidation. The well-being of children should encompass not only their basic needs, such as food, clothing, and shelter, but also their right to safety, security, and a comfortable life.

Guarantees of protection are enshrined in various Indonesian laws and regulations,¹ as explicitly stated in Law No. 39 of 1999 on Human Rights and

¹ Bherta, R. 2021. *Perlindungan Anak Sebagai Korban Eksploitasi Seksual*. Jurnal Hukum, Caraka Jastitia, 1 (2), p. 83-95

Law No. 35 of 2014 on Child Protection. These laws stipulate that everyone has the right to be protected from all forms of inhumane treatment and acts that violate the law. Consequently, the assurance of protection should provide individuals, particularly children, with a sense of security, shielding them from physical or psychological harm inflicted by anyone, including family members or close relatives who are expected to provide adequate protection.

Ensuring the protection of children from acts that disrupt their stability, particularly acts of exploitation or human trafficking involving sexual violence, where children are bought and sold for the personal or collective benefit of individuals², is a pressing concern. This sexual exploitation is not limited to face-to-face interactions but can also occur through social media and other technologies, reflecting the evolution of crime from conventional to unconventional methods that leverage sophisticated media and technology. Such exploitation, coupled with sexual abuse and harassment, poses significant threats to children.

The prevalence of sexual exploitation, to which children are particularly vulnerable due to their powerlessness, often results in them becoming victims of violence, both from those close to them³ and from strangers. Prevention, rather than punishment, should be prioritized as the consequences of such violence can have severe physical and psychological impacts on children, leading to long-term trauma that can hinder their emotional and cognitive development.⁴ Therefore, preventative measures are crucial to mitigate the risks and long-term effects that children may face.

Such phenomena cannot be tolerated and require a strong commitment to protection to prevent children from becoming victims of human trafficking, sexual exploitation, or slavery, due to a confluence of factors, including opportunity, economic hardship, and sociocultural influences⁵. This confluence of factors contributes to the rise in crime and children's vulnerability to such violence, necessitates collaborative and coordinated prevention efforts from the government, law enforcement, civil society organizations, and the private sector, all of whom must remain committed to protecting children's rights.

² Kartika, S.W dan Ifahda Pratama Hapsari. 2023. *Sanksi Pidana Terhadap Pelaku Eksploitasi Seksual Anak Di Bawah Umur Menurut UU TPKS dan UUPA Dalam Kacamata Hukum Pidana di Indonesia*, *Unes Law Review*, 6 (1). p. 2840-2847

³ Purandari, Twenty. 2019. *Pertanggungjawaban Hukum Pelaku Eksploitasi Seksual Pada Anak Melalui Internet*, *Jurnal Media Iuris*, 2 (2), p. 233-258

⁴ Fadilla, N. 2016. *Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan Orang*. *Jurnal Hukum Dan Peradilan*, 5 (2), p. 181-194

⁵ Leden Marpaung, 2004. *Tindak Pidana terhadap Kesusilaan dan Masalah Prevensinya*, Sinar Grafika, Cetakan II, p.85

The business sector can also play a significant role in fulfilling the protection and well-being of children. Their involvement in realizing children's rights contributes substantially to the overall protection of children. However, it is essential that businesses demonstrate a clear understanding of regulations, a strong commitment to child rights, and adhere to ethical codes of conduct. Furthermore, they must create child-friendly environments and conditions that do not pose any risks to children's development.

The business sector plays a pivotal role in fulfilling children's rights through a variety of strategies focused on child development and the creation of child-friendly cities.⁶ Businesses actively monitor and promote children's well-being, thereby safeguarding them from harm. By collaborating with the media and other stakeholders, socially responsible businesses prioritize child rights protection, preventing children from becoming involved in criminal activities or harmful behaviors.

Articles 72(1) to 72(6) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection provide a legal basis for community organizations, media, and businesses to play a role in the national child protection program through the implementation of Child-Friendly Districts/Cities. This framework aims to ensure the fulfillment of children's rights and enhance their overall quality of life.⁷

The criminal act of sexually exploiting children through trafficking and trading has led to a significant and often exorbitant increase in financial transactions, both domestically and internationally. Consequently, the legality of these funds⁸ must be scrutinized to understand whether they are obtained through legitimate or illicit means. The business sector can play a pivotal role in providing the necessary infrastructure and facilities to support the implementation of child-friendly city strategies, thereby minimizing human trafficking. Based on this background, this study aims to investigate the role of businesses in fulfilling children's rights and preventing the misuse of financial institutions for the sexual exploitation of children.

DISCUSSION

The Role of the Business World

⁶ Admin, Peran Lembaga Masyarakat, *Dunia Usaha dan Media Massa dalam Perlindungan dan Pemenuhan Hak Anak*, <https://dppkbpppa.pontianak.go.id/informasi/berita/peran-lembaga-masyarakat-dunia-usaha-dan-media-massa-dalam-perlindungan-dan-pemenuhan-hak-anak> diakses 27 Juni 2024

⁷ Johan Galtung, 2001. *After Violence, Reconstruction, Reconciliation, and Resolution: Coping with Visible and Invisible Effects of War and Violence*, Lexington Books, Amerika Serikat

⁸ Rihardi, S. A. (2018). *Perlindungan Hukum Terhadap Hak-Hak Anak Perempuan sebagai Korban Eksploitasi Seksual*. Literasi Hukum, 2 (1), p. 61-72.

Responsibility for child protection is the responsibility of the state, but the business world cannot be forgotten and plays a big role in the growth of children and can prevent criminal acts of sexual exploitation of children themselves. The business world must also have a responsibility⁹ in improving children's human resources so that they can become quality human beings and where this child development can also be implemented, so that it can truly be achieved in accordance with the desired expectations, by paying attention to the child's growth and development. The legal basis or existing regulations are very clear, not only providing protection locally but also nationally and even internationally, paying great attention to the growth of children.¹⁰

The business sector, civil society, and government form a tripartite foundation for enhancing the quality of children's lives and ensuring their best interests. Businesses play a pivotal role in creating child-friendly cities, directly and indirectly supporting child rights and protection. The concept of child-friendliness is intrinsically linked to the notion of child-friendly cities, which necessitates that businesses develop products and programs aligned with child-centered policies.

To effectively contribute to the establishment of child-friendly cities (CFCs), businesses must incorporate the following three key components: policies, practices, and partnerships.

1. Policies: Companies should adopt child-friendly policies, such as providing lactation rooms, maternity leave, and flexible working arrangements for new mothers.
2. Practices: Human Resources (HR) departments should ensure that all employees' children have birth certificates. The absence of birth certificates can hinder access to healthcare and other essential services.
3. Products: businesses must ensure that their offerings are safe and child-friendly. For instance, in the food industry, companies need to guarantee the safety of their products for children. Furthermore, companies should foster a child-friendly corporate environment

⁹ Elizabeth Pugliese, 2007. *Organ Trafficking and the TVPA: Why One Word Makes A Difference in International Enforcement Efforts*, *Journal of Contemporary Health Law and Policy*, p. 167

¹⁰ Admin, *Pemkot Ajak Dunia Usaha Berkontribusi Wujudkan Pemenuhan dan Perlindungan Hak Anak*, <https://www.pekalonganinfo.com/berita/pemkot-ajak-dunia-usaha-berkontribusi-wujudkan-pemenuhan-dan-perlindungan-hak-anak/> diakses 3 Juli 2024

through the implementation of corporate social responsibility initiatives that support the creation of child-friendly cities.¹¹

Corporate policies aimed at prioritizing children's well-being can effectively deter child sexual exploitation. By focusing on children's happiness and protection, businesses can create safe spaces for children through the provision of facilities such as learning centers, play areas, and child-friendly forums. These initiatives not only prevent human trafficking but also educate adults and parents on the importance of child protection and supervision. By addressing the underlying causes of child exploitation, these policies empower children to grow, develop, and pursue their aspirations.¹²

Child Protection and Rights

Protecting children's rights fosters a sense of security and well-being, fulfilling their fundamental needs and aspirations. The realization of children's rights is integral to human rights, encompassing areas such as family environment, basic health and welfare, education, leisure activities, and special protection for vulnerable children.¹³ These rights also include the right to a safe and secure environment, safeguarding children from harm, both physical and psychological, including sexual abuse. Children are entitled to both legal and non-legal protections to ensure their well-being.¹⁴

Children's rights are fundamental entitlements that extend to all children, regardless of age, parental status, or circumstances. These rights apply to infants, adolescents aged 12-18, as well as orphaned and abandoned children. The enjoyment of these rights is a birthright and a fundamental human right.

The Convention on the Rights of the Child (CRC), ratified in Indonesia through Presidential Decree No. 36 of 1997, outlines ten fundamental rights of children:¹⁵

1. Right to Happiness: Every child has the right to happiness and well-being.
2. Right to Education: Every child has the right to quality education.

¹¹ Gopis Simatupang, *Peran Dunia Usaha Wujudkan Indonesia Layak Anak* https://wartakota.tribunnews.com/2018/02/04/peran-dunia-usaha-wujudkan-indonesia-layak-anak#google_vignette diakses 5 Juli 2024

¹² Ilosa, A. 2020. *Analisis Pelaksanaan Program Kota Layak Anak (KLA) Dalam Memenuhi Hak Sipil dan Kebebasan Anak di Kota Pekanbaru*, 2 (1), p. 87-101

¹³ Arif Ghosita, 2004. *Masalah Perlindungan Anak*, Bhuana Ilmu Populer, Jakarta, p. 62

¹⁴ Ibid, p. 68

¹⁵ Fitri, A,N., et al. 2015. *Perlindungan Hak-Hak Anak Dalam Upaya Peningkatan Kesejahteraan Anak*, Prosiding Penelitian dan Pengabdian Kepada Masyarakat, 2 (1), p. 1-146

3. Right to Protection: Every child has the right to protection from all forms of violence and abuse.
4. Right to a Name: Every child has the right to a name as a fundamental aspect of their identity.
5. Right to a Nationality: Every child has the right to a nationality and should not be stateless.
6. Right to Adequate Food: Every child has the right to adequate food for growth and development.
7. Right to Health: Every child has the right to the highest attainable standard of health without discrimination.
8. Right to Leisure: Every child has the right to leisure, play, and recreational activities.
9. Right to Equality: Every child has the right to be treated equally without discrimination.
10. Right to Participate in Development: Every child has the right to participate in the development of their society, recognizing that children are the future.

Children have several fundamental rights, including the right to protection, the right to development, the right to participation, and the right to protection. These rights must be fulfilled and implemented for children to live a fulfilling life.¹⁶ Children must also be protected from discrimination. This means that children have access to all their rights regardless of their background. But rather recognize that children are a minor and are entitled to protection and support from adults, particularly their families, to ensure that criminal offenses do not occur, where the child is either the perpetrator or the victim.

Child Sexual Exploitation

Child sexual exploitation is a form of human trafficking involving the recruitment, sale, or offer for sale of children for sexual purposes. This practice is a severe violation of children's rights and often involves the commercial sexual exploitation of children, including but not limited to child prostitution.¹⁷ Such exploitation can occur through direct means, such as the

¹⁶ Uskandar. 2021. *Perlindungan Hukum Anak Korban Eksploitasi Seksual Komersial Berdasarkan Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak (Studi Kasus Putusan Nomor 186/Pid.Sus/2018/PN.Grt)*, Jurnal Hukum Media Justisia Nusantara, 11 (1), p. 77-98

¹⁷ Prameswari, Z.W.A.W. 2017. *Ratifikasi Konvensi Tentang Hak-Hak Anak Dalam Sistem Peraturan Perundang-Undangan di Indonesia*, 32 (1), p.167-188

physical placement of a child with a buyer, or indirectly through online platforms like Facebook, Instagram, WhatsApp, and other applications.

Both Law Number 21 of 2007 concerning the Criminal Act of Human Trafficking and Law Number 44 of 2008 concerning Pornography explicitly prohibit the sexual exploitation of children. These laws underscore the imperative to protect children and ensure their optimal development. Consequently, preventive measures must be rigorously implemented to safeguard children from any actions that may endanger their right to life.

Children and women are particularly vulnerable to various forms of sexual exploitation and abuse, including prostitution. Common manifestations of this issue include child marriage, mail-order brides, child labor in erotic nightclubs, and the three primary forms of commercial sexual exploitation: child prostitution, child pornography, and child sex trafficking. Furthermore, the digital age has facilitated new forms of sexual exploitation, such as sexting, grooming, and live-streamed child sexual abuse, which are often perpetrated through social media platforms like Facebook, Instagram, WhatsApp, and Twitter.¹⁸

One of the most egregious crimes against humanity is the Commercial Sexual Exploitation Of Children (CSEC). This heinous act constitutes a severe violation of children's human rights and a profound affront to human dignity. The commercial sexual exploitation of children can have devastating and long-lasting consequences, including severe physical and psychological harm. Victims of CSEC often suffer from a range of emotional, psychological, and physical problems that can hinder their growth and development.¹⁹

Physical violence often co-occurs with child sexual exploitation, resulting in injuries, pain, and fear. The psychological trauma associated with child sexual abuse can lead to severe consequences such as guilt, low self-esteem, depression, and in extreme cases, suicidal ideation. These actions are often precipitated by a child's or individual's inability to cope with their circumstances, as well as by experiences of discomfort or abuse. The violation of a child's rights through sexual exploitation constitutes a violation of their right to life, robbing them of the opportunity to pursue their aspirations. Such experiences can lead to severe and lasting psychological and emotional trauma.

¹⁸ Cherif Bassiouni et al., 2010. *Addressing International Human Trafficking in Women and Children for Commercial Sexual Exploitation in the 21st Century*, *Revue Internationale de Droit Pénal*, 81 (3), p. 417

¹⁹ Kurnianingsih, M., et al. 2021. *Sexual Exploitation of Children in the Digital Age in the Victimology Perspective*, *JURNAL JURISPRUDENCE*, 11 (2), p. 205-220

Preventing Financial Exploitation by Financial Institutions

Ensuring the protection of children's rights is a collective responsibility that extends to the state, government, local authorities, communities, families, parents, guardians, businesses, and other social institutions. This responsibility is inclusive and encompasses all children, regardless of their ethnicity, race, gender, social status, birth order, or physical or mental condition. To effectively protect children, it is imperative to provide adequate resources and infrastructure²⁰.

Crimes related to the sexual exploitation of children, which constitute a form of child trafficking and sale, are often facilitated by financial institutions through various transactions.²¹ The high, often exorbitant, prices involved in such transactions necessitate a heightened awareness among financial service providers regarding the prevalence of child sexual exploitation. A primary driver of this heinous crime is the financial incentive offered to those who purchase sexual services from child victims.

Periodic audits used in reviewing profiling programs and monitoring transactions enable financial service providers to identify and terminate financial transactions related to the sexual exploitation of children. In Indonesia, 9,588 children were victims of sexual violence, 4,162 children were victims of psychological violence, 3,746 children were victims of physical violence, 1,269 children were victims of neglect, 219 children were victims of human trafficking, and 216 children were victims of exploitation in 2022.²²

Perpetrators of child sexual exploitation have increasingly leveraged financial institutions to facilitate their illicit transactions, often using these institutions to obscure the origins of the funds. Moreover, advancements in technology and information have enabled the proliferation of online transactions. Globally and domestically, perpetrators have been exploiting non-bank financial services such as money transfer services, e-wallets, and other less traceable financial methods.²³

The business sector has a crucial role in fulfilling children's rights by providing resources and infrastructure aligned with its vision, mission, and objectives. This involves fostering a conducive environment for children's

²⁰ Shelley Fanget et al., 2021. *What Are the Human Trafficking Policies of Professional Medical Organizations ?*, *Journal of Human Trafficking*, 7 (2), page. 137-144

²¹ Monita, Y. 2013. *Perlindungan Hukum Bagi Korban Tindak Pidana Perdagangan Orang Dalam Perspektif Undang-Undang Nomor 21 Tahun 2007*, *INOVATIF Jurnal Hukum*, 6 (2), p. 160-171

²² *Perlunya Membangun Kesadaran Penyedia Jasa Keuangan Dalam Melindungi Anak Dari Eksploitasi Seksual*, <http://ecpatindonesia.org/press-release-detail/perlunya-membangun-kesadaran-penyedia-jasa-keuangan-dalam-melindungi-anak-dari-eksploitasi-seksual> diakses 12 Juli 2024

²³ Farhana, 2010. *Aspek Hukum Perdagangan Orang Di Indonesia*, Sinar Grafika, Jakarta, p. 72

growth and development, prioritizing education, health, and social well-being. Child rights fulfillment extends to civil aspects such as birth certificates and the right to a decent standard of living. Comprehensive programs and strategies are necessary to prevent children from engaging in harmful activities or becoming victims of economic or sexual exploitation. Moreover, families and parents must be fully engaged to understand the importance of child protection and to support their children's growth and development into adulthood. These efforts should be guided by the fundamental principles of child protection.

CONCLUSION AND RECCOMENDATION

A. Conclusion

The business sector's role in fulfilling children's rights has been hindered by inadequate provision of facilities and infrastructure to support child development in accordance with child protection principles, particularly in the context of minimizing child sexual exploitation. Financial service providers still face challenges in detecting transactions involving maximum values derived from human trafficking.

B. Recommendations

There is a pressing need for enhanced coordination and cooperation among various stakeholders, including the business sector, financial service providers, the community, government, and law enforcement, in both the implementation of laws and regulations and practical implementation. In cases involving cross-border activities, strengthened international cooperation through treaties is essential to combat human trafficking, which is an extraordinary crime that gravely violates children's rights.

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