



VIOLATIONS OF HUMAN RIGHTS AND PROTECTION BY UNICEF ON THE USE OF CHILD SOLDIERS IN CONGO'S ARMED CONFLICT

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Abstract

This article aims to find out the human rights violations that occurred in child soldiers in the armed conflict of the Congo. Human rights are basic rights that are owned by every human being as a gift from God Almighty, valid for life, and cannot be contested. Recruiting children as soldiers is a violation of human rights. Protection of children's rights is an inseparable part of human rights. emotionally, physically, and psychologically on children are the negative impacts of the presence of child impact soldiers. Unstable government conditions coupled with a low economy add to the burden on society which pushes their children to fall into the circle of militarization. The real form of protection for children who are recruited into child soldiers is the protection provided by UNICEF. UNICEF pays great attention to children's settlement.

Abstrak

Artikel ini bertujuan untuk mengetahui pelanggaran HAM yang terjadi dalam tentara anak pada konflik bersenjata Kongo. Hak Asasi Manusia adalah hak dasar yang dimiliki oleh setiap manusia sebagai anugerah Tuhan Yang Maha Esa, berlaku seumur hidup, dan tidak dapat diganggu gugat keberadaannya. Perekrutan anak sebagai tentara merupakan salah satu pelanggaran 84 PENDAHULUAN HAM. Perlindungan hak anak merupakan bagian yang tidak terpisahkan dari hak

asasi manusia. Dampak secara emosional, fisik, dan psikologi terhadap anak merupakan dampak-dampak negatif dari adanya perekrutan tentara anak. Kondisi pemerintahan yang tidak stabil ditambah dengan perekonomian yang rendah menambah beban dari masyarakat yang mendorong anak-anak mereka terjerumus dalam lingkaran militerisasi. Bentuk perlindungan yang nyata terhadap anak-anak yang direkrut menjadi tentara anak ini adalah perlindungan yang diberikan oleh UNICEF. UNICEF menaruh perhatian yang besar dalam penyelesaian tentara anak

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INTRODUCTION

Human rights are basic rights that humans carry from the year humans are born. Human rights are when no such rights exist, they are our essence as human beings. It is impossible for us to live as humans. People have these true social gifts only because they are gifts of the human condition. Therefore, human rights are not always related to the perceptions of other people, other communities, or other countries. As a rule, human rights are closely related to the practice of social life. And because human rights already exist with human existence itself, talking about the history of human rights is the same as talking about the history of human life from the beginning until now. Human rights arise and affect all humans. Therefore, human rights are universal. This means that human rights can be exercised by anyone, anywhere, at any time, and cannot be taken away from anyone or anyone else. Human rights are used by humans other than to protect the dignity of themselves and humans. Human rights also function as a moral foundation for social coexistence with fellow creatures.

In Great Britain, the United States is known to have the Magna Carta Libertatum 1215 and the Bill of Rights 1689. There is the Virginia Declaration of Rights 1776 and the Declaration of Independence 1776. The Black Continent is known as the African Charter of Human Rights. The UN also adopted the Universal Declaration of Human Rights in 1948. This UN Declaration was written by people along with countries that are subject to international law. In general, many declarations and agreements quote the UN human rights treaties) There are three generations of human rights. First: Understanding Human Rights The Universal Declaration of Human Rights of 1948 stated: The victory of the citizen over absolute monarchy that emerged from the Declaration of Human Rights was influenced by traditional Western views. The Declaration places great emphasis on civil and political rights such as freedom of speech, the right to participate in government, and the right to religion. Second, the understanding of human rights contained in the Civil Rights Agreement on Political, Economic, Social and Cultural Rights (1966) focuses on civil and political rights such as freedom of opinion, which is a product of. The right to participate in government and the right to religion. Second, the

understanding of human rights contained in the Civil Rights Covenant (1966) regarding political, economic, social and cultural rights is a result.

There is a difference between civil rights and political rights that accompany civil rights. Economic and social issues continue to generate different reactions and comments regarding

definition of human rights violation. Western countries claim that human rights violations include only violations of human rights, and only civil and political rights, especially those loosely linked to individual rights. Developing countries, on the other hand, prioritize the right to economic, social and cultural development. Third, we need to understand the 1993 Vienna Declaration. Making a compromise between developed countries and developed countries. The hallmark of this new third generation is the right to develop, and the right to protect its own culture and social environment. The need for a balanced approach to promoting and protecting human rights was agreed at the Congress of Vienna. Basically, all categories of human rights are universal and interdependent. The international community must implement human rights fairly and equally with the same goals. But it hasn't been implemented yet. Human rights are enshrined in various declarations and regulations. Although often considered universal, in reality it is largely and effectively independent of the ideals of the governments of the countries concerned, whether for space-time or for rights and interests. Since then, many new Universal Declarations of Human Rights have emerged that complement previous Universal Declarations of Human Rights.

Historically, the emergence of children as combatants and their involvement in armed conflicts began around the 18th century. The child was not directly involved in the armed conflict and was depicted only as a supporter, a drummer for war. Over time, children were recruited into the army, and eventually began a new chapter in which children joined the army and trained so-called child soldiers. The problem of child soldiers is truly global, not only in Africa, but also in Asia, as well as in Europe and the United States. In the 1990s, there were child soldiers in Latin America who joined the armies of El Salvador, Ecuador, Guatemala, Mexico, Nicaragua, Paraguay, Colombia and Peru. In Colombia there is also a special name for child soldiers, namely Little Versa (Fitri, 2007 : 5).

Wars and armed conflicts that are known to exist today still occur in various parts of the world and are events as old as human civilization on earth in human history (Arlina Permanasari)(1999:12). By definition, war or armed conflict is the ultimate conflict between people. In the study of international relations, war Traditionally defined as the organized use of force by a political entity, war breaks out in the international system when a state in conflict or a conflict situation feels that no exclusive goal can be achieved except by violent means. , The broader meaning of war includes concepts such as crisis, threat, use of force, guerrilla action, conquest, occupation, terrorism (Ambarwati, et.al, 2010: 2-3).

Conflicts in which children often become victims of violence and inhumane behavior cannot be avoided. There are many types of human rights violations in armed conflict, one of which is the involvement of children in armed conflict, in this case known as child soldiers. According to UNICEF, a child soldier is defined as: A child soldier is anyone under the age of 18 and must not participate in an armed

group as a regular soldier or in a group other than cooks, coolies, messengers and pure groups. Family members. This age limit was only established in 2002 by the Optional Protocol to the Convention on the Rights of the Child. The 1994 Geneva Conventions and the 1977 Additional Protocol establish a minimum age of 15 for participation in armed conflict (Mangku, 2020 : 124).

There is a lot of debate about what age limits are considered adults, but almost 80% of conflicts relate to children under the age of 15, children aged 7 or 8 years. In 2007, around 2 million children died, 4-5 million were declared missing, 12 million lost their homes, and more than 10 million owned weapons, according to UNICEF records. experienced serious psychological trauma. In the Democratic Republic of the Congo, child soldiers were recruited during the Ituri conflict. The Ituri conflict emerged when the Democratic Republic of the Congo experienced the First Congo War and the Second Congo War. The Ituri Conflict is a conflict between the Lendu and Hema tribes in the Ituri region of northeastern Democratic Republic of the Congo. The armed conflict began in 1996. The Ituri conflict was motivated by discrimination against Hema by the Belgian colony on the basis of education and social interests. The conflict was also motivated by the seizure of land by several Hema in 1999 when Hema tried to take over land from Lendu, because the land purchased by Hema was forcibly plowed by the government. The conflict was complicated by the presence of various troops in the Second Congo War and the many small states in the surrounding area.

This is the perfect weapon for kids because it is easy to operate, very loyal, and fearless. Children can easily be taught new things. Therefore, the presence of children in armed conflict is no longer mandatory, but voluntary. These elements were used by LTTE soldiers to draw children into the armed conflict in Sri Lanka and played an important role in the survival of the LTTE. In Myanmar, child soldiers are employed by separatist groups and the government. In addition, the number of child soldiers in Myanmar is the largest in the world. In Myanmar, children are commercialized and sold to soldiers, who are ordered to meet quotas from their bosses and are disappointed.

In military life, the more soldiers you employ, the easier it is to get promoted. The reasons for employing child soldiers are the number of volunteers, the number of moral soldiers, and the need for a high level of rebellion. Recruitment of child soldiers in Myanmar is carried out in the same way as recruitment of child soldiers in other countries: coercion and kidnapping. Some people threaten their safety and that of their families. Human Rights Watch reports that adult soldiers are tasked with employing as many people as possible. These conditions must be met in order to be promoted. In some cases, recruiters will be paid between \$254,444 and \$50 for each child hired. Efforts to eliminate child soldiers have long been underway in Myanmar.

In dealing with conflicts such as those occurring in Sri Lanka and Myanmar, groups of children should be protected as civilians, based on the provisions of the Geneva Convention, but instead children and women are often used as shields and often become victims. Conflict can lead children to become refugees, workers, or soldiers. In conflict situations, children's rights are threatened or violated, both in terms of the right to life, family and social rights, health rights, development rights, individual development rights, and protection rights. The conflict that occurred in

Ituri was a conflict between the UPC and the FNI, as well as the involvement of Armed Forces from neighboring countries, namely Uganda. This conflict is classified as an internationalized internal conflict because the armed conflict involves another country, namely Uganda, so the provisions that apply in the armed conflict are international provisions (Arianta, 2020 : 167).

Recruiting children into armed conflict is very dangerous from a psychological perspective

and harm their interests. Children are recruited while they are in refugee camps with their parents. These hired children are then shaped into individuals who do not match their identity. They are taught war tactics, instilled with feelings of enmity and hatred, the value of hostility is rooted in their hearts, and they commit suicide so as not to become victims of human rights murder by employing them. Soldiering is an act that violates children's human rights.

Protecting children's rights is an integral part of human rights. In fact, groups of children in conflict often become victims of civilians who need to be protected. Conflict situations pose threats and violations of children's rights. Both the right to life, the right to family and society, the right to health, the right to development, the right to personal development, and the right to protection. Conflict can force children to become refugees, workers, or soldiers. Child soldiers are an example of the impact of armed conflict. The use of children as fearsome warriors has been around for a long time. Initially, children did not participate directly in armed conflicts, but as cheerleaders and drummers for war. Children still cannot differentiate between good and bad actions. They are more easily threatened, demand less pay, and flee military training camps.

RESEARCH METHODS

This research is normative legal research. In this research, three types of approaches are used, namely, the Statute Approach, The legal materials used in this research, namely primary and secondary legal materials obtained from library/literature studies, were then studied and analyzed for their relationships and interrelationships in helping and explaining the concepts and theories used in this research.

RESULTS AND DISCUSSION

International law in the context of human rights has a dual nature towards human rights, while making it difficult to protect human rights effectively. As subjects of international law, states are parties that work to protect, guarantee and realize human rights. Legal measures are very important for the protection of human rights to create legal certainty in the implementation of human rights. Historically and empirically, there are several international legal documents that emerged to protect human rights, including Magna Charta 1215, Bill of Rights 1698, Declaration des droits de l'homme et du citoyen 1789, Declaration of Independence.⁴ United Nations- Nations (UN) has made a significant contribution to the establishment of international human rights protection. A document called the Universal Declaration of Human Rights (UDHR) was created which accepted the

conclusions of the United Nations General Assembly on 10 December 1948. Western culture in Saudi Arabia, South Africa and other countries has not developed the concept of human rights, even by countries UN. The Soviet Bloc abstained. The UDHR is protected by civil and political rights, economic, social and cultural rights. In other words, from Article 3 to Article 21. The UDHR has historical significance, high political significance, and high political value, and the UDHR is not legally binding on UN member states. However, the rules include many UDHR clauses that are incorporated into respective national laws. As a member of the United Nations, the principles of the Universal Declaration of Human Rights can be considered customary international law.

International law recognizes that individuals are personally responsible for war crimes, genocide, persecution and hatred of apartments. However, according to Professor Nguyen Quoc Din, individuals are only artificial legal subjects⁴. This is because the will of the nation creates the individual. It may also be subject to international law. In some individual cases, international law still regulates relations between states and other legal entities. The promotion and protection of human rights is increasing rapidly with the accelerated development of relations between countries and the expansion of regional and multilateral organizations throughout the world.

War crimes, including the recruitment of children as soldiers, constitute human rights violations. The issue of protecting human rights is a national obligation that is related to the legal interests of the entire international community, including the fulfillment of its essential obligations. Roman law of 1988 included the adoption of child soldiers as a form of international crime under Article 8(2). In this case, the DRC should try Lubanga under the national justice system for human rights violations. However, if the courts in his country are reluctant or not possible, Lubanga's case can be brought to the International Criminal Court. Thomas Lubanga was one of the Democratic Republic of the Congo militia leaders who recruited children to work as child soldiers during the Ituri conflict in the Democratic Republic of the Congo from 2002 to 2003. The Congolese child soldiers were members of the Union. Democratic Republic of the Congo A unit of the Democratic Republic of the Congo (UPC), an Ituri armed group. Lubanga trained children from the age of 10 to kill the enemy and attempted to kill the child soldiers he hired in the civil war. As leader of the UPC-L, Lubanga kidnapped a child under the age of 15 and participated in the UPC's military attacks. Lubanga threatened that children hired by child soldiers would be killed if they escaped.

Rules that expressly prohibit the recruitment of children or the involvement of children in armed conflict include Additional Protocol I 1977, Additional Protocol II 1977, Convention on the Rights of the Child, Roman Law, International Labor Organization Convention No. 1999 182 and Children. Parts of Children in Armed Conflict 2000. Recruiting children as child soldiers is a human rights violation of

4,444 people. Protection of human rights is a national obligation related to the legal interests of the international community. Overall, these include the prohibition of aggression, genocide, protection from slavery, and the fulfillment of basic obligations such as racism. Lubanga is responsible for this matter (*ratione materiae*) because he was charged with war crimes, including the recruitment of child soldiers. Pursuant to Article 17 (1) of the 1988 Roman Law, Lubanga is international because the Democratic Republic of Congo cannot bring Lubanga before a national court because its judges and prosecutors cannot investigate international crimes charged by the court.

A child soldier from a cosmopolitanism perspective that prioritizes the upholding of human rights by all parties, this research chooses rationalism as its goal. Rationalism is between realism and cosmopolitanism, placing the state as the most rational actor responsible for defending human rights. Human rights have the ability to influence the existence of state power which is of great interest to the state. The relationship between state, power and human rights increasingly complicates the implementation of human rights. The government must be able to convince the public that human rights and freedoms apply to society.

International lawsuits by states require international responsibility. Many actions carry state and individual responsibility. One of the actions what gives rise to collective responsibility is if someone commits an act against international law as a state administrator, or if the state is negligent or negligent in acting, or fails to protect the human rights of all individuals. For example, if there were war crimes within a country's jurisdiction, but the country acted negligently or did not act to protect the human rights of all individuals as a result of the war crimes. It is a war crime to recruit or enlist children under the age of 15 into the armed forces or to actively use them in combat. Therefore, the perpetrators of these war crimes can be prosecuted at the International Criminal Court for their violations.

Since UNICEF's mission was to provide emergency assistance to post-World War II children, the truest form of protection for children employed as child soldiers was UNICEF protection. UNICEF pays close attention to the resolution of child soldiers. UNICEF and other international organizations. United Nations Development Program, United Nations High Commissioner for Refugees, United Nations Office for the Coordination of Humanitarian Affairs, United Nations Population Fund, World Food Program, International Labor Organization, United Nations Educational, Scientific and Cultural Organization, uh, working to resolve and end recruitment of child soldiers Adjust for continuity.

Then carry out the dismissal of children from the army and return them to their families and communities so that they can carry out activities like ordinary children. Military activities involving minors constitute serious human rights violations such as kidnapping, violence and harassment. As an international organization, UNICEF has a great responsibility not only to monitor the problem of

child soldiers, but also to resolve and prevent the re-enlistment of child soldiers in various countries. UNICEF as an international organization plays an important role in international politics. The intervention of international organizations is urgently needed in conflict-affected countries facing complex problems of economic, cultural, social and political instability. Human rights issues are usually ignored because economic and political issues are considered more immediate. However, international organizations such as UNICEF have succeeded in making human rights one of the most important issues in world politics.

UNICEF integrates children's rights into its respective missions. UNICEF works to protect children and women from exploitation, violence and neglect. This is achieved by increasing awareness among community members and community-based organizations about how to prevent exploitation, trafficking and neglect. UNICEF also provides vocational training and recreational activities for vulnerable children and youth, including street children and child laborers. UNICEF also has the power to fundamentally influence policy formulation and decisions by national governments. Apart from children's issues, another aim of UNICEF to have strong continuity in children's lives is to address the problems of poverty, violence and discrimination. UNICEF itself works through binding regulations. The mechanism that is usually carried out is the formation of a solution to the problem of child soldiers.

CLOSING

Conclusion

Based on the results and discussions that have been discussed, the following conclusions can be drawn:

The Ituri conflict was motivated by discrimination that favored the Belgian colony over Hema based on education and welfare. This is the perfect weapon for kids because it is easy to operate, very loyal, and fearless. Children can easily be taught new things. Hence, presence children in armed conflict is no longer mandatory, but voluntary. Children and women must be protected as civilians, but under the provisions of the Geneva Conventions, children and women are often used as human shields and are often victims. Recruitment of child soldiers affects the children recruited, including physical and psychological effects. Human rights law regulates the protection of children in armed conflict. Although international human rights law provides protection, minors are still used as military "weapons" and are even implicated in countries considered to be guarantors of human rights.

Recommendation

The recommendations expected from this research are:

A child soldier from a cosmopolitanism perspective that prioritizes the upholding of human rights by all parties, this research chooses rationalism as its goal. Rationalism is between realism and cosmopolitanism, placing the state as the

most rational actor responsible for defending human rights. Considering the various human rights violations in the Democratic Republic of Congo, this is a serious problem and requires special attention, especially for children who should be studying but are forced to take up arms. The real form of protection for children employed as child soldiers is UNICEF protection. As an international organization, UNICEF plays an important role in international politics. The intervention of international organizations is urgently needed in conflict-affected countries facing complex problems of economic, cultural, social and political instability. Human rights issues are usually ignored because economic and political issues are considered more immediate. However, international organizations such as UNICEF have succeeded in making human rights one of the most important issues in world politics.

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