

**THE INDONESIAN
NATIONAL COMMISSION ON HUMAN RIGHTS
(REPORTS FROM APF MEMBERS OF STANDING ISSUES)**

1. Trafficking women and children

Rapid growth of the Indonesian population which is not supported by the availability of the working opportunities has been a factor in relation to increase the women and children trafficking. It is triggered by the collapse of some companies in Indonesia as a consequence of the prolonged economic crisis, so that it has an impact on the increase of the number of the unemployed people.

Based on the data available at the National Commission for Anti-Violence Against Women shows that the number of women trafficking in 2003 increases drastically - in 2002, there was 320 cases of women trafficking and in 2003, the number keeps increasing to be 800 cases. This is only a reported figure and it is estimated that the unreported figure is much higher. The cases of the women trafficking relate to the migrant labors (Tempo Interactive, January 29, 2004).

The problem of human trafficking especially women and children is not an independent case, but it closely relates to other problems arising in the community such as cultural, social, political, and security problems and lack of legal order and law enforcement.

Indonesia as a law-based country which promotes the dignity of the human being has a legal responsibility as stipulated in Constitution 1945 to provide protection and fulfillment of the human rights for all Indonesian citizens without any exceptions in any kind whatsoever.

Therefore, in order to improve the legal enforcement and eliminate all kinds of women and children trafficking, it is deemed necessary to stipulate the laws on the Combating of the Women and Children Trafficking.

In order to realize above stated objective, the Bill of Law on the Combating the Human Trafficking has been formulated. The premises on the need of the law on human trafficking are, among others, human trafficking especially against women and children is a very serious crime and violates human rights, and therefore shall be combated and eliminated.

The objectives of this law as specified in the Bill of the Law on the Combating of Human Trafficking are as follows :

- a. To protect and promote the appreciation on human rights of each individual which has become the victim of the human trafficking.
- b. To eliminate all kinds of violations and exploitations against women and children.
- c. To prevent and combat the crimes of human trafficking especially against women and children.
- d. To strictly punish those who carry out women and children trafficking.
- e. To guarantee the law enforcement in the settlement of the cases on the human trafficking.
- f. To protect the victims, witnesses and informants.
- g. To warrant a fair settlement of the trafficking cases.

The bill does not only stipulate the legal punishment to the suspects or those involved in the human trafficking, it also provides for the compensation, restitution and rehabilitation of the victims and their beneficiaries.

2. Death Penalty

Pros and cons on the death penalty has arisen widely for a long time and it seems that it will keep arising. At the Indonesian National Commission for Human Rights itself, there are some members who agree and disagree to the death penalty with their respective considerations such as humanity, religion, philosophy, legal enforcement and the promotion of the human rights. To those who agree to the death penalty, they think that such strict penalty is required, but shall be enforced selectively; while to those who disagree to the death penalty, the elimination of death penalty is a progress in an effort to protect the human rights, that is, their rights to live, and with reference to the international and regional instruments on the elimination of the death penalty, it is a trend supported by the international community. Death penalty shall, however, not be applied to children under 18 years of age.

Further, the reasons of pros and contras on the death penalty is as follows :

Reasons of pros :

This severe and serious crime which causes the suffering on many people (such as rape and killing) or the damage of human races/generation/nation (such as narcotics) needs to be punished with death penalty against the doer(s). The same also applies to the crime which may endanger the security of a nation.

Reasons of cons:

1. Life or death is fully determined by the God. He will determine and decide whether someone shall be alive or dead.
2. With regard to legal enforcement to the suspects, it can cause an absolute problem which is impossible to be rectified and corrected. In the event that it is proven legally that the suspect for the death penalty has been executed to death.

Notes :

Therefore, we can see that there are some countries which have annulled the death penalty. Countries which still maintain the death penalty are in general very careful and selective in determining what kind of crimes which can be punished with death penalty.

For ordinary crimes, there is no more death penalty, while for most serious crimes (Article 6 paragraph 2 of the ICCPR : International on Civil and Political Rights) can be still punished with death penalty.

Indonesian Conditions

It can be noted that in Indonesia, there are some ordinary crimes which can be punished with death penalty, such as :

Stealing and extortion together with the severe accusation (*verswarende onstandigheid*). For the most serious crimes, it is deemed necessary to maintain the death penalty, such as :

1. Subversion
2. Narcotics

3. Child Pornography

In line with the advancement of the communication technology and the coming of the globalization era, it has at least caused negative impacts, especially in relation to the child pornography.

Child pornography is partly attributed to the television broadcasting, uncontrolled distribution of pornographic disks and the unguided access of the internet.

If there is not immediate measure to overcome the problems, it will have an impact on the morality of the nation, especially that of the young generation.

Therefore, in conjunction with the combating of the pornography and porno-action especially to children, it is necessary to take some measures to recover the image of the Indonesia as a nation with high culture and morality.

On this regard, every efforts have been made to formulate the bill of Anti-Pornography Law.