

The Extent of Rights and Legal Measures Available under International Criminal Court towards Child Soldiers Participation in Proceedings

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ABSTRACT

The concept of victim participation became one of the issues that is being brought up within international criminal law. This is because victims, especially children, are in need for a legitimate protection when they became the party who participate in proceedings. Child soldiers became one of the group of victims of mass atrocities whose voice are rarely heard by the public. Their situations in past proceedings have left them with the feeling of confusion, which at some cases, cause them a further trauma. Thus, the development of victim-oriented provisions in the Rome Statute became a key significance in addressing the protection and to uphold the best interests of these victims. Therefore, this Legal Research employs a normative methodology approach which further analyze the extent and implementation of the available rights and legal measures that could grant child soldiers as victims and/or witnesses during proceedings. This Legal Research utilizes Statutes, Journals, and studies on International Criminal Court cases, which relies on 3 (three) different cases of International Criminal Court that involved child soldiers, international treaties, and regulations, and literature reviews of journals and books to further elaborate the analysis. This Legal Research concludes that the extent of the rights and legal measures implemented to protect child soldiers, as victims and/or witnesses, shall not be excessive. This Research also concludes that there are still challenges and limitations in implementing the available rights and protective measures, where the protections granted towards them are limited with the purpose of maintaining the rights of the defendant to a fair trial.

Keywords: Child Soldiers, International Criminal Court, War Crimes, Protections of Victims and Witnesses

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Cakupan Hak dan Tindakan Hukum yang Tersedia di bawah Mahkamah Pidana Internasional terhadap Partisipasi Prajurit Anak dalam Persidangan

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INTISARI

Konsep partisipasi korban dalam persidangan menjadi salah satu isu yang diangkat dalam hukum pidana internasional. Hal ini dikarenakan para korban, terutama korban anak-anak, sangat membutuhkan perlindungan hukum ketika menjadi bagian yang ikut serta dalam proses peradilan. Prajurit anak menjadi salah satu kelompok korban kekejaman massal yang di mana suara mereka jarang didengar oleh masyarakat. Kondisi mereka pada saat mengikuti proses peradilan di masa lalu telah meninggalkan mereka dengan perasaan yang tidak beraturan, yang pada beberapa kasus, telah menyebabkan trauma mendalam. Dengan demikian, pengembangan ketentuan-ketentuan yang berorientasi pada korban dalam Statuta Roma menjadi kunci penting dalam menangani perlindungan dan menegakkan kepentingan para korban.

Penelitian hukum ini menggunakan pendekatan normatif yang menganalisis lebih lanjut bagaimana dan sejauh mana hak dan perlindungan anak yang tersedia dapat diimplementasikan ke dalam kasus prajurit anak yang berpartisipasi sebagai korban dan/atau saksi selama persidangan. Penelitian hukum ini menggunakan Statuta, Jurnal, dan Kasus di bawah Mahkamah Pidana Internasional, yang di mana bertumpu pada tiga kasus yang berbeda yang melibatkan prajurit anak, perjanjian internasional, undang-undang, dan studi literatur.

Kata Kunci: Prajurit Anak, Mahkamah Pidana Internasional, Kejahatan Perang, Perlindungan Korban dan Saksi

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