

CHAPTER ONE

INTRODUCTION

A. Background of Research

Angeline case is one of many cases that occur in Indonesia. Great numbers of violence cases against children are major evaluation for the government in the protection of children in Indonesia. This is serious challenge for the government concerning child protection system in Indonesia. The government effort is to address the violation of children's rights marked by the ratification of the Convention on the Rights of the Child in 1990. The ratification of Convention on the Right of the Child by Indonesia indicates that Indonesia has committed to implement the principles and norms that exist in the Convention on the Right of the Child.

Angeline's death had clearly abused their God-given rights to life since Angeline was born on this earth; the case is also contrary to the Human Rights. Angeline death is a proof that Law No. 35 of 2014 concerning Amendment to Law No. 23 of 2002 on Child Protection has not been properly applied. Law No. 35 of 2014 has stated unequivocally that the Unitary Republic of Indonesia (NKRI) ensure the welfare of each of its citizens, including the protection of children's rights which part of human right.¹

¹ Sulistyو Budi Nurcahyo, June 15th, 2015, *Tangisan Pilu Angeline untuk UU Perlindungan Anak*, Jakarta, Harimba Pandawa Putra Media, taken from <http://kriminalitas.com/tangisan-pilu-angeline-untuk-uu-perlindungan-anak/>, assecced on November 4th, 2015 at 4.20 p.m.

Angeline case is a reminder for the government to ensure the implementation of Law No. 35 of 2014 on Child Protection in Indonesia, which has not been applied appropriately. The government also needs an extra effort to educate the society to know about the children's rights. Article 20 of Law No. 35 of 2014 states:² "State, Government, Local Government, Public, Family, and Parents or Guardian are obliged and responsible for the implementation of the Protection of Children". Then, Article 21 paragraph 1 of Law No. 35 of 2014 states:³ "State, Government and Local Government obliged and responsible to respect the fulfillment of Child Rights without distinction of race, religion, race, class, gender, ethnicity, culture and language, legal status, order of birth, and physical and / or mental."

When the violence case is evaluated one by one, case of Angeline obviously is so contrary with the principles prescribed in the Convention on the Right of the Child.⁴ It is caused by Indonesia effort that does not implement child protection in optimal way although Indonesia has ratified the Convention on the Right of the Child. In this case, Indonesia only apply the Presidential Decree.

Child abuse cases in the Jakarta International School (JIS) and neglect of children in Cibubur, East Jakarta by their parents recently show some more examples that children violence in Indonesia is still prevalent. Violence is defined in accordance with Article 1 paragraph 15a of Law No. 35 of 2014 on Child

² Article 20 of Law No. 35 of 2014 on Child Protection

³ Article 21 paragraph 1 of Law No. 35 of 2014 on Child Protection

⁴ Edy Ikhsan, May, 2002, *Beberapa Catatan Tentang Konvensi Hak Anak*, Medan, Fakultas Hukum, Universitas Sumatra Utara, taken from <http://repository.usu.ac.id/bitstream/123456789/1572/3/hukum-edy.pdf.txt>, accessed on November 4th, 2015 at 5.10 p.m.

Protection, as any act in child which causes misery or suffering physical, psychological, sexual, and / or neglect, including threats to commit acts, coercion, or deprivation of liberty unlawfully.⁵

The issue of human rights will always interesting to be discussed. Especially in our society since there are increasingly critical person and growing awareness that human rights is the part of the individual. In the society there is a child who experience barriers in spiritual, physical, social, and economic welfare. On the other hand the maintenance and efforts to remove obstacles that can be performed and obtained when child welfare is assured.⁶

The Convention on the Rights of the Child is a comprehensive instrument that represents a coordination of the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights, and is specifically directed to a child, bearing in mind that child in the context of his/her growth and development, requires special treatment. The Convention on the Rights of the Child was adopted by the United Nations in 1989, and consist of 54 articles that increase the fundamental rights and liberties for child, and take account of their needs in the form of special help and protection arising out of their vulnerability.⁷

Indonesia signed the Convention on the Rights of the Child (CRC) on September 5th, 1990 through Presidential Decree No. 36 in 1990. Then on July

⁵ Sulistyو Budi Nurcahyo, *Op. Cit*

⁶ Mohammad Taufik Makarao, Sus, Wenny Bukamo, Syaiful Azri, 2013, *Hukum Perlindungan Anak, dan Penghapusan Kekerasan Dalam Rumah Tangga*, Jakarta, Rineka Cipta, p. 3

⁷ Consortium International NGO, 2010, *“The Review Report the Implementation of Convention on the Rights of the Child in Indonesia 1997-2009”*, Jakarta, Save the Children, p. 1

23th, 2012 Indonesia ratified two additional protocols, one of them on sale, prostitution and child pornography through the Law No. 10 of 2012⁸ and since its ratification, Indonesia has been bound by international law to implement its provisions. It means that Indonesia is obligated to protect, fulfill, respect and promote the rights of child, as recognized by the Convention on the Rights of the Child. To achieve this goal, Indonesia needs to adopt legislative, administrative and programmatic measures so as to ensure that the rights of child are realized. As a signatory to the Convention on the Rights of the Child, Indonesia also required to ratify other international human rights instruments that are related to the Convention on the Rights of the Child.⁹

In order to achieve the child protection with the goal of all parties understand the responsibilities that must be adopted, therefore the case of Angeline can be analyzed under the perspective of Convention on the Right of the Child (CRC) and Law No. 35 of 2014 on Child Protection. This article aimed to discuss the issues related to the rights of the child protection policy, particularly related to the implementation of the Convention on the Right of the Child in the context of Indonesia.

⁸ Law No. 10 of 2012 on Ratification of Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

⁹ Consortium, *Op. Cit*

B. Research Problem

How is the protection of children's rights in Indonesia under Law No. 35 of 2014 on Child Protection and Convention on the Rights of the Child on case of Angeline?

C. Objectives of Research

The aim of the research is to understand deeply about how the protection of children's rights in Indonesia under Law No. 35 of 2014 on Child Protection and Convention on the Right of the Child. Besides, the researcher tries to make a correlation between Law No. 35 of 2014 on Child Protection and the Convention on the Right of the Child through Angeline's case.

D. Benefits of Research

This research is also expected to bring benefit both theoretically and practically:

1. Theoretically this research is expected to be useful as an ingredient for the development of knowledge and further studies for those who want to know and deepen about the legal aspects of the protection of children's rights in Indonesia under Law No. 35 of 2014 on Child Protection and Convention on the Right of the Child on case of Angeline.

2. In practical terms, it will to contribute the ideas to the public or to provide scientific information regarding the responsibility to the protection of children's rights in Indonesia under Law No. 35 of 2014 on Child Protection and Convention on the Right of the Child on case of Angeline.

E. Overview of the Chapters

This research consists of five chapters, namely; Chapter I: Introduction, Chapter II: Literature Review, Chapter III: Research Methods, Chapter IV: Results and Discussion, Chapter V: Conclusion and Suggestion.

The aims of this research are to learn more about the protection of children's rights in Indonesia under Law No. 35 of 2014 and Convention on the Rights of the Child on case of Angeline.

1. Chapter I: the researcher elaborates the general matter, such as background, research question, research objective, and the advantages of research. The background contains the protection of children's rights in Indonesia under the Law No. 35 of 2014 on Child Protection and the Convention on the Right of the Child on case of Angeline.
2. Chapter II: the researcher provides literature review and theoretical background of this undergraduate thesis. Among the topics discussed in this chapter are the definition of child, definition of rights of child, the purpose and scope of mapping of child protection system, the children Convention spesifically about the protecting of rights of child under Convention on the

Rights of the Child, the historical context for the UNCRC, and the substance of the child protection Act.

3. Chapter III: the researcher discuss about the research methods used on the research. This research method consists of type of research, legal materials, method of collecting data and method of data analysis. Type of this research is a normative legal research. The research approaches use statute approach, where conduct by study. This research also uses material taken from some literatures consist of primary legal material, secondary legal material, and tertiary legal material. Then, the methods of collecting data in this research will be conducted through library research, and will be analyzed systematically through qualitative and descriptive method.
4. Chapter IV, the researcher shows the results and discussions of the protection of children's rights in Indonesia under Law No. 35 of 2014 on Child Protection and Convention on the Right of the Child on case of Angeline. The focus of research is on the death of Angeline, which author believes that on her death there are improprieties. What improprieties and how the Law No. 35 of 2014 on Child Protection and Convention on the Right of the Child by additional protocols govern are elaborated on this chapter.
5. Chapter V, the researcher concludes and gives suggestion to what have been discovered and discussed regarding the protection of children's rights in Indonesia under Law No. 35 of 2014 on Child Protection and Convention on the Right of the Child on case of Angeline.