

# Commercial Exploitation of Children in Belgium in International Law

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## ABSTRACT

Child exploitation is an act of using children for the benefit of others, satisfaction or profit which often results in unfair, cruel and harmful treatment of children. Child protection is non-discrimination, non-exploitation and non-abandonment; it is a form of child rights that must be fulfilled, respected and protected by the family, community, government and state. Child exploitation is one of the most severe forms of violence against children, and it will adversely affect children themselves, both physically and mentally. This exploitation is like forcing them to work, this is very unacceptable because it will hamper their development, Children should have freedom, enjoy the world, and have their rights protected. The occurrence of child exploitation is also influenced by various social factors such as poverty and economics. The protection of child labor has been regulated in the formulation of laws with International Conventions ratified by various countries (Nieuwenhuys, O. (2000).

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## 1. INTRODUCTION

The phenomenon of sexual abuse of children is becoming more common and almost exists in various countries. The rate of sexual abuse against children continues to increase from time to time, this is not only determined by the quantity or number of cases that occur, but also determined by the quality (Jullien, K. (2002). Exploitation refers to any activity involving sexual activity committed by the perpetrator against a child or by a teenager. Audio-visual media in child exploitation are involved for use in commercial exploitation of children in sexual activities (UNICEF, 2014), exploitation is defined as sexual activity, business involving sexual activity, and methods of establishing

sexual relations with others (WHO, 2017). The problem of child exploitation is one of the problems that needs serious attention in the future, both by the government and the international community. Starting from the conception of full, comprehensive and comprehensive child protection, the state is obliged to provide protection to children based on the principles of: nondiscrimination, the best interests of the child, the right to life, survival and development, and respect for the opinions of children. That is, a child who is a victim of exploitation loses his rights as a child.

One of the most frequently documented topics in Belgium is child exploitation. Belgian children can be

trafficked for child exploitation through various offline and online platforms. In addition, they can also be used online to produce sexually explicit material for children (CSAM). The majority of children who are victims of exploitation in Belgium belong to vulnerable and helpless asylum and refugee groups (Zutema, A. K. S., & Nurwati, N. (2020). Thai criminal organizations use Thai massage parlors in Belgium, initiated by Belgian authorities, to sexually exploit children. Belgium is not only a destination country, but also a transit country for children to be transferred to other destinations in Europe, this exploitation is also determined by goals and actions in a way (such as abuse of vulnerability, violence, coercion and so on), that is, in aggravating situations.

Child sexual exploitation can have lasting and even permanent negative impacts on a person's quality of life, and their physical and emotional health may be affected. As a result, Belgium began to cooperate with law enforcement officials and international organizations by exposing child exploitation (Nurwijayanti, A. M. (2012). Belgium offers protection to victims of exploitation as a way to prevent them from working with child exploitation criminals.

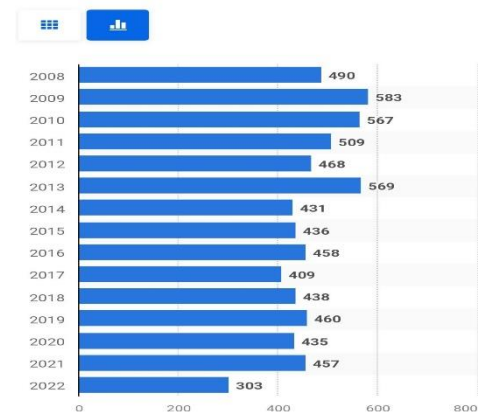
To address this problem, the Belgian government cooperates with an international organization under the auspices of the United Nations, UNICEF (United Nations Children's Fund), to address child labor in Belgium, and the government uses its authority to protect children from child exploitation, exercising their right to protection from child exploitation, which is contained in the articles of the United Nations CRC (Convention on the Rights of the Child). The application of international law through collaboration between the Belgian government and UNICEF through the Convention on the Rights of the Child is essential in preventing commercial exploitation of children in Belgium.

## 2. METHODS

The research method used is the normative legal method. Normative legal research is literature law research that is used as the main focus for conducting this normative legal research. Normative legal research uses normative case studies in the form of legal behavior products, namely written regulations, laws, or concrete matters.

## 3. RESULTS AND DISCUSSION

**Registered cases of human trafficking for sexual exploitation in Belgium from 2008 to 2022**



Child exploitation in Belgium occurs due to several factors influenced by the social structure of the individual perpetrators, leading to situations in which adults exploit children and engage in sexual behaviors with them. There are some children who are vulnerable to child sexual exploitation, such as:

1. Child exploitation in Belgium occurs due to several factors influenced by the social structure of the individual perpetrators, leading to situations in which adults exploit children and engage in sexual behaviors with them. There are some children who are vulnerable to child sexual exploitation, such as:
2. Children who are not cared for by their parents, live alone without a family or live with a host family or live in institutions that face great challenges due to lack of protection from parents and society.

3. Children who have mental and physical disabilities or have special needs. They do not have the ability to protect themselves or avoid this exploitation, do not understand what they are going through, and have difficulty explaining the exploitation.
4. There are children who come from marginalized groups, namely ethnic minorities, tribes, and religious communities. Children who are victims of exploitation will feel the disadvantage of discrimination that makes them very easy victims of sexual exploitation due to their weak condition of family protection and law enforcement, as well as weak policies (ECPAT International, 2006).

UNICEF, one of the United Nations organizations, works to support and monitor national initiatives aimed at addressing domestic problems that have a global impact on international affairs through collaborative efforts with governments. It has become an international norm that every country should protect the rights of children whatever the circumstances. UNICEF as an Inter-Governmental Organization is fully committed to cooperating and contributing to the Belgian government's efforts to prevent child exploitation. Through this collaborative effort, UNICEF is helping the Belgian government ensure that every child in Belgium has a safe environment and all their rights are fulfilled.

Children's rights are universal human rights because they apply to everyone, including all children (Rafferty, Y. (2016). Therefore, there are laws and regulations that regulate the protection of children's rights. Protection and upbringing for children is necessary until a certain age, because when a child begins to interact with adults, discrimination will be very easy to occur. A child needs special protections and special rights in a humanitarian regime. Although international law provides protection for all individuals, the international community recognizes the need for further development through more specific conventions to meet the

needs of children. Children's rights have been written into national and international instruments. On November 20, 1989, the UN General Assembly ratified the Convention on the Rights of the Child (CRC), which empowers international organizations to protect children's rights. The Convention on the Rights of the Child is an instrument of International Human Rights Law designed to ensure that children can enjoy their specific rights. CRC is not based on categories or hierarchies of rights, In this regard, CRC emphasizes that the rights of every child are closely related to each other, and these rights are equal in the dignity of children. So, to uphold the rights of every child, the rights of every child must be respected. The specificity of the CRC can be seen in the principles contained in it, as can be seen in the making of the Convention on the Rights of the Child, the CRC presents a new holistic approach that does not ignore issues of political and social, economic and cultural justice. CRC is for all children and for every child (Lestari, 2017).

In the application of International Law on the exploitation of children in Belgium through the Convention on the Rights of the Child in the United Nations organization (UNICEF) with the Belgian government, one of the main points is the application of Article 32 of the CRC as an international human rights instrument to protect the rights of children. The UN Convention states that there are four principles of UNICEF CRC that must be met, namely:

1. Right to Survival, every child has the right to know his human rights, be registered by his birth, have his identity and nationality, and have the right to know and be protected by his parents. Therefore, the most important of these basic rights is that every child must be able to meet the highest standards of health for his development.
2. Right to Protection, every child has the right to carry out daily religious and cultural activities calmly without hindrance. Right to Protection also

means the child cannot work and must be protected from the use of dangerous drugs. In addition, children also have the right to be protected from human trafficking, violence, neglect, sexual violence, and other forms of exploitation directed at them.

3. Every child has the right to education and an appropriate standard of living. What is meant by a good standard of living is a good, healthy and appropriate environment to foster moral, social, mental, and physical development.
4. Every child has the right to express his or her opinion on matters that pertain to and affect their quality of life. This basic right also shows that a child has the right to obtain information that suits his needs, (Javidan, P. 2011). This means that a child should be given access to necessary information and occasionally protected from information that could interfere with his development.

Article 32 of the CRC states that children have the right to be protected from all exploitation and from any pages of work that are harmful and interfere with their education, interfere with the physical, mental, spiritual, moral and social development of their children. Therefore, states have a legal obligation to set a minimum age of child labor, establish working hours, and establish terms and conditions for job placement, and criminalize child sexual exploitation and labor through amendments to the 1995 Law to Suppress Trafficking in Persons in 2005, punishable by 1 to 15 years in prison and fines for offenses involving adult victims. Then 10 to 20 years as a result of involving child victims. The penalties are strict for trafficking in persons for sexual exploitation, matched with penalties set for other serious crimes, such as kidnapping.

The Belgian government also further enhanced victim protection efforts by establishing three special NGO-run holding

facilities, officially part of the government's response to combat human trafficking, for unaccompanied foreign children, authorities accommodating victims of child exploitation in government-funded shelters, children in these centers are provided with mentors to help them overcome their fears and protect them, the government funded temporary shelter centers for potential victims of unaccompanied children, ages 14 to 18, These NGO-run shelters provided psychological, medical, and legal services and were open to all adult victims without distinction based on sex, immigration status, or race. The independent Federal Migration Center (Myria) in its capacity as a border pioneer point for observation and coordination of shelter sites, has been established by Law of September 15, 2006 amending the Law on Foreigners of December 15, 1980 in articles 61/2 to 61/15. This is the result of the application of several European countries to Belgian law, including the Directive of 29 April 2004 which regulates temporary residence permit policies for trafficking victims, in collaboration with the government, as well as the termination of commercial sexual exploitation offenders with the main instruments in the investigation of trafficking in persons, namely the Instruction of the Minister of Justice and the Attorney General's Council, designed to develop a policy of investigation and processing that Coherent on human trafficking (2015). This appointee provides a coordination structure that includes the entire Belgian prosecution agency, namely the prosecutor's office at different levels (federal, First Instance, attorney general of labor, and labor lawyers), such coordination meetings ensure accurate sharing of information among relevant actors, it is also necessary to know that there are special judges appointed and applicable to each jurisdiction (Archer, 1983). Training for special judges and prosecutors is carried out regularly, In addition, law enforcement such as the labor supervisory police service has special training that is held regularly to identify and evaluate cases of child exploitation.

In addition to international law enforcement efforts in cases of child sexual exploitation, since 2008 the Belgian government has also had 4 National Action Plans designed, the last of which is in 2021-2025 which was adopted in 2021. The objective of this action plan is to further strengthen the integrated approach by emphasizing Prevention, Prosecution, Protection and Partnership. For example, more focused prosecution policies against child exploiters, campaigns to improve safety, and a focus on specific places to house victims of exploitation. Other initiatives include strengthening policies that are the most important points today (national policy mechanisms, criminalization, training special actors with specific mechanisms, identification of exploitation of children, etc.) as well as initiatives related to non-specialist actors (Perwita and Yani, 2005). However, after the government made various efforts to control child exploitation in Belgium in collaboration with UNICEF, the problem of child exploitation in Belgium is still unresolved, and is still running today.

#### 4. CONCLUSION

Belgium is not only a destination country for child exploitation, but also a

transit country for children to be transported to other European destinations, child exploitation in Belgium is driven by several factors such as, unaccompanied children, children with physical disabilities, children with mental disabilities, and children from marginalized groups who are very vulnerable to child exploitation, child exploitation is a serious problem that requires firm action from the Belgian government and society as a whole, although the Belgian government has adopted strict laws to counter child exploitation, challenges remain in identifying, preventing, and tackling these cases of exploitation. Therefore, there is a need for cooperation between various parties, including the Belgian government and the United Nations international organization (UNICEF) in order to protect children's rights in Belgium and apply international law to this case.

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 A portrait of a young woman with dark hair, wearing a pink long-sleeved top and a grey hijab, set against a blue background.	<p><b>Yessa Ayu Agista</b>, student of the 2023 undergraduate law study program, faculty of law and business, Duta Bangsa University, Surakarta, Indonesia. Email: <a href="mailto:yessaagista385@gmail.com">yessaagista385@gmail.com</a></p>
 A portrait of a woman with dark hair, wearing a grey hijab and a dark blazer, set against a red background.	<p><b>Assoc. Prof. Dr. Rina Arum Prastyanti, S.H, M.H.</b> With the structural position of Deputy Chancellor III for Student Affairs, Cooperation and Alumni at Duta Bangsa University, Surakarta. Undergraduate education at Muhammadiyah University of Surakarta in the field of Law 1997-2001. Master's degree at Sebelas Maret University, Surakarta in the field of Business Law, 2001-2004. Doctoral Education at Sebelas Maret University, Surakarta in the field of Law Doctoral Program 2012-2016. Email: <a href="mailto:rina_arum@udb.ac.id">rina_arum@udb.ac.id</a></p>