

Analysis of the Causes and Efforts to Protect Child Labor from an Indonesian Legal Perspective

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ABSTRACT

Children's age is a golden age that should not be burdened with things that hinder development and growth both from social, physical, mental and spiritual aspects. Their job at that age is just to learn and play. The phenomenon that occurs is that many children are burdened with heavy work which hinders all their development and potential. The importance of children's existence for the survival of a nation encourages the government to establish a set of regulations in an effort to protect children. Despite this, the fact is that the problem of child labor is still a serious problem, especially in Indonesia. This article aims to analyze and determine the causes and legal protection efforts for child labor based on the laws in force in Indonesia. This article concludes that firstly, the determinants of child labor problems are influenced by various factors that are interrelated with each other, namely poverty factors, educational factors, urbanization, social culture, changes in production processes and weak supervision. Second, from a review of the legal protection of child labor from the legal perspective in force in Indonesia, it is very strong, where there are many laws and regulations that guarantee it, but in terms of practice or implementation, it is still very weak. The laws referred to include Law Number 1 of 2000 concerning the ILO convention, Law number 13 of 2003 concerning employment, Law number 20 of 1999 concerning ratification of the ILO convention, Law Number 35 of 2014 concerning child protection and Law Number 11 of 2012 concerning the Juvenile Justice System and many other laws and regulations that are in line with this law.

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INTRODUCTION

Children are one of the nation's most valuable assets, not only from a legal, economic, political and social perspective, but more importantly from the perspective of the sustainability of the nation's generations. The importance of the position and status of children as intended means that children can have socio-cultural and political meaning. The social meaning can be interpreted that children determine the honor of the family, the cultural meaning means that children are a symbol of fertility, while the political meaning of children is that they become part of the successor of their own family or tribe.

Viewed from the perspective of development and growth of human life, the world of children can be interpreted as the world of heaven which is a place of fun and full of enthusiasm and joy in living their days. They should be able to move freely under the guidance of teachers and parents and be able to develop their potential. Apart from this view, in various regions in Indonesia there is the term 'many children, many fortunes'. But unfortunately, many people achieve this by employing or employing their own children. These views and actions are very prone to abuse and this is very detrimental to a child who should have a pleasant world. This does

not mean that children are not trained or introduced or educated to become hard workers for their future, but what is certain is that employing children to make a profit is not appropriate. The high level of child labor is still a serious problem in Indonesia, as data released by the Central Statistics Agency in 2022 still amounts to 3.1 million children or 1.71% of the number of children of the same age.



Figure 1. Percentage of Indonesian Child Laborers 2017-2022
 Source: BPS (2022)

Based on the information displayed in the data above, it can be understood that there is a downward trend in the number of child laborers every three years. However, this data does not provide certainty that the problem of child labor is growing can be stopped for sure. Juridically, Indonesia has many regulations to guarantee children's rights and reduce the impact of child labor, starting from the 1945 Constitution, to various types of statutory regulations. However, the tendency for the quality of child labor problems continues to develop in a complex manner and reduces the quality to become worse and tends to be exploitative.

The problem of child labor not only has an impact on the physical development of social and social neutrals and other development and growth of children, but it also has an impact on reducing the quality of other aspects such as children's education. Once again, data from the Central Statistics Agency reveals that by 2022 there will be 940 thousand child workers who have dropped out of school. This trend can be seen in the following image:

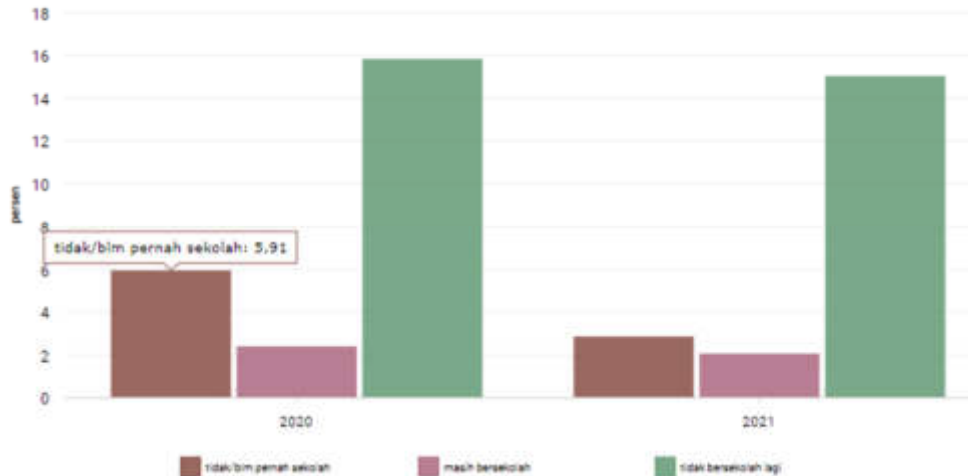


Figure 2.Child Labor by School Participation (2020-2021)

Source: BPS (2022)

The data depicted in the infographic above is a very sad phenomenon and also indicates the problem of exploitation or child labor. This is a serious problem that requires a quick solution. The solution is not only to reduce quantity but also requires strengthening legal protection by the relevant government.

Then, if we look at it from the aspect of children's rights, what is very worrying is that children who work are in a vulnerable position to be abused or exploited by adults. For example, in the formal industrial sector they work long hours with low wages and face high occupational risks and being targets of harassment. But ironically, various studies have found that it is people close to children who often lead them to exploitation as has been described. In connection with the phenomenon and dynamics and issues regarding child labor, the Indonesian government created a set of laws and regulations within the framework of protecting child labor. The protection referred to covers many aspects, both looking at the nature of work based on the age of the child and the like. Protection as referred to is one of the duties of government administrators as the implementation of the task of protecting the next generation or protecting the blood of the nation. The nation's next generation needs to be equipped from an early age to welcome a glorious and bright future. One way is to introduce children to the world of work, but this does not mean exploiting or making these children a source of income or in other languages what is called a "cash cow". Such actions are of course beyond the interpretation of introducing children to work in an effort to create children who are skilled and active in working.

From a legal perspective, the government also has a set of regulations that are interconnected with each other. But the fact is that the decline in the number of child laborers has not decreased significantly. So it is necessary to explore again what are the causes of the high rate of child labor in Indonesia and what protections are provided by law in Indonesia. This article will only focus on the causes and protection provided by the government for child labor because children are the generation that will be the nation's successors.

METHOD

The method used in this research is normative legal research (normative juridical), namely research that refers and leads to legal norms and principles and is sourced from literature (library research) and various statutory regulations related to the writing of this research..

RESULTS AND DISCUSSION

Overview of child labor

The term child labor is often debated and in general there is no agreement. This concept is actually used to replace the term child labor. The term child labor connotes low wages and ignoring developmental considerations and everything related to children's growth and development. Then, when referring to the ILO standards or provisions relating to the elimination of child labor, it can be interpreted as an activity or work carried out by children of a certain age with excessive and heavy intensity so that it disrupts all the development processes and potential they have and also the jobs that are categorized in illegal corridors.

The problem of child labor can be categorized as a social issue that is very difficult to solve because it is related to various factors and aspects of people's lives. The definition of child labor is limited to ages 4 to 18 years where they work in various fields of work. Based on the minimum age concept as published by the ILO, it is between 5 and 11 years. Those aged 12 to 14 years are categorized as child laborers unless they only do light work or tasks.

International Labor Organization (ILO) defines child labor based on the form of work as the main connotation. Underage work and work that is dangerous and refers to the worst form of work for children. In ILO Convention 182, the worst forms referred to include serious exploitation that violates the rights of everyone regardless of age, such as trafficking, forced labor slavery and so on. Labor Law No. 13 of 2003 defines child labor as children of both female and male gender who are involved or involve themselves in economic activities and this causes disruption and obstacles to the child's growth and development process and endangers them both in terms of mental health and physique.

There are several factors that can cause child labor to occur in a society, because whatever happens, a child always wants to be free from child labor and act like his peers. But the facts are different. The high problem of child labor in Indonesia is influenced by various factors that occur at the micro level to the macro level, all of which interact with each other, both socially, economically and politically. The causes or drivers of child labor cases include:

- a. Poverty. that the low economic status of a family is the most dominating factor that causes children to work to earn a living so that they become a source of income. In many cases, a child is even seen as a form of survival in order to eliminate the pressure of poverty as a result of parental incompetence. Children's involvement in this context is also driven by the child's own desire to lighten the burden on his parents or can be called a motivational factor for the child concerned. However, most of the time parents' demands are the biggest cause and children cannot avoid them.
- b. Urbanization. Based on the distribution of existing data, it can be seen that most working children come from rural areas. This is because in villages there are not many adequate resources, which has resulted in a large number of urbanites with various hopes of earning more income.
- c. Socio-cultural. That the phenomenon of child labor is closely related to various existing realities which have the view that children are potential and they must be filial to their parents. This view has developed that only children who work are considered to have filial piety. Through this culture, the position of children who have rights and must be protected is increasingly neglected.
- d. Education. Education is closely related to other factors such as poverty, so this is the reason why children are not able to receive education. So in conditions like this there is not much that can be done except through government policy through subsidies or reducing educational costs so that child workers can continue their education for their own future.

- e. Changes in production processes. The development of the times demands technological sophistication forcing companies to carry out production processes involving sophisticated tools so that this affects the effectiveness and efficiency of work. With this process, there are only manual and odd jobs where many children are paid low wages.
- f. Weak supervision and limited institutions for rehabilitation. The existence of various regulations relating to child labor is often not balanced with the implementation of the relevant regulations. So many child labor problems cannot be resolved properly and this is also supported by the lack of institutions working in the field of child protection.

UNICEF also stated that various factors that cause the problem of child labor are family poverty, household disharmony, and so on. Apart from that, the culture that has developed as a form of appreciation for children who work has become a contributing factor in contributing to the high problem of child labor. So poverty is not the only factor that causes a child to work. but poverty is the main cause. The heavy burden borne by children ultimately takes away their childhood, a time not for working but for playing and going to school.

Legal protection for child labor

There are various arrangements made by the Indonesian Government which focus on protecting child workers, especially those under age. Then the government also regulates protection against the worst jobs experienced by children, including prostitution, pearl divers, mining, construction work and also working as offshore fish catchers, scavengers and so on, all of which are clearly regulated in Presidential Decree No. 59 of 2002. This is how urgent the problem of workers is. children so that the existing regulations, apart from being an effort to ratify international conventions, are also partly regulations made on the basis of the government's own initiative. Even so, the existing regulations as intended are substantially adequate, but at the level of implementation they are still far from expectations.

The first regulation is Law Number 1 of 2000 concerning the ILO convention number 182 regarding violations and immediate action to eliminate the worst forms of child labor. Article 2 emphasizes that children are people who are limited to the age of 18 years. Furthermore, article 3 states the worst forms of child labor as described above, some of which contain at least ten types. Article 7 paragraph 2 of the same law states the importance of education in eliminating child labour, taking effective and time-bound measures to prevent the use of children in the worst forms of child labour, providing direct assistance in freeing children from the worst forms of labor and ensuring the availability of education. on a free basis as well as identifying and reaching out to children at special risk.

Second is Law Number 13 of 2003 concerning employment which was amended by Law No. 11 of 2020 concerning Job Creation (Job Creation Law). Even though the replacement law is still controversial, its content is still carried forward, namely that entrepreneurs are prohibited from employing or enslaving children except children aged 13 to 15 years to do light work and not cause interference with their physical, social and mental development and health. Entrepreneurs who employ children in even light work must fulfill several specified conditions such as written permission from parents and guardians with a maximum working time of 3 hours and so on, excluding those who work in family businesses.

In article 70 paragraph 1 it is explained that children may do work which is part of the curriculum or legal training and in paragraph 2 it is explained that children must be at least 14 years old. The prohibition on involving children in bad work is reaffirmed in article 74 paragraph 1 of the same law and the government is obliged to take action against children who work outside the employment relationship. The sanctions are that anyone who violates the provisions of article

74 will be imprisoned for a maximum of five years and a fine of at least two hundred million rupiah.

Table 1.Principles of Child Labor Protection in Law no. 13 of 2003

Verses and Articles	Content
Article 68	Entrepreneurs are prohibited from employing children. The provisions as intended in Article 68 can be exempted for children aged between 13 (thirteen) years and 15 (fifteen) years from carrying out light work as long as it does not interfere with their physical, mental and social development and health.
Article paragraph 1	69 The provisions as intended in Article 68 can be exempted for children aged between 13 (thirteen) years and 15 (fifteen) years from carrying out light work as long as it does not interfere with their physical, mental and social development and health.
Article Paragraph 2	69 Entrepreneurs who employ children in light work as intended in paragraph (1) must fulfill the requirements: a written permission from parents or guardians: b. employment agreement between entrepreneurs and parents or guardians: c. maximum working time 3 (three) hours; d. carried out during the day and does not interfere with school time: e. occupational safety and health: f. the existence of a clear working relationship: and g. receive wages in accordance with applicable regulations.
Article Paragraph 3	69 The provisions as intended in paragraph (2) letters a, b, f and g are excluded for children who work in their family business
Article Paragraph 1	70 (1) Children can do work in work places which are part of 2 and 3 educational or training curricula approved by authorized officials. (2) The child as intended in paragraph (1) is at least 14 (fourteen) years old. (3) The work as intended in paragraph (1) can be carried out by providing clear instructions on how to carry out the work as well as guidance and supervision in carrying out the work: and b. given protection for health and safety.
Article 71	In the event that children are employed together with adult workers/laborers, the child's work place must be separated from the adult worker's/labor's work place.
Article 73	Children are welcome to work when they are in a fun place. unless it can be proven otherwise.
Article paragraph 1	74 (1) Anyone is prohibited from employing and involving children in bad jobs.
Article paragraph 2	74 The worst jobs referred to in paragraph (1) include a any work in the form of slavery or similar b. All jobs that utilize provide. or offering children for prostitution, pomography production. pornographic shows, or gambling. c. all work that uses, provides or involves children for the production and trade of liquor and narcotics. psychotropics and other addictive substances; and/or d. all work that endangers the health, safety or morals of children.
Article paragraph 1	75 The government is obliged to make efforts to control children who work outside of their normal relationship. Fourth is the explanation of Law No. 20 of the year.

Fourth is an explanation of Law No. 20 of 1999 concerning ratification of ILO Convention Number 138 concerning the minimum age permitted to work. The minimum age in this law is explained as not being less than completion of education, namely 15 years of age under any circumstances. In article 2 paragraph 4 it is emphasized that:

"Countries whose facilities and economy are not sufficiently developed to begin with can set a minimum age of 14 years."

Article 3 states that:

"The minimum age permitted to work in each type of work which due to the nature and/or conditions of the environment where the work is carried out endangers the health, safety, morals of young people and must not be less than 18 years old."

The law allows the age of 16 years with certain requirements regulated in the law. Next is in "Law Number 35 of 2014 concerning amendments to Law No. 23 of 2002 concerning child protection". Article 1 paragraph 1 states that:

"Children are people who are not yet 18 years old, including those who are still in the womb".

Article 4 confirms that:

"Every child has the right to live, grow and develop and participate appropriately in accordance with human dignity, as well as protection from violence and discrimination."

Article 5 confirms that:

"Every child has the right to a name as personal identity and citizenship status."

Article 6 reads that:

"Every child has the right to worship according to his religion, think and express himself according to his level of intelligence and age under the guidance of his parents"

Article 7 paragraph 1 reads that:

"Every child has the right to know their parents, to be raised, to be cared for by their own parents."

Then in article 9 paragraphs 1 and 2 it is emphasized that:

"Every child has the right to receive education and teaching in the context of personal development and level of intelligence in accordance with his or her interests, talents, and children with disabilities have the right to receive special education and children who have advantages have the right to receive special education."

Apart from the main articles above, there are still many articles in the same law which generally have the essence of providing protection to children, so automatically this is directly related to children's work.

Seventh is Law Number 11 of 2012 concerning the Juvenile Criminal System where in Article 71 paragraph 1 letter C it is explained that the main criminal punishment for children consists of job training. in article 78 it is emphasized that:

"Job training penalties are carried out at institutions that carry out job training appropriate to the child's age and are imposed for a minimum of three months and a maximum of one year"

Based on the various laws mentioned above, especially in law number 25 of 2014 concerning child protection, it can be explained in general that there seems to be a lack of serious policy in actually protecting the rights of child workers. "ILO Convention No 138 Concerning Minimum Age for Admission to Employment the Abolition of Forced Labor concerning the minimum age permitted to work in 1973 and this was adopted by the ILO general conference on 26 June 1973".

In order to provide protection for children as workers, the convention contains several principles. The first is the principle of eliminating child labor and the principle of protection. Some of the principles related to the protection of children against exploitation of children as workers in this convention are the principle of protection, the principle of prevention, the principle of effective implementation, and the principle of national cooperation. This convention also contains norms that are directly related to the concept of protecting children as workers.

The legal material regarding children's rights in the child rights convention can be grouped into four categories, namely:

- a. The right to survival is a right that includes the right to preserve and defend life and the right to obtain a high standard of health and the best possible care.
- b. Protection rights are rights in the Convention on the Rights of the Child which include protection from discrimination, violence and neglect for children who do not have families, for refugee children.
- c. The right to growth and development is a right that includes all forms of education, both formal and informal, and the right to achieve a standard of living that is adequate for the physical, mental, spiritual and social development of children.
- d. The right to participate is a right that includes the right to express opinions in all matters that affect children.

CONCLUSION

This article concludes that firstly, the determinants of child labor problems are influenced by various factors that are interrelated with each other, namely poverty factors, educational factors, urbanization, social culture, changes in production processes and weak supervision. Second, from a review of the legal protection of child labor from the legal perspective in force in Indonesia, it is very strong, where there are many laws and regulations that guarantee it, but in terms of practice or implementation, it is still very weak. The laws referred to include Law Number 1 of 2000 concerning the ILO convention, Law number 13 of 2003 concerning employment, Law number 20 of 1999 concerning ratification of the ILO convention, Law Number 35 of 2014 concerning child protection and Law Number 11 of 2012 concerning the Juvenile Justice System and many other laws and regulations that are in line with this law.

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