

Legal Protection of Children's Rights in Indonesia's Labor System

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Abstract

Children have fundamental rights that must be fulfilled by parents and guaranteed by the state. These rights are even mandated by the United Nations (UN) as part of efforts to protect children. This research raises the issue of protecting the rights of children who are employed underage, especially in the context of regulations that are still not entirely clear regarding child labor. This issue is important because children who work underage often face violations of fundamental rights, exploitation, and lack of access to education and social protection. This research is normative with a legislative approach and legal concept analysis. The research data source uses library materials, which include the 1945 Constitution, Law Number 13 of 2003 concerning Labour, ILO Conventions, and Law Number 35 of 2014 concerning Child Protection. The study was conducted by analyzing laws and regulations related to child labor, identifying the weaknesses of existing rules, and providing legal analysis based on applicable legal concepts. The results show that although there is a legal basis governing child labor, its implementation and supervision are still weak. There is a need for more stringent regulatory updates and increased synergy between relevant agencies to ensure the protection of the rights of children working underage. In addition, a holistic approach is needed to prioritize children's rights, including education, health, and social security, to create an environment free from child exploitation.

Keywords: Protection; Children's Rights; Employment;

Anak-anak memiliki hak-hak dasar yang wajib dipenuhi oleh orang tua dan dijamin oleh negara. Hak-hak tersebut bahkan diamanatkan oleh Perserikatan Bangsa-Bangsa (PBB) sebagai bagian dari upaya perlindungan terhadap anak. Penelitian ini mengangkat permasalahan mengenai perlindungan hak anak yang dipekerjakan di bawah umur, terutama dalam konteks regulasi yang masih belum sepenuhnya jelas mengenai pekerja anak. Isu ini penting karena anak-anak yang bekerja di bawah umur sering kali menghadapi pelanggaran hak dasar, eksploitasi, serta minimnya akses terhadap pendidikan dan perlindungan social. Penelitian ini bersifat normatif dengan pendekatan perundang-undangan dan analisis konsep hukum. Sumber data penelitian menggunakan bahan kepustakaan yang mencakup Undang-Undang Dasar 1945, Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan, Konvensi ILO, serta Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak. Kajian dilakukan dengan menganalisis peraturan perundang-undangan yang terkait dengan pekerja anak, mengidentifikasi

kelemahan regulasi yang ada, serta memberikan analisis hukum berdasarkan konsep-konsep hukum yang berlaku. Hasil penelitian menunjukkan bahwa meskipun telah ada landasan hukum yang mengatur pekerja anak, penerapan dan pengawasannya masih lemah. Dibutuhkan pembaruan regulasi yang lebih tegas serta peningkatan sinergi antarinstansi terkait untuk menjamin perlindungan hak anak yang bekerja di bawah umur. Selain itu, diperlukan pendekatan yang holistik untuk mengedepankan hak anak, meliputi pendidikan, kesehatan, dan perlindungan sosial agar dapat menciptakan lingkungan yang bebas dari eksploitasi anak.

Kata Kunci: Perlindungan; Hak Anak; Ketenagakerjaan;

INTRODUCTION

Children have rights that parents must fulfill. These rights are even mandated by the United Nations (UN). Eglantine Jebb initiated the initial draft of 10 children's rights. She is a British woman who founded the international non-profit Save the Children and was moved to draft children's rights. This was because Jebb witnessed the suffering of children firsthand in World War I. 1923, Jebb proposed a draft declaration on children at the Geneva League of Nations. Then, in 1954, the UN announced the rights of the child. Finally, in 1989, the draft was ratified as the Convention on the Rights of the Child.

In 1989, governments worldwide pledged equal rights for all children by adopting the UN Convention on the Rights of the Child. The Convention sets out what states must do so that every child can grow up as healthy as possible, attend school, be protected, be heard, and be treated fairly. The Convention on the Rights of the Child has 54 articles. In Indonesia, the Convention on the Rights of the Child was approved by Presidential Decree No. 36 of 1990 on 28 August 1990. Here are the 10 rights of the child: First, the Right to a Name or Identity. The child's first right is to obtain an official name or identity. For this, several things need to be done, such as (a) Preparing data on the child's parents, such as KTP and marriage certificate for the birth certificate. (b) Registering the child with the Population and Civil Registration Office to be included in the family card. (c) Ensure the child's name is correctly written on the birth certificate and family card.

Second, the right to citizenship. After getting a birth certificate as an adult, the child will need an ID card and passport. There are exceptions for Indonesian children born in the United States; the child is entitled to limited dual citizenship status until the age of 18. Above that age, the child can choose only one citizenship. Third, the Right to Protection. Children of any gender are entitled to protection from psychological and physical abuse. Parents are prohibited from committing verbal and non-verbal violence. Parents are also responsible for the safety of their children. Fourth, the Right to Food. Children need food with good nutritional quality. This can be done by providing exclusive breastfeeding until the age of 2 years. Furthermore, after the child grows into a toddler, the child is given complementary foods (MPASI) and other nutritious foods. Fifth is the Right to Health. A healthy body will make children develop optimally. Children have the right to have a healthy body; this is done by providing wholesome and nutritious food, preparing a clean environment, getting used to clean and healthy living behavior, and providing proper clothing. Sixth, Recreation Rights. That is to give children happiness by taking them for a walk. Parents can do this by taking them on a picnic and bringing food from home.

Recreation does not have to be done by visiting expensive places because the purpose of recreation is to make children happy. Seventh, the Right to Education. Parents are the first educators for children. Children will listen, see, and feel anything for the first time from home. This can affect the child's views until adulthood. Children need to be adequately educated, such as teaching good and bad things, getting used to discipline and responsibility, and sending children to school according to their age. Eighth, the Right to Play. Letting children play is a child's right that must be fulfilled. This is because play is their world. By playing, children can learn about their surroundings. Parents must always supervise their children when they are playing. Ninth, the Right to Play a Role in Development. Children also get the right to be good citizens. Parents can teach children to play a role in their development by introducing civic knowledge. A simple thing that plays a role in development that parents can teach is to teach children to always throw garbage in its place: tenth, the Right to Equality. Children have the right to equal opportunities to grow and develop. This tenth child right is related to the nine child rights mentioned above.

As a state of law, Indonesia guarantees life and freedom from discriminatory treatment. National development, especially in labor, is directed to the greatest extent for the prosperity and welfare of the working community. Therefore, labor law must guarantee the principle of legal certainty, the value of justice, the principle of benefit, order, protection, and law enforcement. Labor law protects and creates a sense of security, peace, and prosperity by ensuring social justice for all people. The concept of child labor is based on Law Number 20 of 1999 concerning the Ratification of ILO Convention Number 138 Concerning the Minimum Age for Administration to Employment and the Abolition of Forced Labour. According to this convention, the minimum age for countries where the economy and educational facilities are less developed is that all children aged 5-11 years who carry out economic activities are child laborers, so it needs to be abolished. Children aged 12-14 who work are considered child laborers unless they perform light tasks. Children up to 18 are not allowed to work in hazardous occupations.

Labor law in providing protection must be based on two aspects: *first*, the law in an ideal perspective is embodied in legislation (heteronomous) and autonomous law. This realm of law must reflect legal products that are, by the ideals of justice and truth, have certainty and beneficial value for the parties in the production process. Labor law is not only concerned with business actors but also pays attention to and provides protection to socially weak workers compared to the position of entrepreneurs who are pretty well established. The law provides benefits to the principle of social differences and economic levels for disadvantaged workers, such as welfare levels, wage standards, and working conditions, as regulated in legislation and line with the meaning of justice according to the provisions of Article 27 (2) of the 1945 Constitution that: "Every citizen has the right to a job and a livelihood worthy of humanity". Similarly, Article 28 D (2) of the 1945 Constitution states, "Every person has the right to work and to receive fair and equitable remuneration and treatment in labor relations."

Second, normative law at the implementation level contributes in the form of supervision through law enforcement officials and acts for parties who do not comply with legal provisions. The high number of working children, most of whom are under the age of 15, both in the formal and informal sectors in Indonesia, is an undeniable reality,

triggered by the pressure of the situation to meet the family's economic needs, which requires these children to work (Jannani & Fikriyah, 2017). The philosophy of prohibiting children from working or employing children as stipulated in Law Number 13 Year 2003 on Labour is closely related to efforts to protect children's human rights, which are also guaranteed protection in Law Number 39 Year 1999 on Human Rights.

This research aims to analyze the protection of children's rights in Indonesian labor law, focusing on the effectiveness of implementing existing regulations, such as Law No. 13/2003 on Manpower and the Child Protection Law. The research also aims to identify the economic, social, and cultural factors that drive child labor, as well as to explore the level of public legal awareness regarding the dangers of child labor. In addition, the research will provide policy recommendations to improve the protection of children from exploitation in the world of work and assess the role of government and non-government agencies in strengthening efforts to protect children's rights.

METHODS

The research method used in this study is a qualitative approach with a literature study. This research aims to analyze the regulation of child rights protection in Indonesia's labor sector and identify the challenges and solutions faced in implementing the policy. Data was collected through document studies, including the Law of the Republic of Indonesia No. 13/2003 on Labour and other relevant laws and regulations, such as child protection and human rights. In addition, this study also refers to reports from international institutions such as the International Labour Organization (ILO) that provide insights into child protection practices in the workplace in developing countries, including Indonesia (International Labour Organization [ILO], 2019).

The data was analyzed by examining the compatibility between existing regulations and field conditions and identifying gaps between theory and practice in protecting children's rights. This research also evaluates the role of government and non-governmental organizations in addressing child labor issues. The researcher used content analysis techniques to categorize information from legal sources, policy reports, and case studies. Secondary sources included law books, academic journals, and previous research reports. This research provides policy recommendations to strengthen protecting children's rights in labor in Indonesia (Pradana, 2022).

RESULTS AND DISCUSSION

Protection of Children's Rights in Labour Law

Article 68 of the Labour Law prohibits the employment of children as stipulated in the provisions of Article 52 (1) of Law No. 39 of 1999 on Human Rights, which stipulates that every person has the right to protection by parents, family, community, and the state. One of the aspects regulated by the Labour Law is the legal protection of the wages and welfare of child laborers, which is included in the provisions of Articles 68 to 75. Article 68 stipulates that employers are prohibited from employing children. Child protection, substantially and principally, also contains the concept of the legal protection of children, which aims to create or realize the best life for children (Heski Kalangie. 2014).

Convention No. 138 of 1973 on the Minimum Age for Admission to Employment. The Convention requires states to implement national policies that eliminate child labor.

The Convention stipulates that the minimum age for employment should not be less than compulsory education so that children's physical and mental development is not impaired before they enter the labor force. The prohibition for employers to employ children is stated in Article 68 of the Labour Law. However, Article 69 (2) provides an exception that the employment of children may be carried out provided that the conditions stipulated in the provisions of the Article are met.

The right to restitution is very new in the Indonesian criminalization system. Hearing the term restitution, there may still be many who do not understand what restitution means. According to the KBBI, restitution can be interpreted as compensation, repayment, employee entitlement to treatment, and delivery of the remaining payment. Meanwhile, according to Government Regulation No. 3 of 2002 concerning Compensation, Restitution, and Rehabilitation of Victims of Gross Human Rights Violations, restitution is compensation given to victims or their families by perpetrators or third parties in the form of returning property, paying compensation for loss or suffering or reimbursing costs for specific actions. So, the point is that restitution is compensation to the victim. In Law Number 35 of 2014, the issue of restitution is only regulated in one article, namely in Article 71 D, which states that: (1) Every child who is a victim as referred to in Article 59 paragraph (2) letter b, letter d, letter f, letter h, letter I, and letter j has the right to submit to the Court the right to restitution which is the responsibility of the perpetrator of the crime. (2) Further provisions regarding the implementation of restitution, as referred to in paragraph (1), shall be regulated by government regulation.

Violations of the work requirements for the use of child labor are not solely the fault of the employer or the person employing the child, but the child laborer or the child's parents or guardians who do not want the requirements to be fulfilled as stipulated in the provisions of Article 69 (2) of the Labour Law as described below: (1) If children are to work, they must obtain prior written permission from their parents or guardians, the work permit is related to the rights and obligations of children and employers. For example, regarding the provisions of working hours, payment of wages, whether by applicable regulations, and overtime pay, parents must know whether the work to be done by the child does not interfere with their physical, mental, and social development. (2) Not based on a work agreement, these children work in the informal sector without clear rules, types, and forms of work to be part of their duties. (3) Working hours are long so that resting time is reduced, while in physical condition, children still experiencing a growth period require adequate rest and food intake to support their growth process. Article 69 (2) letter c of the Labour Law stipulates that child laborers should work for a maximum of 3 hours. (4) Workplace conditions that are not conducive and disrupt the health of child workers, child workers are often faced with the risks of the work they do, especially those working in the industrial sector, such as the risk of health problems due to stuffy rooms, industrial fumes that can choke the breath, food, and drink that are not guaranteed and malnutrition, also faced with psychological disorders such as abuse, harsh words, and curses. Mixing the workplace of children and adults should not be done because this is contrary to Article 72 of the Labour Law, which has been regulated.

These conditions show that juridically, the state has carried out its obligations in providing legal protection for its people, especially for groups of child laborers. However, the *actual* situation in society shows that violations of the rules are still being violated,

which negatively affects child laborers. The Child Protection Law stipulates legal sanctions for those who do not protect children who are exploited economically or sexually.

Juridically, Indonesia already has a set of laws and regulations to guarantee children's rights and reduce the impact of child labour, including worker regulation based on the 1945 Constitution and ILO Convention No. 138, which has been ratified into Law No. 1 Year 2000 on Violations and Immediate Action to Eliminate the Worst Forms of Child Labour (Chrisdanty. 2017).

Conceptually, there are at least three approaches to the issue of child labor: *abolition*, *protection*, and *empowerment*. (Affandy Idrus. 2007) The abolition approach assumes that a child should not work because he or she should go to school and play. The protection approach does not prohibit children from working because working is part of children's most basic human rights, according to Article 68 of the Labour Law regarding exceptions for children aged between 13 and 15 years to do light work as long as it does not interfere with physical, mental and social development and health. However, the Labour Law does not regulate what light work is, but it is regulated more clearly in Kepmenakertrans No. Kep 235/MEN/2003 Article 1 and Article 2 explaining hazardous work. According to *Argumentum a Contrario* (Principle of Interpretation), there are times when an event is not explicitly regulated by law. Still, the opposite of the event is regulated by law (Affandy Idrus. 2007). The empowerment approach also departs from recognizing children's rights and supports efforts to strengthen child labor so that they understand and can fight for their rights.

Legal protection of child labor in terms of criminal law can be seen in the Labour Law, namely Article 69 (2), employers who employ children must have the permission and agreement of the child's parents or guardians, a maximum working time of 3 hours, carried out during the day and must not interfere with school hours, employment insurance, transparent working relationships, and appropriate wages. Article 71(2), a working environment that does not interfere with physical, mental, social, and school development. Article 183, any person who violates Article 74 shall be imprisoned for a minimum of one year, a maximum of five years, and/or a fine of not less than Rp. 100,000,000 (one hundred million rupiahs) and not more than Rp. 500,000,000 (five hundred million rupiahs). Article 185, any person who violates the provisions of Article 42 (1) and (2), Article 68, Article 69 (2), Article 80, Article 82, Article 90 (1), Article 139, Article 143, and Article 160 (1) and (7), shall be liable to imprisonment for a minimum period of one year and a maximum period of four years and/or a fine of not less than Rp. 100,000,000 (one hundred million rupiahs) and not more than Rp. 400,000,000 (four hundred million rupiahs). Article 186, whoever violates the provisions of Article 35 (2) and (3), Article 93 (2), Article 137 and Article 138 (1). Shall be liable to imprisonment for a minimum period of one year, a maximum period of four years, and/or a fine of at least Rp. 10,000,000 (ten million rupiah) and a maximum of Rp. 400,000,000 (four hundred million rupiah).

Challenges to the Protection of Children's Rights in Labour Law

a. Limited Supervision and Law Enforcement in Remote Areas

Weak oversight and difficulty reaching remote areas are significant challenges in protecting children's rights in the labor sector. While regulations exist, less rigorous implementation and supervision in rural areas or areas with limited access make it difficult to enforce the law.

Weak supervision and law enforcement in remote areas are among the main challenges in implementing child rights protection in labor law in Indonesia. Although Indonesia has various regulations prohibiting child labor, such as Law No. 13/2003 on Labour and the Child Protection Law, implementing the law on the ground often does not match the existing provisions, especially in rural areas or areas with limited access. In many remote areas, limited human resources and law enforcement facilities, as well as a lack of supervision by the authorities, lead to many children being involved in hazardous or inappropriate work for their age (Pradana, 2022).

One of the main problems faced is the lack of labor inspectors in these areas. In Indonesia, labor inspectors are limited in number, primarily focusing on more densely populated urban areas. Due to budget and resource constraints, supervision in remote areas is often the last priority. As a result, many children work in informal sectors, such as agriculture and petty trade, which often go unrecorded and are not adequately monitored (Sumarni & Wijayanto, 2020). Without adequate supervision, children working in these sectors are often trapped in poor working conditions, with negative impacts on their physical and mental health.

In addition, communities in remote areas often do not fully understand the laws prohibiting child labor, as well as the legal consequences that can arise from child exploitation. Many families trapped in poverty consider child labor an economic necessity and do not realize that it can jeopardize their children's future. This is further exacerbated by the lack of information the government or relevant agencies provide on children's rights and the risks of hazardous work (Arisanti, 2021). The lack of education on labor law at the village level means that awareness of the dangers of child exploitation in employment is very low.

On the other hand, geographical constraints and limited infrastructure also exacerbate the situation. Access to government services is often minimal in remote areas, especially in eastern Indonesia. This makes it difficult for the government to conduct routine inspections and intervene as needed to stop the practice of child labor. In addition, limited communication and transportation networks make it difficult to coordinate between the central and local governments in handling child labor cases (Dewi, 2020). As a result, the protection of children working in these areas has become increasingly vulnerable.

To address this challenge, a budget allocation for labor inspection in remote areas needs to be increased. The government must involve more parties, including non-governmental organizations and local communities, to improve monitoring and law enforcement. In addition, it is important to organize training and education for communities in these areas on children's rights and the negative impacts of child labor. Collaboration between the government and local organizations that have closer access to rural communities can be a strategic step to strengthen the implementation of child protection policies in the employment sector (International Labour Organization [ILO], 2019).

b. Economic Factors that Drive Child Labour

Poverty and family economic hardship are among the factors that lead to children being forced to work. In many areas, children are seen as an addition to the family income, especially in the informal and agricultural sectors, which increases the risk of child labor exploitation.

Economic factors are one of the main reasons why children in Indonesia are still involved in labor. In many areas, especially those with high levels of poverty, child labor is often seen as a way to help ease the family's economic burden. When families face financial difficulties, children who should be receiving education and attention for their future development are often forced to work to fulfill the family's basic needs, such as food and shelter (Suryani, 2021). Under difficult economic conditions, families often have no choice but to engage their children in work, even if it risks their health and development.

The significant presence of the informal sector in Indonesia also contributes to the high number of child laborers. The informal sector, which includes work in agriculture, petty trade, and cottage industries, is often not registered in the formal labor system and is beyond government oversight. Children working in this sector often do not receive sufficient legal protection, as the work is considered part of local traditions or legitimate activities (Raharjo & Setiawan, 2020). In the absence of strict supervision, children often work in hazardous conditions, with long working hours and very low wages, to help their families overcome their economic difficulties.

Poverty not only causes parents to decide to allow their children to work but can also lead to the idea that formal education does not provide significant economic benefits. Many parents feel that education cannot guarantee a decent job or cannot immediately provide enough income for the family. As a result, they prefer their children to go directly into the world of work rather than continuing an extended education (Pradana, 2022). In some remote areas, the lack of access to quality education and low awareness about the importance of education make child labor a more profitable option in the short term.

In addition, the government's inability to provide adequate social services to low-income families further exacerbates this problem. Existing social assistance programs in Indonesia often do not cover all needy families, especially in rural areas or areas with limited access. Many families are not reached by assistance programs such as scholarships or cash transfers that could help reduce the need for children to work. Without adequate economic support, children are often forced to take on the role of additional breadwinners in the family (Hidayah, 2021). This exacerbates the cycle of poverty, as working children are less likely to continue their education, trapping them in low-skilled jobs that prolong poverty for the next generation.

To solve this problem, the government needs a more comprehensive approach to address the economic factors that drive child labor. One way is to improve the poor's access to quality education and targeted social assistance programs. The government also needs to encourage the development of a more inclusive formal economic sector to create decent jobs for parents so that they do not need to rely on children to work. Skills training programs for poor parents and families and capital assistance for small businesses can also reduce dependence on child labor (International Labour Organization [ILO], 2019).

c. Lack of Legal Awareness and Education on Children's Rights

Many parents and communities do not fully understand children's rights and the negative impacts of child labor exploitation. The low level of legal awareness and lack of education on the importance of protecting children's rights from work that endangers their physical, mental, and social development are obstacles to protecting children's rights in the labor sector.

The lack of legal awareness about children's rights among Indonesians is one of the main challenges in protecting children's rights in the labor sector. Although Indonesia has various laws and policies prohibiting child labor, many parents and communities do not fully understand the legal implications of involving children in the world of work. Many families still consider working from an early age every day as part of the life-learning process for their children (Pradana, 2022). This is influenced by local traditions and culture that pay little attention to the importance of education and children's rights, leading to low levels of legal awareness among the community (Hidayah, 2021). Without an adequate understanding of children's rights, it is challenging to realize adequate protection for working children (Sumarni & Wijayanto, 2020).

Child rights education at the community level is also minimal, especially in less developed areas. In many rural areas, parents do not always realize that involving children in hazardous work can be detrimental to their physical and mental development. They also do not understand that laws prohibit children from working below a certain age or in risky conditions (Raharjo & Setiawan, 2020). Education about children's rights should be an important part of the national education system. However, many children do not receive adequate education about it, so they cannot protect themselves from exploitation (Pradana, 2022).

The lack of understanding about children's rights also results in low community participation in efforts to reduce child labor. Many parents still see children's work as a way to help the family economy, especially among low-income families. People unaware of children's rights tend to think that involving children in work is a form of social or traditional responsibility with no legal consequences (Hidayah, 2021). This worsens matters as low legal awareness hampers the implementation of child protection policies. Creating an effective child protection system is difficult without good legal awareness, as people tend not to report or respond to child labor cases (Sumarni & Wijayanto, 2020).

The government, in this case, needs to be more active in educating the public about children's rights and the legal consequences of child labor exploitation. One way to do this is by organizing information campaigns focusing on the importance of protecting children's rights and the dangers of child labor (International Labour Organization [ILO], 2019). Educational programs such as seminars or mass media training for parents, teachers, and community leaders on children's rights can increase legal awareness among the public. It is also important to integrate a curriculum on children's rights into the formal education system so that children also understand their rights and can protect themselves from exploitation (Pradana, 2022).

In addition to government efforts, non-governmental organizations (NGOs) play an important role in raising legal awareness of children's rights. NGOs focusing on child labor issues can work with communities to provide the training and information needed to make them more aware of child rights protection. Collaboration between the

government, NGOs, and local communities will strengthen efforts to reduce child labor in Indonesia and ensure every child can grow and develop in a safe and supportive environment (International Labour Organization [ILO], 2019).

CONCLUSIONS

The protection of children's rights in labor law still needs to be considered in more detail because of the rampant cases that violate the rights of child laborers who are still underage. Protection of children's rights is the responsibility of various *stakeholders*, not just the obligation of parents. It is necessary to provide an exceptional legal basis in addition to those already included in the Articles of the 1945 Constitution or other laws and regulations to ensure its comprehensive and targeted implementation and handling. In addition, there needs to be a balance between protecting children's rights as workers and providing obligations for children as workers. Therefore, in addition to protecting their rights so they do not become misguided, it is also necessary to show their obligations. Because so far, there are still many violations of children's rights that occur due to the lack or unclear protection of children's rights.

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