Prevention of Child Labor Exploitation Through the Implementation of Fair Labor Laws

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Abstract

Many companies still employ "child labor," and the number of child workers who require a legal protection system continues to increase. This makes it highly interesting to examine and study how the legal protection of child workers from labor exploitation is actually implemented. Therefore, the central issue of this thesis can be formulated as follows: how is the implementation of labor laws carried out as a legal protection effort against the exploitation of child workers, and what obstacles and measures have been taken by the government to address child labor exploitation. This research is a type of normative juridical study, which is a library-based study focusing on secondary data, including an inventory of positive law. Based on the research results, it can be described that the existing legal protection system for child workers has not been implemented effectively. Legal violations committed by employers do not receive the appropriate legal actions due to the non-performance of labor inspection officers' functions. Therefore, it is necessary to strive for a unified determination and coordinated actions from government officials, implementing officers, employers, parents, and all components of the nation to genuinely eliminate child labor.

I. Introduction

Children, as beings created by God Almighty, have basic rights from birth, namely the guarantee to grow and develop fully—physically, mentally, and socially—and to possess noble character. Efforts must be made to protect them and ensure their welfare by guaranteeing the fulfillment of their rights and preventing discriminatory treatment so that no individual or party can deprive them of these rights.

Child protection encompasses all activities aimed at guaranteeing and safeguarding children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity, while also being protected from violence and discrimination (Said, 2018).

Working can have both positive and negative impacts on children. While employment may train children to be responsible from an early age and help support their family's livelihood or finance their education, it also deprives them of childhood opportunities to play and pursue education.

After two years of Indonesia experiencing a monetary crisis, there were indications that the number of children seeking work in factories and other business sectors continued to rise. Mass layoffs by employers worsened the socioeconomic conditions of many households, forcing children to help meet their family's economic needs or at least provide for themselves (Yosevin & Anwar, 2022).

In essence, children should not work because their time should be devoted to studying, playing, enjoying life, living in a peaceful environment, and having opportunities and facilities to achieve their aspirations according to their physical, psychological, intellectual, and social development. However, in reality, many children under 18 are actively involved in economic activities, working in industries due to economic pressures faced by their parents or other factors.

One child-related issue that requires special attention is child labor. This issue has become global, as countless children worldwide enter the workforce during school age. Child labor is not merely about children working for wages but is closely linked to exploitation, hazardous work, restricted access to education, and impeded physical, psychological, and social development. In some cases, children are involved in the most intolerable forms of labor (the intolerable form of child labor) (Purwanto, 2020).

Generally, child workers receive inadequate legal and social protection because they often work out of necessity as additional labor in production (economic exploitation). They are usually not bound by formal employment agreements since the legal requirements for protection are not met by working children. Additionally, children are considered too young to enter into formal work agreements.

The involvement of children in labor is also influenced by economic principles, where companies aim to minimize costs while maximizing profits. One way to achieve this is by employing children, as child labor is seen as cheaper and easier to manage.

In the current Indonesian government system, the institution authorized to handle labor issues, including child labor, is the Ministry of Manpower and Transmigration at the national level, while at the district level, it is delegated to the Regent through the local labor office (Kadek Diva Hendrayana et al., 2022).

As a legal basis for addressing child labor and protecting children from exploitation, the government refers to several regulations: Presidential Decree No. 36 of 1990, ratifying the 1989 Convention on the Rights of the Child; Law No. 20 of 1999, ratifying ILO Convention No. 138 on the minimum age for employment (15 years); Law No. 1 of 2000, ratifying ILO Convention No. 182 on the Worst Forms of Child Labor; Law No. 23 of 2002 on Child Protection; and Ministerial Regulation No. 01/MEN/1987 on the Protection of Children Forced to Work.

Child workers, like adult workers or humans in general, also require a legal protection system. Although programs addressing child labor exist as part of a legal protection framework, empirical evidence shows that many companies still employ child labor, increasing the number of children needing legal protection. Therefore, it is highly important to examine how legal protections for child workers against labor exploitation are actually implemented (Wahyudi & Kushartono, 2020).

2. Research Method

This study employs a normative juridical approach with a descriptive-analytical nature, aimed at examining legislation regulating child labor, particularly concerning labor exploitation of children. The research is designed to synergize with the Ministry of Manpower and Transmigration at both central and regional levels, enabling the study to provide insights into regulatory implementation and the obstacles encountered in practice (Irwansyah, 2020). The data consist of a collection of legal norms related to child labor, gathered through documentary research by reviewing relevant literature, legislation, and other legal sources to produce valid secondary data. Data analysis is conducted qualitatively, identifying patterns, relevance, and interconnections among regulations to offer an in-depth understanding of the effectiveness of legal protection for child workers. This approach allows the research not only to present existing regulations but also to assess their implementation within socio-economic and institutional contexts, thereby providing evidence-based policy recommendations (Purwati, 2020).

3. Results and Discussion

Implementation of Labor Legislation Against Child Labor Exploitation

In reality, the issue of child labor is not merely about children performing work for wages; it is closely associated with exploitation, hazardous work, restricted access to education, and impeded physical, psychological, and social development of children.

The adverse situations experienced by children, which can be categorized as forms of child labor exploitation, include: working full-time at an excessively early age; spending excessive hours working; performing tasks that involve physical, social, or psychological pressure; receiving inadequate wages; bearing excessive responsibilities; engaging in work that hinders opportunities to obtain or access education; performing work that undermines dignity and self-esteem; and engaging in work that damages social and psychological development (Aprilianda, 2017).

For children who are compelled to work, it is established that one of their fundamental rights is the right to education. Importantly, working children should be given the opportunity to obtain education, not merely be provided with education. Therefore, one of the best approaches is to limit child labor to no more than four hours per day, allowing children sufficient time to attend school and pursue learning.

Even if the exploitation does not fall into the category of work with high physical, social, or psychological pressure, children who do not receive adequate wages and cannot access education will fail to achieve healthy and normal social and psychological development. This indicates that the second and fifth principles of Pancasila, which form the spirit and personality of the Indonesian nation—"Just and Civilized Humanity" and "Social Justice for All the People of Indonesia"—have not yet been fully realized and have not reached all layers of society as integral components of the nation (Wardana & Sari, 2020).

In fulfilling its commitment to ensure child welfare and protection in general, and the protection of child workers in particular, Indonesia has, in addition to the principles implied in Pancasila and the amended 1945 Constitution, enacted numerous legal products that serve as a foundation and guideline for all parties in achieving welfare and legal protection for child workers.

Efforts to protect workers, including child laborers, encompass the following aspects: 1) Legal protection, which relates to regulations in the field of labor that require employers to act in accordance with the law and ensure compliance by all parties; 2) Economic protection, which pertains to efforts to provide workers with sufficient income to meet daily needs for themselves and their families; 3) Social protection, which involves community-based efforts aimed at enabling workers to experience and develop life as human beings and as members of society; and 4) Technical protection, which relates to measures aimed at safeguarding workers from accidents or risks associated with occupational safety and health (Jannah, 2017).

Protection for child workers in the formal sector is regulated by the Minister of Manpower under Regulation No. Per.01/Men/1987 and its implementing provisions, which include:

1. Employers are required to report, with procedures and reporting formats regulated by the Ministry of Manpower;

2. Labor inspection officers must give special attention to child worker protection during inspections and intensify reporting based on the analysis and evaluation of their findings (Minan, 2024).

In supervising employers who hire child workers, the government also utilizes a tripartite approach, conducting reviews and guidance together. Through this tripartite system, the government has carried out direct inspections at companies to provide guidance and assistance regarding child labor protection. However, in practice, some companies still employ children under exploitative conditions.

Child workers in the informal sector are more numerous, but legal protection is not covered under MENAKER Regulation No. Per.01/Men/1987 because there is no clear employment relationship between workers and employers. To address protection in the informal sector, the Ministry of Home Affairs, through MENDAGRI Regulation No. 13 of 1999, instructed regional governments—including Governors, Regents/Mayors, District Heads, and Village/Urban Heads—to implement the Child Labor Mitigation Program (PPA). The outcomes of the PPA program include:

1. Establishment of district-level child labor mitigation working groups (Pokja-PPA);
2. Deployment of trainers/educators for preparatory training;
3. Training of facilitators for child labor mitigation (PPA);
4. Conducting an inventory of child workers in each village/urban ward;
5. Providing scholarships to 15 child workers to continue education to junior high school level.
6. Although the government has implemented the PPA program, many children continue to work in the informal sector (Syaifudin, 2024).

Thus, it can be observed that the government has attempted to provide protection for child workers, but the implementation has not been fully appropriate or aligned with the spirit and objectives of the prevailing legislation. From a legal protection perspective, the child worker protection system remains insufficient. From an economic protection perspective, child wages are still far below the regional minimum wage (UMK). From a social protection perspective, child workers are not given adequate time to develop their lives as humans and as members of society. From a technical protection perspective, measures are practically not implemented because the work is considered simple and light.

The legal protection of child workers through company visits alone is far from sufficient. The presence of only one labor inspection officer, whose duties and responsibilities are not fully executed according to the prevailing legislation, indicates that the government has not fully committed to enforcing labor laws or providing legal protection for child workers. The implementation of the PPA program is still only an initial step toward legal protection, as it mainly involves inventorying child workers, forming Pokja-PPA, and training Pokja-PPA. The working group's activities have not yet materialized into concrete actions for legal protection, so the program has not yet achieved its intended targets (Ibrahim et al., 2023).

Obstacles Faced by the Government in Addressing Child Labor Exploitation

Children are not allowed to perform work. This prohibition is absolute and allows no exceptions; under no circumstances should children engage in a working relationship with an employer or business owner. This ban serves as the most fundamental form of preventive protection, which can firmly prevent the emergence of child labor. Unfortunately, this prohibition has not been accompanied by concrete measures, such as the strict enforcement of nine years of compulsory education combined with scholarships or the waiver of basic education costs for children from low-income families. The provision of scholarships or free education aligns with the amendments to the 1945 Constitution, which state: "Branches of production vital to the State and controlling the livelihood of the masses are controlled by the State" and "The earth, water, and natural resources contained therein are controlled by the State and utilized for the greatest prosperity of the people" (Prawira & Yulistio, 2024).

The failure to implement the mandate of the amended 1945 Constitution has contributed to the emergence of child labor. The vulnerabilities faced by child workers can lead to exploitation by employers who hire them. To prevent exploitation, the government has established restrictions for child labor. Formally, the Ministry of Manpower (MENAKER) has set conditions for employing children, including: limiting work to no more than four hours per day; prohibiting work at night between 18:00 and 06:00; ensuring employers pay wages in accordance with regulations proportional to working hours; supporting education programs (Kejar) through collaboration with other parties; recording and reporting the identity of employed children; and gradually reducing the number of child workers (Faridah & Afiyani, 2019).

However, most companies employing children fail to comply with mandatory labor reporting, leaving the presence of child workers undisclosed. This contributes to child labor exploitation and leaves children insufficiently protected by existing legal frameworks, including violations such as working more than four hours per day, receiving wages below the regional minimum wage (UMK), lacking social security, and being denied educational opportunities.

Employers hiring children for more than four hours per day indicate a low level of legal awareness and neglect of child labor protection. Employers should recognize that full-time work prevents children's personality development from growing fully and harmoniously. Continuous, monotonous, and repetitive work, such as cake packaging or making tempeh chips, can hinder creativity, producing children who are less intelligent and less creative, even if they do not express boredom (Yusefri et al., 2024).

In principle, minimum wages are granted to single workers with less than one year of employment, and child workers are entitled to wages according to existing wage regulations. Paying child workers below the UMK, even for those with more than one year of work experience, violates Article 4(3) of MENAKER Regulation No. 01 of 1987 and Article 14(2) of MENAKER Regulation No. 01 of 1999.

Every child has the right to access healthcare services and social security according to their physical, mental, spiritual, and social needs (Piri, 2013). Most companies employing children fail to provide social security, particularly health maintenance insurance (JPK). Safety and health are fundamental human needs and are often considered basic human rights; therefore, all workers require protection for safety and health, making such benefits not only a need but also a right. Failure to provide health insurance constitutes a legal violation, specifically of Law No. 23 of 2002 and Law No. 3 of 1992 (Alifiyah & Anshori, 2023).

Non-compliance with child protection regulations by employers could be prevented if the relevant government authorities, particularly labor inspectors at the regional labor offices, performed their duties properly by effectively monitoring compliance with labor laws and taking legal action as mandated.

As part of the legal protection system, labor inspectors overseeing employment regulations should enforce laws concerning working conditions, labor protection, working hours, wages, occupational safety and health, the use of child and young labor, and other related matters.

In enforcing child labor protection laws, labor inspectors have a supervisory mechanism consisting of: guidance (preventive and educative), inspection notes (non-judicial repressive), and submission to court (judicial repressive). However, none of these measures have been implemented against employers who hire child workers (Kuimi et al., 2018).

Government Measures to Address Child Labor Exploitation

Among the various laws and regulations used as the legal basis for protecting child workers, both before and after the ratification of the Convention on the Rights of the Child (CRC), are rules concerning the minimum age for children compelled to work. Children who are forced to work are defined as those aged no less than 15 years who, due to socio-economic reasons, must work to supplement family income or earn income for themselves.

To protect workers, especially child workers, employers who violate MENAKER Regulation 01/MEN/1987 are subject to criminal penalties of up to three months' imprisonment or a fine of up to Rp. 100,000 (one hundred thousand rupiah). Clearly, violations by employers regarding child labor protection can incur criminal sanctions. However, in practice, no prosecutions have been carried out against employers who violate these child labor regulations (Andari et al., 2023).

Following the global monetary crisis and the international focus on child labor cases, labor inspectors were requested to enforce criminal sanctions. In reality, no employers who exploit child workers have ever been prosecuted in court for their actions.

The continued exploitation of child workers indicates that the authority and functions of labor inspectors have not been properly executed, allowing employer violations to persist and leaving child labor protection neglected. According to their authority, labor inspectors have the right to take action against any violation,

including imposing criminal penalties. However, to date, no employer who has exploited child labor has been brought to court to be held legally accountable.

This situation negatively affects employer compliance with labor regulations, particularly regarding child labor protection. Because violations are never met with supervision, guidance, or criminal sanctions, employers are likely to repeat violations, and legal protection for child workers remains unrealized. If this condition continues, repressive protection will never be implemented, and exploitation of child workers will persist (Tyasari et al., 2023).

The state, government, society, family, and parents are all responsible for child protection. The state and government are obliged to respect and guarantee the basic rights of every child, regardless of ethnicity, religion, race, social class, gender, culture, language, birth order, or physical and/or mental condition. The state and government are also responsible for providing infrastructure and facilities to support child protection, ensuring protection, care, and welfare for children while considering the rights and duties of parents, guardians, or others legally responsible for the child. The state and government supervise the implementation of child protection.

Therefore, those responsible for protecting children (including child workers) can be grouped into three categories: (1) the state and government; (2) society; and (3) families and parents. The state and government have provided infrastructure and facilities in the form of legal regulations and authorized institutions to implement, enforce, and supervise the protection system. However, in reality, there are still many child workers in exploitative conditions who have not received the protection they deserve.

4. Conclusion

The existing legal protection system for child workers has not been effectively implemented, so legal violations committed by employers do not receive the appropriate legal actions. This is due to the failure to carry out the functions of labor inspectors, resulting in the inadequate application of legal protection for child workers. The implementation of the Convention on the Rights of the Child (CRC) regarding child workers has so far been limited to granting protection against acts of violence. As a system of child worker protection, the CRC has not been fully realized because violations still occur regarding children's rights to survival, development, education, healthcare, and participation. There is a need for a solid, unified national legal framework to address issues arising from child labor and to eliminate child labor entirely. This requires a unified determination and coordinated action from government officials, implementing authorities, employers, parents, and all components of society to truly eradicate child labor.

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