

# The Phenomenon of Child Labour: Causes, Consequences, and Protection under Indonesian Law

Tri Sulistiyono

Faculty of Law, Universitas Negeri Semarang, Indonesia  
Email: trisulistiyono@mail.unnes.ac.id

Lowrenszya Siagian

Faculty of Law, Universitas Negeri Semarang, Indonesia  
Email: laurenziagian@students.unnes.ac.id

**Abstract**— The term of child Labour can have the connotation of exploiting young children for their Labour, with a small salary or consideration for the development of their personality, safety, health, and prospects. Children underage that was employed is wrong even if employment is one of an essential part to support the economic development of a country. Indonesia has issued several regulations that related to Child Labour to reduce the number of Child Labour in Indonesia as well as protect the Child, but as a country that categorized as populous country mean the society need an expense for their life, so it is hard to deny that Child Labour still exists nowadays in Indonesia mainly because of economic reason. Children who become child workers, either because they are under the minimum age to work or because they work in dangerous or illegal conditions, cannot grow and develop optimally. The fact that Indonesia government have a road map to abolish Child Labour in 2022 but the data in 2015 show that the number of Child Labour still reach 1.6 million Children make us wonder why it is still happening. This paper will specifically address the significant reason behind why Child Labour still exists and consequences associated with Child Labour, along with the protection provided within the regulation. The goal to be achieved in this article is to find out what the real problems that make Indonesia still had a high number of Child Labour using normative research under descriptive qualitative consist of primary legal materials such as Laws and Regulation related to Child Labour, secondary legal materials such as opinions, scientific papers, journals and tertiary legal materials like encyclopedias, and dictionaries.

**Keywords**— *Child Labour; Children; Labour Law; Minors Law; Protection*

## I. INTRODUCTION

Indonesia listed as number four for a country with the most population in the world and the massive amount of the population become a significant burden to the government in term of providing a job and it makes the economic development slower for example. As a result, a lot of Child work even if they are still underage to earn a few dollars and at the beginning of the Child Labour, many peoples do not care about this, but as the time goes on, their views about Child Labour changed.

Reasons for poverty as well as high levels of unemployment cause children choose to work to help their parents make money. Meanwhile, children who work in factories caused by high demand Child Labour and the willingness to be paid cheaply. That matter is a very vulnerable situation for children to experience exploitation [1] (Suyanto, 2010, 113).

According to Manurung (1998) states that the involvement of children in economic activities, both in the formal and informal sectors, raises the potential for exploitation. In line with the statement almost every study of child Labour proves that they are vulnerable also would be harmful and easily exploited.

There is a Convention on Children Rights article 32 which states that child Labourers are entitled to receive protection from work that endangers physical, mental health,

spiritual, moral, social development and interfere with their education not able to reduce violations of children's rights.

That is why there is currently a growing recognition of the need to address the problem of child Labour, especially its worst form. Although Indonesia has succeeded in increasing access to education for the past few decades, poverty and the lack of awareness of the importance of education, also the cultural attitudes that do not consider education as necessary still result in many children dropping out of school and entering the workforce.

Many of these children are being trapped in the worst forms of child Labour. The road map of Indonesia about the abolition of child Labour in 2022 base on the principle that children should be in school, not at work.

However statistics show that the use of child Labour has taken place on a large scale in many countries around the world including Indonesia. The development of child Labour in 2002-2003 can be seen based on the results of the National Labour Force Survey described in below this. In 2002 there were 842, 228 thousand people working, decreased to 566,526 thousand in 2003.

Child Labour in rural areas more than in urban areas. In 2002, children who work in rural areas accounted for 82 percent, and in the years 2003 decreased to 447,027 percent. In urban areas, the number of working children by 18 percent or 150,931 thousand.

TABLE I. NUMBER OF CHILDREN <15 YEARS OLD WORKING YEAR 2002-2003

AREA	2002	%	2003	%
City	150.931	18	119.499	21
Village	691.297	82	447.027	79
TOTAL	842.228	100	566.526	100

Source: Sakernas

While according to Central Bureau of Statistics that provides the data about the Child Labour in Indonesia from 2011-2014, in 2011 the number of Child Labour in Indonesia is 4.23 million, in 2012 the number decrease to 4.17 million, in 2013 the number of child Labour is 2.85 million, and in 2014 the number of Child Labour in Indonesia hit 2.77 million and lastly in 2015 it reduced drastically to 1.6 million [2].

TABLE II. NUMBER OF CHILDREN WORKING YEAR 2011-2017 (IN MILLION)

2011	2012	2013	2014	2015
4.23	4.17	2.85	2.77	1.6

Source: BPS, Indonesian Statistics Board

It mean from the comparison of data from year 2002-2003 compare to year 2011-2015 the number of Child Labour keep increasing but that the government in Indonesia try their best to lower the number of Child Labour in Indonesia as we can see that the number decreasing from year 2011 to 2015.

However it does not mean that the government has successfully eradicated the Child Labour in Indonesia. That is all because the government make Law No.13 year 2003 about the Employment that allow a Child around 13-15 years old to work under certain strict conditions, doing light work as long as it does not hamper or disturb the physical, mental and social development of the child concerned.

A child must be prepared and directed early on so that it can grow into children who are physically and mentally healthy, advanced, independent, and prosperous so that they become high-quality resources and can face challenges in the future front. In order to get a quality generation, it can obtain by equipping the young generation as early as possible with education, good health, and high discipline. Nevertheless, there are still many children who have not been able to enjoy the right to grow and develop because of its various factors related to economic capacity limitations family or poverty [3].

This paper will examine the relationship between working children with the education as well as divided it into small sections focused on discussing the causes, consequences, and protection provided by the government for child Labour because Children are the generation that will be the nation's successors.

## II. RESEARCH METHOD

The research approach that was used in this paper is a normative research under descriptive qualitative. While the type of data that was used is secondary data that referred to as literature research or document studies. The research also conducted based on written regulations or other legal and

written data materials. That is why the data consist of primary, secondary also tertiary data. It is also stated as a library research because mostly the data is a secondary data in libraries, journals, and other trusted source like information media. Meanwhile in normative legal research, secondary data as information materials can be primary legal materials such as Laws and Regulation related to Child Labour, Government Regulation, while secondary legal materials can be in the form of an expert opinions, scientific papers, journals and the result of a study, for tertiary legal materials can be encyclopedias, dictionaris and others. [4]

## III. RESULT AND DISCUSSION

### A. CAUSES OF CHILD LABOUR

There are several factors that can cause a child Labour happened in a society, because no matter what happened, a child always want to be free from a Labour and act like their peers. But the fact is different, and following after this is mostly the causes of child Labour:

#### 1. Poverty

Opinions of social science experts on the problem of poverty, especially regarding the reason why poverty arises in a society is different. A group of social science experts saw the emergence of poverty in one society related to the culture that lives in a society. In context views like this then poverty is often associated with a low work ethic community members, or in a more popular language the causes of poverty related to whether or not someone is diligent in working / processing resources available nature. If people are diligent at work, we can be sure that person will live adequately. Besides being diligent, that person has a frugal nature. Humans are having a high work ethic and saving properties will definitely live more than enough [5].

Poverty also interpreted as a condition where someone does not seem able to look after themselves according to the standard of life of the group and also unable to utilize energy, mentality, or poverty can be measured by comparing the level of income of a person or household with the level of income needed to meet his minimum needs. From this side of poverty is divided into two, namely absolute poverty and relative poverty.

Someone is said to be poor if the level of income is lower than the absolute poverty line set, or in other words, the amount of income is insufficient to meet the minimum needs reflected by the absolute poverty line. The minimum level of income is a boundary between what is called poor and not poor, or often called the poverty line. Poverty Line is ability a person or family meets the needs of a standard life at a time and particular location to carry on his life. The standard of living referred to reflect the minimum level of need to meet food, clothing, housing, education, and health [6].

That is why poverty is one of the leading causes of the emergence of child Labour rather than other economic factors. The economic inability of the family affects low work productivity, malnutrition, lack of health care, so it results in reduced work capacity, fatigue, vulnerability accident, and illness. Low parental income, causes children forced to follow

in the footsteps of his parents to work even without having provisions skill.

## 2. Influence of the Social Environment

In the context of the social environment in Indonesian society, children work considered a specific vehicle for introducing discipline as well as instilling a work ethic in children. This has become part of the culture and order of life Indonesian family. Many people feel that working is a positive thing for child development so that children are included in the work process early on [7].

In certain communities, children have been educated from childhood work, for example, in agriculture, fisheries, handicraft industries, fishers, and many others. However, the work done is not dangerous for the conditions of children's physical, mental, and social health so that it does not violate their rights as a child. This process seems to be a place for children to learn to work. Unfortunately, in subsequent developments, the learning process works no longer develop as they should. Various factors cause children forced to work in inappropriate and dangerous work situations, and conditions in its development.

Scarcity of educational facilities, poor quality of primary education, low awareness of the community (especially parents) of its importance education, the education curriculum is less accommodating of work challenges in the future, and the high cost of education causes education seen as an elite and luxurious thing, especially among the poor. This condition encourages children to enter the workforce. Some research results show that working children are mostly poorly educated [8].

When talking about the social environment, then culture is one of the most substantial things which significantly influences the existence of child Labour

A culture in the family that children from a young age have done work or as a worker. Unconsciously, the parents consider working as child Labour is a tradition or habit in society, children ordered to work as workers on the grounds of getting an education and the best preparation to face life in the community later if the child is already an adult.

Child Labour themselves feel proud to be working to earn their income interests, as well as helping the family economy and can support the finance for the school of their siblings. Habits in the community, domestic workers are carried out by children women, including guarding shops/stalls. Unconsciously the existence of culture, tradition, and habits can make their children work as child Labourers who should not have worked at their age.

## 3. Education

Starting from a low parental education, the existence of economic limitations and tradition, so many parents take shortcuts so that their children quit school, and it is better to work on the grounds:

- a. Women do not need to go to high school, basically parents thought that a daughter in the end will become a housewife.
- b. Cost of education is expensive, for most cases the school fees for the students are too high and sometimes the facility is not equal.
- c. Finish High school finally became unemployed, parents mostly thought that after finish high school they will

become unemployed and university is too expensive for them.

Low level of education and economic powerlessness, parents tend to narrow minded of the future of their children so they do not take into account the benefits of higher schools can improve children's welfare in the future. The situation is what drives children to choose to become child Labourers [9].

## B. CONSEQUENCES OF CHILD LABOUR

Employing child as a worker is basically something that violates children's human rights because child Labour always adversely bring consequences that will affects the physical, emotional and social development of children.

The exploitation of child Labour can lead to various disorders in children specifically, the impact of children who work in each different sector, such as the impact of children who are working in the mining sector is very different from the impact of child work in the drug sales, production and trade sectors [10].

### 1. Physical Development of Children

Physically child workers are more vulnerable than adults because of their physicality still in its infancy. Working as child Labour can influence the development of their physical health because the work they do can cause accidents or illness.

Impact of accidents on child Labour can be in the form of injuries or defects due to scratches, cuts, hit, hit and others, while conditions that cause illness include workplace conditions which are very hot or too cold, the workplace is too noisy, inhaled dust, inhaled chemicals in the form of glue vapors, screen printing paint vapors, possible workplaces sexual exploitation and others.

The impact of the disease caused in the form dizziness, fever, chills, damage to the nervous system (low capacity intellectual, weak memory and a weak sense of taste), skin, kidneys, lungs, tightness breathing, coughing, deafness, contracting sexual diseases (STI/HIV/AIDS).

### 2. Emotional Development of Children

Child Labour often works in a work environment that makes it possible for exploitation, dangerous, degrading, degree, and isolated. They often receive abusive, abusive, and neglected treatment by their employers and other adult workers. The impact caused by child Labour becomes angry, vindictive, rude towards peers or younger, less have compassion for others, and have feelings of empathy towards other people.

### 3. Social Development of Children

Child Labour who do not have the opportunity to carry out such activities like playing, going to school and socializing with peers, do not get primary education needed to overcome life's problems, no get the opportunity to interact with others and participate actively in the middle of the community and enjoy a healthy life will usually grow being a passive and selfish child so that it often impacts the child experiences problems in interacting/collaborating with others and they are lacking self-confidence or feeling humiliated.

As explained in the previous chapter sub, children as potential and generation young people are obliged to continue the ideals of the nation's struggle and guarantee the existence of the nation in the future. To realize these ideals is the

obligations and duties of the previous generation to provide direction, guidance and provide the broadest opportunities for children to progress and develop and work for the prevention and elimination of child Labour in Indonesia.

### C. PROTECTION OF CHILD LABOUR

Under certain conditions, children usually have characteristics that tend to be unstable as well as being easily influenced, makes himself likely to be a victim. Aware of this, Indonesia has arranged regarding protection about the law for regulated child Labour in several provisions invitation, the following will be spelled out regarding forms of legal protection that provided for child Labour:

#### 1. The 1945 Constitution

The 1945 Constitution of the Republic of Indonesia has governed legal protection for children, and it stated that every child has the right to continuity live, grow, and develop and have the right for protection from violence and discrimination. It mean that the child gets protection from the state towards acts of violence as well as discrimination carried out against children [11].

#### 2. Law Number 4 of 1974 about Child Welfare

Article 2 paragraph (3) states that Children entitled to protection from the inside the womb until the child is born. This article is an extraordinary thing, because since the prospective baby is still in the womb already protected. Protected here mean, the state already protects a child's life, so the prospective baby already has the right to life, which can take life only God and other things are allowed according to the law in force in Indonesia.

Then proceed in the article 2 paragraph (4) that the child has the right to protection of the environment can harm or hinder its growth and development naturally, in the explanation it is stated that intended by the environment is the physical and social environment. It mean when in the womb, the candidate, the baby protected when he was born with good luck, his environment was too given protection so that the children can grow and develop well.

Article 3 states that in a dangerous situation, the child is, first of all, deserve help, assistance, and protection, article explanation mentioned with a dangerous situation is life-threatening situation humans both because of nature and the human act. The danger in the sense of action humans can be physical, which threatens the life of the child [12].

#### 3. Law Number 13 of 2003 about Employment

This law stipulates several rights that must be obtained by child Labourers in which child Labourers must get a salary that is in accordance with the applicable laws and regulations, so that employers prohibited from paying lower than the minimum wage stipulation stipulated by the local government as stipulated in Article 90 paragraph (1) of Law Number 13 of 2003. If the employer promises payment of wages that are lower than the minimum wage, then the agreement is null and void by law provided for in Article 91 paragraph (2) of Law Number 13 of 2003.

Article 69 of Law No. 13/2003 has provided exemption provisions which allow it to be of the age of 13 to 15 years, work hours may not be more than 3 hours, carried out during the day, do not interfere with school time, written permission

from parents or their guardian, there is an employment agreement with their parents or guardians, and is given a wage according to the laws and regulations. If an employer violates Article 69 of Law Number 13 of 2003, a criminal sanction may impose as regulated in Article 185.

Article 69 paragraph (2) letter d of Law Number 13 of 2003 has also explained that employers who employ children in light work must be done during the day and do not interfere with school time.

Based on Law No. 13 of 2003, it has regulated all matters relating to employment ranging from wages, hours of work, parental rights, leave to safety, and health. Based on Article 74 of this Law, it stated that anyone prohibits from employing and involving children in the worst forms of work which can endanger the health, safety, or morals of children [13].

#### 4. Law Number 35 of 2014 about Child Protection

Efforts to protect the law are carried out with make its ratification of the Convention on the Rights of the Child manifested into Law Number 35 of 2014 concerning Child Protection, which is clear emphasizes the government's obligation to make special protection of the child in an emergency. This regulation is explicitly aware of its importance state efforts to protect children.

As is in Article 20, which states that the state, government, regional government, community, family, and parents or guardians are obliged and responsible for the implementation of child protection.

While Article 22 of the same Law regulated as follows which states that the state, government, and regional governments are obliged to and responsible for providing support for facilities, infrastructure, and availability of humans resources in the implementation of Child Protection. Thus the state or the government is obliged to protect children and be responsibly responsible for providing facilities and infrastructure in the implementation of such protection. Criminal sanctions regarding legal protection for children who included in several Articles, among others:

##### a. Article 77

Everyone who violates the provisions referred to in Article 76A (It is prohibited to treat children in a discriminatory manner which results in the child incur losses, both material and moral, thereby hampering function social or treat children with disabilities in a discriminatory manner) be sentenced to a maximum imprisonment of 5 (five) years and or a maximum fine of Rp 100,000,000.00 (one hundred million rupiah).

##### b. Article 78

Everyone who knows and deliberately leaves the child in an emergency, children who are dealing with the law, children from isolated minority groups, children economically and/or sexually exploited, trafficked children, children who are victims of narcotics, alcohol, psychotropic and other addictive substances, abducted children, child victims of trafficking, victims of violence, even though the child needs help and must be helped, be sentenced to a maximum imprisonment of five years or a maximum fine of Rp. 100,000,000(one hundred million rupiah).

##### c. Article 81

Anyone who intentionally commits violence or threat of violence forcing a child to have intercourse with her or with another person, convicted with a maximum imprisonment of 15 (fifteen) years and a minimum of 3 (three) year and a maximum fine of Rp. 300,000,000 (three hundred million rupiah) and the least Rp. 60,000,000 (sixty million rupiah).

d. Article 82 paragraph 1

Everyone who violates the provisions referred to in Article 76E (prohibited from committing violence or threat of violence, coercion, deception trick, commit a series of lies, or persuade the Child to committing or allowing obscene acts to be carried out imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp 5,000,000,000 (five billion rupiah).

e. Article 83

Everyone who violates the provisions referred to in Article 76F (Do not place, leave, do, order to do or participate and committing kidnapping, selling, and / or trafficking of Children.) convicted with a maximum imprisonment of 3 (three) years and a maximum of 15 (fifteen) year and a minimum fine of Rp. 60,000,000.00 (sixty million rupiah) and at most Rp. 300,000,000.00 (three hundred million rupiah)" [14]

The aforementioned laws are only part of the regulations about child Labour, from these regulations there appear to be rights that must be accepted by child Labour and there are limits to child Labour that works which is also related to sanctions provides an illustration that the government shows its seriousness and commitment to protecting children truly. In other words it can be interpreted that the protection of children legally regulates the imposition of sanctions on matters relating to losses suffered by children, such as violence, trafficking, and others.

#### IV. CONCLUSION

Based on the discussion that has been described above, it can be concluded that First, the causes of child Labour are three things namely poverty, influence of the social environment and allow education while the consequences of Child Labour are children will be affected physically, emotionally, and socially while implementing legal protection the rights of Child Labour in Indonesia are not entirely in accordance with the applicable laws, even though these rules have been made by the government which determines the rights that must be obtained by Child Labour, the obligations that must be carried out by those who employ children along with legal protection in the form of criminal sanctions and fines through existing laws. That is due to factors underlying a large number of unprotected Child Labour such as economic problems, education, self-will, and habits and may originate from the surrounding environment and family relations.

#### V. REFERENCE

- [1] Suyanto, Bagong, Hariadi, Sri Sanituti. dan Andriyono. *Pekerja Anak di Sektor Berbahaya*. Surabaya: Lutfansah Mediatama, 2001.
- [2] Menteri Ketenagakerjaan Republik Indonesia. *Peta Jalan (Roadmap) Menuju Indonesia Bebas Pekerja Anak 2022*. Jakarta : Kemnaker, 2014.
- [3] Endrawati Netty, "Faktor Penyebab Anak Bekerja dan Upaya Pencegahannya", *Jurnal Ilmu Hukum Refleksi Hukum*, April 2011.
- [4] Suratman, dan H. Philips Dillah. *Metode Penelitian Hukum*. Bandung : CV : Alfabeta, 2013.
- [5] Suyanto, Bagong. *Masalah Sosial Anak*. Jakarta: Kencana, 2010.
- [6] Asikin, Zainal. *Dasar-Dasar Hukum Perburuhan*. Jakarta: PT Raja Grafindo Persada, 2004.
- [7] Nawawi, Hadar. *Metode Penelitian Bidang Sosial*. Yogyakarta: Gajah Mada University Press, 1998.
- [8] Dewan Redaksi Ensiklopedia Islam. *Ensiklopedia Islam 1*. Jakarta: Ichtiar Baru Van Hoeve, 1997.
- [9] ILO. *Pemantauan Pekerja Anak*. Jakarta : Organisasi Perburuhan Internasional, 2008.
- [10] Dewi Sulastris, "Faktor Yang Menyebabkan Eksploitasi Pekerja Anak". *e-Journal Sosiatri-Sosiologi* Vol.4, No.2, 2016.
- [11] The 1945 Constitution of Republic of Indonesia
- [12] Law Number 4 of 1974 about Child Welfare
- [13] Law Number 13 of 2003 about Employment
- [14] Law Number 35 of 2014 about Child Protection