



Guarantee of Legal Protection for Child Laborers Regarding Types of Work and Working Hours in Accordance with Normative Rules

Firstnandiar Glica Aini Suniaprily¹, Hanuring Ayu Ardhani Putri², Nourma Dewi³

^{1,2,3}Faculty of Law, Universitas Islam Batik Surakarta, Indonesia

Abstract: The problem now is, whether child labor is actually allowed in accordance with Law Number 35 of 2014 concerning Child Protection or based on Law Number 6 of 2023 concerning Employment Cluster Job Creation or whether there are exceptions to the arrangements for child labor. It is necessary to pay attention to how the state pays attention to the problem of child labor, then we must also be observant of the factors that cause the rampant phenomenon of child labor in Indonesia. The type of research used is normative juridical legal research, said to be normative legal research because it uses primary data sourced from library data and laws and regulations. This research uses a statutory approach, namely an approach to examine the laws and regulations related to the protection of child labor. In addition to using a statutory approach, a literature approach is also used to collect secondary legal materials. Special laws to protect children's rights in Indonesia are contained in Law Number 35 of 2014 concerning Child Protection. The Law on Child Protection is a concrete form of affirmation of the legalization of children's rights derived from the Convention on the Rights of the Child and national legal norms. Based on Law Number 35 of 2014 concerning Child Protection and Law Number 13 of 2003 which has changed to Law Number 6 of 2023 concerning Employment Cluster Job Creation, it explains that children are actually allowed to work as long as they are in accordance with the criteria stated in the laws and regulations, more precisely regarding the rules for the type of work and appropriate working hours, and when a child works, they must meet the conditions that have been described as well.

Keywords: Child Labor; Child Protection; Legal Protection

1. Introduction

Children are an extraordinary gift given to us by God, in accordance with the norms that arise in people's lives, the guarantee of legal protection of children must be applied so that children's lives can be created safely, comfortably, and away from violence or even child exploitation.

Children are protected by law and human rights in accordance with Law Number 39 of 1999 concerning Human Rights, the definition of a child is every human being under 18 years of age and unmarried, including children who are still in the womb. Through Law No. 39/1999 on Human Rights, the state is obliged to protect and guarantee the human rights of children so that they can live and develop as full human beings within the territory of Indonesia.

Why is the rule of law needed to protect children's rights? This is because children are a vulnerable group that must be protected and given special rights related to their limitations (Trimaya, 2015). Regarding the rule of law designed by the Government to protect children's rights is an obligation for the consequences of our country which adheres to the principle of a state of law (rechstaat). As a state of law, the state is obliged to guarantee the rights and obligations of every citizen and its people based on the state constitution (especially in this case children). Because it is based on the state constitution,

Correspondence:

Name Correspondent: Firstnandiar Glica

Email Correspondent: firstnandiar@gmail.com

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it has logical consequences for the state to recognize, respect, appreciate, and fulfill every citizen's rights, especially children in real life (Endrawati, 2011).

In Indonesia, the implementation of the rule of law in the form of laws and regulations to protect the human and legal rights of children has a fairly long history, including the 1945 Constitution, Ratification of ILO Convention Number 138 into Law Number 20 of 1999 concerning Minimum Age for Employment, Ratification of ILO Convention Number 182 into Law Number 1 of 2000 concerning Violations and Actions and the Elimination of the Worst Forms of Child Labor, and the issuance of Law Number 35 of 2014 concerning Child Protection, which in Law Number 35 of 2014 concerning Child Protection focuses on containing details of the protection of rights and laws for children.

The problem of child protection is not sufficient only based on Law No. 35 of 2014 concerning Child Protection, because of the rampant phenomenon now that children are involved in work and exploitation by adults, through Law No. 13 of 2003 concerning Manpower which has now been updated to Law No. 6 of 2023 concerning Job Creation in the Manpower cluster there are legal rules to protect children from work or child exploitation, and protect child laborers. Exploitation of child labor still occurs in Indonesia. The dynamics of regulations regarding child labor are considered not to fully protect children's rights (Malik et al., 2024).

The phenomenon of child exploitation, one of which occurred in Medan, was reported based on CNN Indonesia news, the Social Service of Medan City, North Sumatra again found an orphanage that allegedly exploited children by begging for gifts on live broadcasts via social media TikTok. The Medan City Social Service managed to secure 40 children from two orphanages suspected of being the location of child exploitation. Then the Medan City Social Service will also form a Special Team assigned to monitor the existence of orphanages that are suspected of also carrying out child exploitation activities. This is done in accordance with the Circular Letter of the Indonesian Minister of Social Affairs which prohibits the exploitation of children, the elderly, and persons with disabilities (CNN Indonesia, 2023).

Then the phenomenon of child exploitation cases also occurred in South Jakarta, reported by Kompas.com a minor with the initials ACA (17) was exploited by a pimp with the initials JL (30) to serve masher men. ACA has served two masher men for one year, even one of the men served by the victim is a foreign national (WNA). ACA was given 1 million in the first transaction and 700 hundred thousand in the second transaction. This incident was finally reported to the police by the victim's parents who found out through the victim's syurur video which was spread on social media (Nurchahyo & Movanita, 2023). This is very ironic because it happened right in front of our eyes, and happened to a minor of 17 years old, who should be at that age a child focuses on education and positive development and obtains legal protection for his basic rights in accordance with Law Number 35 of 2014 concerning Child Protection. Child prostitution through social media against children has increased significantly. This is due to the lack of protection and enforcement carried out by the government against child victims (Aprilianti & Situmeang, 2024).

In addition to the phenomenon of child exploitation, Indonesia is also not immune to the phenomenon of child labor. Even today, child labor is not a taboo, as evidenced by the fact that we often see children brought to age working on the side of the highway to beg, or even work selling food while walking around. Based on data from the Central Statistics Agency (BPS), the number of child laborers in Indonesia was 1.01 million people in 2022. Based on gender, 1.81% of children in Indonesia who work are male. This percentage is higher than that of female child laborers at 1.68%. According to age, 1.52% of working children in Indonesia are in the age range of 5-12 years. A total of 2.04% of children work in the age group of 13-14 years. Meanwhile, 2.12% of child laborers are aged 15-17 years. In terms of their educational status, the majority or 16.32% of child laborers are no longer in school. For the record, the number of child laborers is measured in accordance with Law (UU) Number 13 of 2003 concerning Manpower. Based on this regulation, working children are in the age range of 5-17 years. However, the research also underscores complex challenges such as social values, traditions, and weak supervision hindering the implementation of child protection policies in addressing child labor in the field. Therefore, while a strong legal framework has been established, the focus remains on addressing implementation challenges and managing complex factors to safeguard the rights and well-being of child laborers in Indonesia (Nugraha, 2023).

Then the problem now is, is child labor actually allowed according to Law No. 35/2014 on Child Protection, or based on Law No. 6/2003 on Employment Cluster Job Creation, or is there an exception to the regulation for child labor? It is necessary to pay attention to how the state pays attention to the problem of child labor, then we must also be observant of the factors that cause the rampant phenomenon of child labor in Indonesia. Even though our country currently has legal regulations that aim to protect the rights of child laborers, the problem of child labor has never stopped, in fact it is increasingly widespread with violence, coercion, exploitation which will clearly disrupt the physical, mental, moral, and intellectual development of children. This is a form of negligence on the part of the government and local governments, especially the supervision and guidance by the Ministry of Manpower, towards the child labor protection system in Indonesia (Haniyah, 2023).

The factors causing the rampant cases of child exploitation and child labor in Indonesia are related to sociological factors and the conditions of society in Indonesia. As we all know that poverty and unemployment rates are still high in some areas in Indonesia, this causes underage children to be forced to work for wages. For example, we often see children begging and busking on the side of the highway even with their parents or relatives, but that alone is enough to illustrate a case of child exploitation.

Law Number 35 of 2014 concerning Child Protection. In accordance with Article 28B Paragraph (2) of the 1945 Constitution which explains that every child has the right to survival, growth and development and protection from violence and discrimination, while Article 28C Paragraph (2) states that every child has the right to develop themselves through the fulfillment of their basic needs, the practical and theoretical implications of this study are the realization of legal protection for child labor and the avoidance of child exploitation through a structured legal system.

Research on the same theme has previously been conducted but the difference with this study is that this study details more about the types of work allowed for children and the working time for child labor, so it focuses more on the substance of child labor. Based on the background of the problem above, the authors can formulate two main problem formulations that will be the focus of discussion in the study, the problem formulations include: (a) What factors influence the rise of cases of child exploitation and child labor? (b) How is the guarantee of legal protection for child laborers, related to the type of work and working hours in accordance with the Law?

2. Materials and Methods

Doctrinal legal research is research conducted by examining the subject of legislation and court decisions, in doctrinal legal research also examines principles, legal discovery in concreto, legal systems and legal synchronization, and positive legal inventory research (Soemitro, R, 1990). The existing data is then analyzed using a legal approach so that there is a conformity between the phenomena in the community with the laws set by the government.

The type of research used is normative juridical legal research, said to be normative legal research because it uses primary data sourced from library data and laws and regulations (Marzuki, 2011). This research uses a statutory approach, namely an approach to examine laws and regulations related to the protection of child labor. In addition to using a statutory approach, a literature approach is also used to collect secondary legal materials (Suniapriyly, F. G. A. & Putri, 2023).

In this research, a legal research method with a statutory approach is used, namely an approach carried out by examining all laws and regulations relating to cases or decisions. In the statutory approach, it is necessary to understand the hierarchy of laws and regulations and the principles of laws and regulations. In addition to using a statutory approach, the author also uses a literature research approach to collect secondary data. The normative method is a method that aims to collect data through the process of reading, writing and further processing various sources of documents, books, notes, journals to obtain answers to legal questions studied. The data collection process was analyzed based on normative legal rules in the form of laws and regulations and their derivative rules, so that the data obtained is relevant to the topic taken.

3. Results and Discussion

3.1. Factors Causing the Rise of Child Exploitation and Child Labor Cases

To further analyze the rampant cases of child exploitation and child labor in Indonesia, the causal factors must first be examined. Although there are already laws and regulations governing child protection and child labor rights, it turns out that these repressive efforts have not been able to significantly stop similar cases. Children, who are considered vulnerable, are instead used as a means of inviting empathy so that these adults can get coffers of money instantly. Although not all children work because they are forced to, it is necessary to regulate the rules regarding what types of work can be done by children and working hours in accordance with their age range. This is done solely so that children can grow and develop as they should without being disturbed or

distracted by workload matters, *however* child protection is a shared responsibility involving various stakeholders, from the family level to the state level. Efforts to protect children are not just actions, but rather a series of ongoing activities to ensure that children's rights are protected as a whole (Afandy & Desiandri, 2023).

Child labor is one of the social problems that still occur in Indonesia. The issue of child labor is often driven by poverty and low parental education. The following are the factors that cause the rampant exploitation of children and child labor:

a. Poverty

The biggest factor in children in Indonesia being involved in child exploitation and child labor is poverty. Poverty is a deep-rooted problem in Indonesia, for which solutions are still being sought. The definition of poverty in general is a condition that is formed based on the identification and measurement of a group of people or group of people who then refer to the word poor (Nugroho, 2015).

Indonesia itself has its own definition of a person or community that is categorized as poor, in general this happens because being poor becomes relative depending on each country's economic conditions, welfare standards, and social conditions. Then each definition of poverty also depends on criteria or measures based on certain conditions, namely average income, purchasing power or average consumption ability, educational status, and health conditions (Jacobus et al., 2021).

Furthermore, the definition of poverty in general is a condition where a person who has an inability in terms of income to meet basic needs is less able to ensure survival (Suryawati, 2004). In this case, the person does not have sufficient income to meet basic needs based on low price standards, so that the person's quality of life standards are not guaranteed. Based on the above definition, poverty in general is a condition of inability in terms of income to meet basic needs and other needs for the fulfillment of quality of life standards. The results show that poverty has led to many crimes. These crimes vary, especially in terms of child exploitation. Unfulfilled children's rights jeopardize their development (Cahyani, 2023).

Based on the definition that has been explained, the poverty factor experienced by most families in Indonesia causes children to be involved in income-generating activities to meet the basic needs that are needed every day. Due to economic limitations, children are forced to do work activities like adults to increase income, even though sometimes this is contrary to the interests and talents of children. When poverty conditions worsen, the probability of a child falling into exploitation and child labor will be higher, so the key is how to overcome the problem of poverty.

b. Urbanization Flow

Urbanization is a process of moving people from villages to cities, the problem of urbanization is a serious problem in Indonesia considering that urban areas are becoming increasingly narrow due to the large number of migrants from rural areas. This is also exacerbated by the existence of slums in urban areas that are increasingly mushrooming (Nandang, 2011).

The high flow of urbanization is due to differences in growth and unmet equitable development facilities between rural and urban areas. This causes urban areas to be the place where people from rural areas go to expand their income opportunities. The increasing flow of urbanization is also directly proportional to the economic center and activities in the field of industrialization which are built rapidly in urban areas. The result of urbanization is an increase in population growth in urban areas which causes a lack of residential land, sanitation services, health, transportation, housing, and dwindling employment opportunities (Prayojana et al., 2020).

The flow of urbanization carried out by residents from rural areas also affects the quality of life of children, families who move to densely populated residential areas cause children to live in an environment that is inadequate for their development, besides that children will also be prone to falling into the association around them, this implies that in one densely populated residential area it is very possible that there are children who become child laborers, or even involved in child exploitation, if not immediately resolved it will become a habit that in the area children used to work and help their families in earning income. In addition to the problems of child exploitation and child labor in urban environments, the quality of children's health and sanitation due to urbanization is also important to note, considering that the area they live in still lacks adequate quality of life.

c. Social Culture

Social culture in this case is a way of looking at life in community life. However, we will discuss the definition each word, starting from the word "Social" which means the way of how individuals relate to each other (Enda, 2010), then the broader meaning of the word social is everything related to the system of living together, or living in a society of a person or group of people in which there are structures, organizations, values, and aspirations for life to achieve something (Ranjabar, 2006). While the word "Culture" or "Kultur" means the attitude of human life in dealing reciprocally with nature, the environment, in which there are all the results of creation, taste, creation, and work, whether seen physically in the form of material or psychological and spiritual. Based on the definition per word, it can be concluded that social culture is everything that humans create with all their thoughts in living in society, or a way of life in society (Yanuarita & Haryati, 2021).

The correlation between socio-cultural factors and cases of child exploitation and child labor is that when a group of people considers children working and being employed to be commonplace, the level of child exploitation and child labor will be higher, the toleration of this prevalence is believed by the community so that it becomes a culture and it is difficult to change its views. For this reason, socio-cultural education is needed to explain to the community that both domestic and non-domestic work is not the duty of children but the duty of adults.

Economic and social problems are often used as an excuse to seek profit by exploiting children. The perpetrators can come from the closest individuals such as parents or from other parties. The act or actions of using, exploiting, or pressuring children for personal, family, or group gain is exploitation. According to UNICEF,

children should receive comprehensive protection from violence, exploitation and other problems (Rizqi, 2023).

d. Education

Education has a broad meaning as a life, which means that education is all knowledge and learning that occurs throughout life in all places and conditions that have a positive influence on every individual's growth. This has the meaning that the education of a human being takes place throughout life (Pristiwanti et al., 2022). In line with education, there is also the term teaching, which is a process of teaching activities and carrying out the learning process carried out anywhere and everywhere (Amirin, 2013).

If reviewed based on understanding, it can be concluded that education is a fundamental need that is important for human life, especially in modern times like now. Education in a narrow sense is usually called school, although not all education must be done at school, there are other education alternatives such as informal education that can be done anywhere. Then the correlation between education and child exploitation and child labor is very closely related, if a family considers that education is not an important thing then the potential for children to become workers and fall into exploitation will be high, it should be noted that education will shape the mindset and intelligence of children, if children are not given the right to achieve education then children will be vulnerable to falling into commercialization or income-generating activities because what is in their minds is that money is more important than education. As an example the phenomenon of child labor in Merauke district is the children of the indigenous Papuans who drop out of school or those who do not continue their education to a higher level, and also some who are still working. The reasons they drop out of school vary, some are already lazy to go to school, because of the family's economy and some want to lighten the burden on their parents economically (Kalalo et al., 2023).

Therefore, the Indonesian Government has issued an edict on the obligation of 9 years of basic learning (SD-SMP) for all citizens, this aims to ensure that children obtain the right to education and are entitled to be given teaching according to the subject curriculum that has been determined and adjusted to the age of the children. With the 9-year learning obligation implemented by the Government, it is hoped that children at their age are focused on carrying out knowledge and learning, not focusing on earning income like adults. After all, education is a provision for the future and a solution to change fate because nowadays education is also a long-term investment. Then it cannot be denied that someone who wants to get a more decent job needs a diploma from an adequate level of education.

e. Changes in the Production Process

In industrialization activities, it will be directly related to the production process. The production-distribution-consumption process is the main activity in the industrialization process. With the advancement of the era marked by modernization and globalization, the direction of the production process will change, if previously the production process was carried out manually using human hands, now the production

process is turning towards machines because it is considered faster, more efficient, and cost-effective production.

The correlation between changes in the production process and child exploitation and child labor is that if a family experiences termination of employment due to changes in the production process, it will affect the economy and income, this has the potential to trigger a child to become a worker to get additional income due to the termination of employment experienced by the family. Then some small industries deliberately employ children rather than adults because the wages given to children are less, so it is financially more profitable when employing children, which is more complicated, there are industries that deliberately employ children because children are considered to have a high sympathy appeal so as to produce higher sales figures than employing adults. The Government and the Manpower Office should pay more attention to this issue because if it is not addressed, more and more children will be involved in unhealthy production processes.

f. Weak Supervision and Limited Institutions for Rehabilitation

Supervision and rehabilitation institutions for children are still relatively minimal in Indonesia, in some regions they are provided by the Social Affairs Office but even then they are not able to reach all levels of society. In fact, there are still many ordinary people who do not know the existence of these institutions. Supervision of children to avoid child exploitation and child labor must still be enforced on all fronts, because the fact is that in big cities children are still often found who are openly involved in exploitation and adult work, and that does not include the practice of illegal child exploitation that is not detected by the wider community, for this reason preventive and repressive efforts are needed from the Government and Law Enforcement to tackle cases of child exploitation and child labor so as to realize the supervision process for children in accordance with statutory regulations. One of the efforts that can be made to minimize cases of child labor is to conduct labor inspection and inspection of employers in every company that employs children (Hidayat & Hafis, 2023).

For example, the Jambi City Social Service makes efforts to protect children by implementing supervision in the field and making coaching efforts because there are still many children begging around the red light (Hasanah & Amir, 2020). Because the problem of street children in several cities in Indonesia has proven to be troublesome for the Government because it turns out that handling is not enough just to be given compensation, but there needs to be concrete efforts and studies to the root of the problem to deal with these cases. The Social Service also provides stimulus, as well as making efforts for guidance and rehabilitation social. Stimulus is given by giving a certain amount of money to child laborers who are willing to be fostered (Ampel, 2008).

3.2. *Guarantee of Legal Protection for Children Related to Type of Work and Working Hours Working Hours in Accordance with the Law*

It should be known that Indonesia protects children and this is evidenced by the existence of laws and regulations that clearly regulate legal protection and fulfillment of rights for children. Such as Law Number 35 of 2014 concerning Child Protection. In

accordance with Article 28B Paragraph (2) of the 1945 Constitution which explains that every child has the right to survival, growth and development and protection from violence and discrimination, while Article 28C Paragraph (2) states that every child has the right to develop themselves through the fulfillment of their basic needs. Then Law Number 13 of 2003 concerning Manpower which prohibits child labor, Law Number 35 of 2014 concerning Child Protection which has mandated that the obligation to provide protection and ensure the fulfillment of children's human rights (Izziyana, 2019).

Based on Law Number 35 of 2014 concerning Child Protection, child protection is all activities to ensure and protect children and their rights so that they can live, grow, develop and participate optimally in accordance with the dignity of humanity. Then Rohiman Notowidagdo argues that children have the right to special protection and must obtain opportunities and facilities guaranteed by law and other means, so that children can develop healthily and naturally because physically, mentally, morally, spiritually, and socially can be maintained in a free and dignified state (Notowidagdo, 2016).

Muladi explains that child protection is all activities to ensure and protect children and their rights so that they can live, grow, develop and participate optimally in accordance with the dignity of humanity, and obtain protection from all types of violence and discrimination (Muladi, 2009). Working children affect the physical condition of the child because working as a construction worker will be very vulnerable to the ash generated from the building, the population of vehicles, injuries to the hands, which are very dangerous for the health and development of children (Delfi & Iqbal, 2023). Articles Article 27 Paragraph (2) and Article 28 D Paragraph (2) of the 1945 Constitution of the Republic of Indonesia basically mention human rights in the economic field, especially regarding every citizen has the right to get a decent job. to get a decent job, but in reality there are not a few citizens who find it difficult to get a job or cannot reach a better job (formal work), and tend to choose informal work or become domestic workers (informal work) in this case including child labor (Shalihah & Damarina, 2023).

To protect children from exploitation and child labor, we must first know the definition of child labor, namely children who do routine work for their parents or for others for compensation or not, child labor is a child who works to increase income for his family directly or indirectly (Ulfa, 1999). Although in practice it is inevitable that there is a lot of discrimination or exploitation experienced by child laborers Child laborers do not always work in the formal sector, but child laborers are more involved outside the formal sector (informal) so that there is no clear working relationship (Devi & Simamora, 2023).

However, there is a conceptual difference between the definition of child labor and working children (Suharto, 2005). Working children are children who do work because they help their parents or family, such as skill training activities, studying, helping with homework, helping parents work in the shop. Children who do light work are categorized as a process of learning and development of children towards the world of work. The potential impact of child labor is not necessarily bad, as it can provide opportunities for children to develop their physical, mental, social and intellectual

capacities. In the real world, it is an undeniable reality that child laborers often experience significant discrimination and exploitation (Wibawa, 2023) .

There are elements that fall into the category of working children, namely: 1) Helping parents and light work, 2) There is an element of education or training, 3) Children still attend school, 4) Work is done during leisure time and for a relatively short period of time, 5) Children's safety and health are maintained. Meanwhile, child laborers are children who perform any type of work that has a nature or intensity that has the potential to disrupt education, endanger the safety, health and development of children. Categorized as child labor if the following elements are present, namely: 1) Children who work every day, 2) Children who are exploited, 3) Children work for a long duration of time, 4) Children's school time is disrupted or even out of school.

The starting point for the Indonesian government to take children's issues seriously was Law No. 4/1979 on Child Welfare, then in 1990 the Indonesian government ratified the Convention on the Rights of the Child after the UN issued the Convention on the Rights of the Child in 1989. The Indonesian government became more serious in discussing child labor in 1993 with the holding of the first Child Labor Conference, the first conference discussed a long-term plan to eliminate child labor with legal efforts, increased education and research. Then the second Child Labor Conference in 1996 discussed the evaluation of the declaration plan and action plan that had been achieved.

As we all know that according to Law No. 39 on Human Rights, a child is any human being under the age of 18 and unmarried, including children who are still in the womb. Indonesia has laws and regulations that guarantee children's rights and reduce the impact of child labor, these regulations include the 1945 Constitution, Ratification of ILO Convention Number 138 into Law Number 20 of 1999 concerning Minimum Age for Employment, Ratification of ILO Number 182 into Law Number 1 of 2000 concerning Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, and Law Number 35 of 2014 concerning Child Protection (Picauly, 2022).

A special law to protect children's rights in Indonesia is Law No. 35/2014 on Child Protection. The Child Protection Law is a concrete form of affirmation of the legalization of children's rights derived from the Convention on the Rights of the Child and national legal norms. Based on Article 4 to Article 19 of the Child Protection Law regulates children's rights which include: (a) The right to live, grow, develop and participate reasonably in accordance with human dignity, and to be protected from violence and discrimination; (b) The right to a name and identity and citizenship status; (c) The right to worship according to his/her religion, to think, and to express himself/herself; (d) The right to know his/her parents, to be raised and cared for or to be cared for by another party if for some reason the parents do not realize it; (e) The right to obtain physical and spiritual health services, social security in accordance with physical, mental, spiritual and social needs; (f) The right to obtain education and teaching and for those with disabilities to obtain special education; (g) The right to be heard, receive and seek information and also provide information; (h) The rights and protection of child laborers are regulated in Law No. 13/2003 on Manpower.

In addition, it is also regulated in the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia No.Kep.235/MEN/2003 concerning Types of

Work that endanger the Health, safety or morals of children as an implementation of Article 74 paragraph (3) of the Manpower Law, has provided obligations for companies that employ children. Law No. 13/2003 on Manpower also guarantees the protection of child labor rights. The provisions of this guarantee are regulated in Articles 69 to 73 of the Labor Law. Protection of children's working hours is regulated in Article 75 to Article 85 of Law Number 13 of 2003 concerning Manpower where every employer is required to implement working time, namely the number of normal working hours for 1 week of 40 hours.

The form of protection provided by the state through the Labor Law against child labor in Indonesia includes:

a. Forms of Work Prohibited by Children

According to Article 74 paragraph (2) of the Labor Law, the worst forms of work for children include: (a) All work in the form of slavery or the like; (b) Any work that utilizes, provides, or offers children for prostitution, production of pornography, pornographic performances or gambling; (c) Any work that utilizes, provides or involves children for the production of trade in liquor, narcotics, psitropic and other addictive substances and/or; (d) Any work that may endanger the health, safety or morals of children; (e) The worst forms/types of work according to Decree of the Minister of Manpower and Transmigration No.Kep 235/Men/2003 on Types of Work that may Endanger the Health, Safety or Morals of Children (Nurlani, 2021)).

Permissible forms of work for children. Children are not allowed to work, but there are certain situations, conditions and interests that exclude children from working as stipulated in the Labor Law. These forms of work include:

b. Light Work

Children aged 13 to 15 years are allowed to do light work as long as it does not interfere with physical, mental and social development and health. Employers who employ children must fulfill the following conditions: (a) Written permission from parents or guardians; (b) A work agreement between the Employer and the parent/guardian; (c) Maximum working time is 3 hours; (d) Performed during the day and does not interfere with school time; (e) K3 protection; (f) There is a clear working relationship and; (g) Receive wages in accordance with applicable regulations.

c. Work as part of the education or training curriculum

Children may perform work that is part of the education or training curriculum authorized by the competent authority under the following conditions: (a) At least 14 years old; (b) Must be given clear instructions on how to carry out the work and receive guidance and supervision in carrying out the work; (c) Be provided with occupational safety and health protection.

d. Work to develop talents and interests

Children need to be given the opportunity to channel their talents and interests, with the aim of avoiding exploitation of children. The government has authorized

through the Minister of Manpower and Transmigration Decree No. Kep 115./Men/VII/2004 concerning Protection for Children Who Perform Work to Develop Talents and Interests. The Kepmenakertrans outlines that work to develop talents and interests must meet the following criteria: (a) The work can be done by children at an early age; (b) The work is liked by the child; (c) The work is based on the child's ability; (d) The work adds creativity and is in line with the child's world.

Then criminal sanctions against perpetrators of child exploitation and child labor are found in Article 76 I of Law Number 35/2014 concerning Child Protection stipulates that every person is prohibited from placing, allowing, doing, ordering, doing, or participating in the economic exploitation of children. The sanctions for violations of Article 76 I are regulated in Article 88 of Law 35/2014, namely violators are punished with imprisonment for a maximum of 10 (ten) years and / or a maximum fine of Rp200,000,000.00 (two hundred million rupiah). Thus, it means that employers and parents who employ children in the world with the aim of economic exploitation are punishable according to Article 88 of Law 35/2014.

The provision of sanctions occurs because of a need from the community for crimes or violations that occur. These sanctions are needed in order to create order and security in society. Until now, the sanction that is considered the most sophisticated to create fear and tackle crime in society is criminal sanctions (Abraham, 2023).

4. Conclusions

Based on Law Number 35 of 2014 concerning Child Protection and Law Number 13 of 2003 which has changed to Law Number 6 of 2023 concerning Employment Cluster Job Creation, it is explained that children are actually allowed to work as long as they are in accordance with the criteria stated in the legislation, more precisely regarding the rules for the type of work and appropriate working hours, and when a child works, they must meet the conditions that have been described as well. The laws and regulations issued by the Government to legally regulate the issue of child labor and child exploitation aim to ensure that children still obtain their rights such as the right to education, the right to play, even though they are working. The goal is that if the legal protection of child labor and the prevention of child exploitation can run well due to the existence of these laws, it will be able to overcome various obstacles and negative impacts of child labor and child exploitation cases. The more important goal is to create justice and welfare for child laborers, which is realized from sustainable planning and implementation regarding the serious handling of the problem of child labor and child exploitation.

Legal protection of child labor has not been implemented optimally even though there are regulations governing it, especially in terms of legal violations of children's rights. Both those committed by exploiting children, both in the form of physical violence and the non-fulfillment of children's rights in wages and exceeding working hours from the hours that have been determined. Therefore, to minimize violations of the rights of child laborers, it is expected that the government will make arrangements for the rights of child laborers in a separate legislation. Then the Government is expected to have its own target to completely eliminate child labor and the Government in the future is expected to improve the economy for the welfare of children, with the hope

that the poverty rate will be much reduced and then followed by improving the quality of education for underprivileged children, with the hope that in the future it can reduce child labor in Indonesia.

The expected contribution of research both in the field of law and its contribution to decision makers is that with this research, the government is expected to pay more attention to legal protection for child labor to prevent the occurrence of more massive child exploitation, through legislation passed.

The implication and contribution of this study for child labor is that they are expected to obtain legal certainty and appropriate legal protection, so that they can exercise their rights properly. As for the community, it is expected that this study can educate that child labor is actually allowed but there are requirements that must be met based on the law, and for the government is expected to be more assertive in paying attention to legal protection for child labor in order to realize the welfare of children.

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