

Implementation Of Child Protection Policy On The Exploitation Of Child Labor

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Abstract

This research aims to; the first is to describe the implementation of the policy for overcoming child labor in the city of Semarang, second, to find out the factors that influence the success of the implementation of the policy to combat child labor. The approach method used is sociological juridical

The results showed that; Cooperation between government agencies is not good, the benefits of implementation are not felt, budget resources are not supportive, social, economic and family conditions are influential. Recommendations that the authors give: expand the range of services and handling child labor, build studios for children, need budget specifications, provide skills for child workers.

Keywords: Child labor, child exploitation, legal protection

1. Introduction

Children are a mandate and a gift from Allah swt, as well as children for parents, even children are considered the most valuable assets compared to other assets.¹ Children as part of the nation's young generation who act as successors to the ideals of the Indonesian nation's struggle in the future have the right to grow and develop freely and without experiencing violence. And to realize this, children need a special protection, including legal protection that is different from adults so that children get the widest opportunity to grow and develop optimally.²

Child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.³ The phenomenon of child labor or children working in Indonesia has existed since 1997, the impact of the prolonged economic crisis. Currently in Indonesia, cases of child exploitation and violence are still rampant.

We often encounter cases of child exploitation, such as beggars, buskers, scavengers, and hawkers who are carried out by children. Children are exploited, which means according to the General Indonesian Dictionary, extorting children's labor for their own benefit.⁴ Children as creatures of God Almighty and social beings, from the time they are in the womb until they are born have the right to live and be independent and receive good protection from their parents, family, community, nation and state.

This crime of violence against children is a very important problem because those who are victims of violent crimes are minors, where minors are still in the care

¹Andi Syamsu Alam, M. Fauzan, 2010, *Hukum Pengangkatan Anak Perspektif Islam*, Jakarta, Kencana, p. 1.

²Dedy Nurjatmiko, Legal Protection Against Children Being Victims Of Crimes Prosecution Stage In Kudus, *Jurnal Daulat Hukum* Volume 1. No. 2 June 2018 : 405 - 412, p. 406
URLs:<http://jurnal.unissula.ac.id/index.php/RH/article/view/3281/2416>

³Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. p. 2.

⁴Badudu JS, 2010, *Kamus Umum Bahasa Indonesia*, Pustaka Sinar Harapan, Jakarta p. 126.

of their parents, children as the nation's buds and the next generation of the nation's ideals must be considered, protected and guarded from all actions that can harm.⁵

Child also includes an inseparable part of the survival of human life and the sustainability of a nation and state. Because children are a superior investment to continue the preservation of civilization as the nation's successor.⁶

Protection of children's rights is a human right guaranteed by the state constitution, through the Basic Law of the Republic of Indonesia, in particular Article 28B number 2 which states that "Every child has the right to survive, grow, and develop and is entitled to protection from violence and discrimination." The position of the child in the legal environment as a legal subject is determined by the form and legal system of the child as a group of people who are in legal status and are classified as incapacitated or underage.⁷

In terms of national and state life, children are the future of the nation and the next generation of the nation's ideals, so that every child has the right to survive, grow and develop, participate and have the right to protection from acts of violence and discrimination as well as civil rights and freedoms due to family and the community is responsible for safeguarding and maintaining these human rights in accordance with the obligations imposed by the law.⁸

In Law No. 30 of 2014 in conjunction with Law no. 23 of 2002 concerning child protection Article 26 paragraph (1) "that parents are obliged and responsible for:

- Raising, nurturing, educating, and protecting children;
- Growing children according to their abilities, talents and interests;
- Preventing child marriage

In addition to parents, the state, government and local governments are also responsible for fulfilling children's rights,⁹and is responsible for realizing the welfare of children by providing protection and guarantees for the fulfillment of their rights without discriminatory treatment. For the realization of quality, noble, and prosperous children.

The low quality of child protection in Indonesia has drawn criticism from various elements of society. In fact, based on Law no. 30 of 2014 in conjunction with Law no. 23 of 2002 concerning Child Protection, those who are obliged and responsible for the implementation of child protection are the state, government, community, family, and parents.

Law Number 13 of 2003 concerning Manpower (Manpower Law) in Article 68 actually prohibits employers from employing children, but there are exceptions for children aged between 13 (thirteen) years to 15 (fifteen) years old who can do light work. as long as it does not interfere with physical, mental and social development and health (Article 69 paragraph (1) of the Manpower Act). However, the facts on

⁵Justisia Pamilia Luberty, "Violence Against Children and Child Protection (Case Study in Polres Purworejo)", *Jurnal Daulat Hukum* Volume 1 Issue 3 September 2018 : 819 – 824, p. 820, url:<http://jurnal.unissula.ac.id/index.php/RH/article/view/3408/2517>

⁶ Mansur, 2012, *Pendidikan Anak Usia Diini dalam Islam*, PT Remaja Rosdakarya, Bandung, p. 76.

⁷Adimas Dirgantara, "Investigation Process in Criminal Suspection Children on Theft by Weighting in SatReskrim Polrestabes Semarang", *Jurnal Daulat Hukum* Volume 1 Issue. 3 September 2018 : 605 – 612 p. 605. url:<http://jurnal.unissula.ac.id/index.php/RH/article/view/3344/2472>

⁸ Maidin Gultom, 2014, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia*, Refika Aditama, Bandung, p.1.

⁹IKAPI Member, 2012, *Perlindungan Anak Dibawah Umur*, PT Alumni, Bandung: h. 64.

the ground are that there are still many small business entrepreneurs who employ children without paying attention to children's rights as regulated in laws and regulations. As the easiest example in the city of Semarang, there are many underage children who work as food vendors (in the form of fruits or snacks), shop assistants, photocopiers, food stalls, restaurants, newspaper sellers,¹⁰

Based on the description above, this research aims: to identify and identify the implementation of child protection policies on child labor exploitation in the city of Semarang and to identify and analyze the obstacles faced by the Semarang City Government in tackling the exploitation of child labor.

2. Research Methods

The approach method used is Juridical Sociology, The specification of scientific research in this research is descriptive analysis. The types of data in this study include Primary data, secondary data, and tertiary data. Secondary data consists of 3 legal materials, including primary legal materials, secondary legal materials, and tertiary legal materials. In primary data collection, the author uses several techniques to obtain data, including: Observation (Observation), Interview (interview), Secondary and tertiary data obtained by library research methods

3. Results and Discussion

1. Implementation of Child Labor Protection Policies and Its Countermeasures in Semarang City

Law Number 13 of 2003 concerning Manpower is a rule that regulates the rights and obligations of workers in Indonesia. For some workers, the law is a protector of their rights guaranteed by the state through the government and is a protector from companies that often treat workers arbitrarily. The labor law is the main focus in its implementation in the field, how to coordinate, implement and interpret the law in accordance with what is written.

The implementation of Law Number 13 of 2003 has not been running optimally, especially regarding child labor, protection for child labor because there are still many violations and irregularities contained in the implementation of the Act. This violation is evident from the large number of exploitation of children where companies often use labor to achieve their company's goals by using child labor. In addition to the not yet optimal implementation of the law, the attitude of policy implementers also does not have a level of honesty in its implementation where the exploitation of child labor often occurs in companies or other employment fields. In an effort to stop these violations, there should be strict sanctions given to companies or economic actors who violate the rights of child labor. Legal protection for children is not only seen from the perspective of protecting Indonesian children or juridically, but requires a broader approach, namely economic, social and cultural.¹¹

¹⁰Syamsuddin, 2011, *Petunjuk Pelaksanaan Penanganan Anak Yang Bekerja*, Ministry of Manpower of the Republic of Indonesia, Jakarta: h. 1.

¹¹Ervin Faizal Nurdiansyah, "Application of Criminal Sanctions Against The Crime of Child Rape Linked with Article 82 of Act No. 35 of 2014 Concerning The Protection of Children", *Jurnal Daulat Hukum* Volume 1 Issue 3 September 2018 :731 - 736, Page 732 url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/3384/2502>

3.2. Factors Influencing the Implementation of Child Labor Protection Policies in Semarang City

a. Policy Compliance Accuracy

Policy accuracy. Judging from the extent to which the existing policies contain things that do solve the problem to be solved, how far the policy has been set, has so far achieved the goal or succeeded in the process of overcoming child labor in the city of Semarang. With the speed of this policy target, the implementation of the prevention of child labor can be assessed based on the target whether it has achieved the expectations that have been determined in the implementation process. From a total of 177 sub-districts in Semarang City, only 35 sub-districts have child labor registered. The data collection only covers 35 sub-districts of the 177 urban villages in Semarang City, the remaining 142 sub-districts that have not been registered for child labor.

b. Implementation Accuracy

The accuracy of the implementation of policy implementation actors is not only the government. There are three institutions that can be implemented, namely the government, government-public/private cooperation, or the implementation of private policies. Delivering this implementing actor is very important in achieving good implementation of the policy recipients themselves by coordinating from policy implementers and policy recipients this implementing actor is not only in the form of goods but can also be in the form of predetermined programs. With coordination carried out between Bapermas and related NGOs in the policy of overcoming child labor in the city of Semarang.

c. Benefit Type

Show or explain that in a policy there must be several types of benefits that show the positive impact generated by the implementation of the policy to be implemented. The benefits of this policy have not been fully felt by the child workers themselves. Policies that do not run continuously have resulted in a large number of child laborers in the corners of the city of Semarang.

d. Policy Standards and Objectives

The level of success is measured if and only if the size and objectives of the policy are realistic with the socio-culture that exists at the level of implementing the policy. When the size of the policy or the policy objectives are too ideal to be implemented at the citizen level, it is rather difficult to realize the public policy to the point that it can be said to be successful. It is difficult to find targets for child labor policies, especially child labor in the formal sector because companies that employ underage child workers seem to cover up the existence of child labor. Companies in the city of Semarang that usually employ underage child workers are usually companies.

e. Communication

Communication is a benchmark how to measure the achievement of a policy or regulation clearly with the same interpretation that can be carried out by policy implementers consistently.

- Transmission (Communication Channel)

Before decisions are implemented and orders are issued, communication from policy makers and policy implementers is needed so that decisions and

orders made can be implemented properly. The error that is often found in the distribution of this communication is that there are differences between the understandings made in a decision and there is often an imposition of differences between the original policies or those that become references with different views.

These errors basically stem from errors in the delivery of information through the communication provided between policy makers and policy implementers. Based on these problems, there are three obstacles in the delivery of communication.¹²

- There is a conflict of opinion between the implementers and the orders issued by the policy makers. This contradiction causes distortion of policy communication.
- There is a hierarchy of layers and has a strict structure.
- Capture of communications may be hindered by selective perceptions and unwillingness of implementers to know the requirements of a policy.
- Communication Clarity

A policy requires clarity in the delivery of policies, especially regarding the protection of child labor. In implementing the policy, the aim is to avoid mistakes or errors and also to avoid confusion and wrong interpretations in realizing a policy because ambiguity in communication can result in misunderstanding of the meaning and initial objectives of the policies that have been made.

Clarity of information related to Law No. 13 of 2003 is still very poor because based on the statement of the workforce there are still workers who do not know about child protection which is their right. The importance of clarity in communication is not only clarity in policies governing rights but also clarity regarding sanctions if there are parties who violate the policies that have been made. this clarity requires special attention for policy implementers so that the objectives of the policy can be realized.

- Consistency

Implementation will be obtained maximally and effectively if decisions and orders are carried out consistently, consistency in policies and decisions related to laws and policies really needs to be clarified correctly because if so, routine socialization is needed to companies and workers, especially child labor.

f. Resource

Implementers or human resources who play a role internally and externally have several influencing factors such as the influence of the internal environment, namely the Manpower Supervisory Apparatus (education and ability to direct and deliver programs), work facilities and infrastructure, management capacity. implementation of labor regulations as well as regulations on the implementation of the supervisory system which include:

¹² Fankiano B. Randang, "Kesiapan Tenaga Kerja Indonesia Dalam Menghadapi Persaingan Dengan Tenaga Kerja Asing", *Jurnal Ilmiah Hukum* Volume 5, No. 1, Januari 2011,

- Supervisors are directed to preventive and repressive efforts, but repressive actions will be carried out strictly against companies that intentionally violate or companies that have been repeatedly warned.
- In carrying out the duties of the supervisor, the supervisor must go directly to the field so that the supervision is carried out objectively.
- The supervisory apparatus is expected to be able to act more quickly and sensitively to problems that arise so that problems do not spread.

The resource factor in the implementation of the Manpower Law is one of the factors that causes failure in the implementation of this Law. Weak division of tasks, weak mobilization and control of direct superiors, weak coordination, weak reporting, so that there is no data on the object of inspection and data on the results of activities are the impact of the resource factor which is a factor that the Manpower Law is not yet optimal.

g. Implementing Attitude

The attitude of the implementer of the policy in its implementation plays an important role because the attitude of the implementer becomes a measure of the success of a policy that is made. The attitude of the implementer determines the achievement of the objectives of policy making because if the implementer of the policy refuses with the objectives of the policy, the policy will certainly fail.

Basically, there are three components that affect the ability and desire of policy implementers in carrying out policies, namely the need for cognition, affection and behavior. Besides that, it requires a democratic attitude for implementing policies in this case, it requires closeness and public hearings with the target object in order to create a better relationship.

So it can be concluded that the attitude of policy implementers tends to lack understanding because the implementers only know and carry out without clear socialization and have an enthusiastic attitude towards violations in the field. This attitude of the implementer is one of the evidences of failure in the implementation of Law Number 13 of 2003, especially the articles that protect child labor.

h. Social, Economic, and Political Environment

The environment greatly influences the success of policy implementation, the existence of conducive environmental conditions allows policy implementation to run smoothly and under control. Other environmental conditions such as the condition of community cultural values also greatly affect the success of implementing policies on overcoming child labor. The condition of society's cultural values emerged from the mindset of the people in ancient times, that children are a place to depend on in old age.

3.3. Obstacles Experienced by the Semarang City Government in Providing Protection for Children on Exploitation of Child Labor.

The results of the study show that there are child workers with different types of work, namely scavengers, snack sellers and tissue sellers. Workers experience physical and social exploitation but do not experience sexual exploitation even though they are prone to this. Physical exploitation occurs by observing: First, children work 8 hours per day from afternoon to evening where this condition exceeds the child's ability and violates the Manpower Act which is not allowed to

employ children for more than 4 hours. Conditions and situations where children's work is not safe for their health tend to make it easier for various diseases to arise, for example by being vulnerable for a long time on the road by inhaling heavy vehicle pollution on the highway. The income they receive every day ranges from Rp.25,000 to Rp. 40,000 where the results of this income are used for their daily needs.

Second, children are vulnerable to social exploitation with no time for children to play and learn. Children often cannot socialize because most of the time they spend working. In fact, one of the child laborers studied preferred to work rather than go to school.

Third, even though children claim to have not received sexual exploitation from adults, this has a high potential for children to be vulnerable to acts of sexual exploitation. The conditions and locations where children work late at night are prone to criminal acts and arbitrary behavior from adults. The crucial reason for the family is because of family poverty, directly or indirectly, so that children must participate in helping families to earn family income. Conditions with a lack of skills and low family education are the basis that the family cannot work by generating a clear income, so this is prone to the occurrence of labor obtained from family members themselves, namely children.

The shift in the function of the family in society makes the phenomenon of child labor also occur. Such as changes in psychological function and social function. In the psychological function, this is interpreted as a place to channel affection between family members, channel attention. Whereas in social function, children will recognize their roles, duties and obligations as a child. The family also provides the first status and identity for the individual. The family also functions to shape the individual's personality.

Children who work tend to be banned from spending time playing. After school they use their time to rest and then sell, so there is no time to play and study at home due to the large amount of time spent working. Especially if children drop out of school because they have to work to help their parents.

In addition to family factors and family poverty, other factors that support children to work are environmental factors. In the child laborers studied in Semarang City, the social environment for children includes the child's relationship with the people around him. In the context of a relationship, there will definitely be a tendency to influence each other. Children are a group that is very easily influenced by environmental situations. So it can be understood why the social environment can have such a huge impact on children as it does for work. This is what happens to the situation of children working in the city of Semarang, where these children are in the same neighborhood and are in an alarming situation.

Exploitation is very detrimental to children. Children experience abuse and neglect that do not support the protection of the child's rights. Children are used as objects to get the interests of others. Economic interests that force children to work. Some of the things that underlie it are as follows:

- Children are told by their parents and family to work to help meet the needs of the family, without thinking about the condition of the children when they work. Children do not get their rights from parents to be cared for, nurtured, and guided. Children tend to be forced to obey the wishes of their parents.

- Parental jobs that are not fixed, low income, and many dependents in the family that underlie children also come to work. Children are forced to work because their parents are told to work to help meet their daily needs without paying attention to their child's welfare. A number of risks are often experienced by child workers in Semarang City which are the result of exploitation.

Proving the existence of actions that harm children. Moreover, there are no guarantees and dependents for the risks of work that children get while working on the streets.

As stated by Tjandraningsih and White in Bagong Suyanto in the formal industrial sector, they are generally in conditions of long working hours, low wages, face the risk of work accidents and health problems, or become targets of harassment and abuse by adults.

From that understanding and from the results of research conducted, it can be analyzed the various risks experienced by child labor in Semarang City Housing, which are as follows:

- Physical violence is often experienced by child workers in the city of Semarang. Some child workers experience being beaten by their parents for using work time to play. The length of time working at night is also very influential on the health of children. Children get tired quickly at work because they do work that has a capacity for adults.
- Children work with long working hours, but are not matched with hours to play and learn. Income that is fully given to parents or family. In addition, children are at risk of experiencing crime on the highway and some diseases in the long term considering that children are on the streets crowded with vehicle pollution.
- Children basically have the opportunity to get education and play time. The pressure of poverty requires children to spend more time making work on the streets.

The weak family economy makes parents unable to fulfill their children's rights to school and play. Whether by force or not, many parents think that one of the most important sources of family income is children

4. Closing

Based on the results of research and data analysis, it can be concluded that, The development of the number of child workers in the city of Semarang from year to year has experienced a rapid increase and the increasing number of child workers in the city of Semarang has caused many problems in the field of labor.

The Manpower Law made by the government has not been optimal in its implementation because there are still many violations found in its implementation. The case of deductions in labor wages by the company when child laborers apply for leave which is basically a basic right of the workforce, the reduction in the number of days of leave that should have been stipulated by the child protection law and the complicated procedures and requirements in applying for leave to child workers are evidence of failure to implement Law No. 13 of 2003.

In addition, the government's role is still not running effectively in protecting workers, especially children, which causes this law to still experience many obstacles in its realization. The lack of strong enforcement of sanctions for violations

committed by both the government and companies related to the implementation of the Manpower Act is a factor in the ineffectiveness of the government's role in protecting workers.

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