



Legal Protection for Children Working as Domestic Workers

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Article	Abstract
Keywords: Law Protection; Child Labor; Domestic Workers	<i>Domestic workers currently still do not have proper legal certainty as workers in general. Especially for child workers who work in this job, their dignity is not guaranteed to obtain their rights as workers and as children. Often children who work as domestic workers experience discrimination and violence. Based on Article 28B Paragraph (2) of the 1945 Constitution, children have the right to survival, growth, and development, as well as protection from violence and discrimination. This study aims to analyze the urgency of regulating legal protection for children who work as domestic workers and analyze legal protection efforts for children who work as domestic workers. This research uses normative legal research methods. The types of approaches used are statutory approaches and conceptual approaches. Based on the results and discussion of the research, the urgency of legal protection for children working as domestic workers is because children are part of human rights as stated in Article 52 Paragraph (1) of the Human Rights Law. Due to the innocent nature of children, they are vulnerable to acts of exploitation, violence, discrimination, and human trafficking. In addition, there is legal vagueness in the Permenaker PPRT in providing protection for domestic workers. Until now, legal protection efforts by the government have only been through Presidential Decree No. 59 of 2002 and the UUPA.</i>

INTRODUCTION

Ensuring the progress of a nation's development, children, as the younger generation play a very large role in the development of the country in various sectors. Providing the younger generation as early as possible through education, health, and discipline will be able to produce superior resources (Endrawati 2012). Therefore, it is our obligation to support the success of the nation's resources by facilitating and providing proper protection for the younger generation.

In Article 28B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, it states, "Every child has the right to survive, grow and develop, and has the right to protection from violence and discrimination". According to Article 1 Number 1 of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child

Protection, the definition of a child is, "A child is a person who is not yet 18 (eighteen) years old, including a child who is still in the womb".

Rationally, children are weak, both in terms of energy and mind compared to adults. So that a child is vulnerable to violence, whether physically, psychologically, or sexually, to exploitation. It is undeniable that the number of violence in Indonesia is still quite high based on data obtained by the National Commission for Child Protection (Komnas PA) throughout 2023, as many as 3,547 complaints of cases of violence against children (Muhammad 2023).

Children are required to receive protection from both the government and society for several reasons, namely: (a) Children still need parental guidance; (b) Children are physically weak; (c) Children are in an unstable condition; (d) Children cannot yet choose between good and bad; (e) Children are not yet adults; (f) Girls are more often victims; (g) Children need education and school; (h) Children have social circles; and (i) Children are easily influenced by the media (Kartikasari 2013).

Article 1 Paragraph (2) Law no. 23 of 2002 concerning Child Protection, reads:

"Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with their dignity and humanity, so that they receive protection from violence and discrimination."

Internationally, many countries through the UN forum have agreed and signed a convention in 1989, namely the United Nations Convention on the Rights of the Child, which regulates the protection of children's rights including civil, political, economic, social and cultural rights (Tahamata 2018).

However, this does not rule out the possibility that human rights violations against children still often occur today, one of which is often found in child labor. Child labor is a social problem that has always been a major issue in several countries, including Indonesia (Nandi 2016). According to data reports by the Central Statistics Agency (BPS), the number of child workers in Indonesia reached 1.01 million people in 2022.

The level of welfare for children can be a factor causing child labor (Nurlani 2021). Components in this welfare can include economic welfare and educational welfare. Parents play a primary role in being responsible for the welfare of children as stated in Article 9 of Law No. 4 of 1979 concerning Child Welfare, "Parents are the first to be responsible for realizing the welfare of children both spiritually, physically and socially". In this case, when parents are able to fulfill the welfare of their children, the potential for children to work is very small.

The factor that often becomes an obstacle for children to obtain their welfare is the poverty factor. According to Todaro & Smith, poverty is caused by a person's low education (Surbakti, Muchtar, and Sihombing 2023). However, poverty can also be a factor causing low education, for example children dropping out of school because they are unable to finance school needs. In the theory of The Vicious Cycle of Poverty

initiated by Ragnar & Nurkse, it explains that this poverty has no end and the root of all of it is an element that ultimately causes this poverty to be correlated with each other (Ratri 2019) .

Children trapped in poverty have limited opportunities to change their future because they are forced to drop out of school and are required to work to support themselves and their families (Fithriani 2011) . Child labor is a term used when employing someone under the age of 18 (eighteen) years (Abdullah 2011) . The term has connotations of exploiting children for their labor, with low wages, and low consideration for their personality development, safety, health, and future prospects.

It is estimated that quite a lot of children in Indonesia work in jobs that are considered easy for them, namely working in the informal sector, such as domestic workers. Domestic work does not require special skills or certain education and the scope of work is only around the household, such as cleaning, washing clothes, taking care of the employer's children, taking care of the sick, shopping, and cooking (Nola 2012) .

Involving children in work does not always have a negative impact, as long as the work does not hinder their development. Work provides opportunities for children to increase their curiosity, exploration, creativity, and foster a sense of work spirit and discipline (Elfrianto 2007) . According to Komnas HAM, domestic workers have the characteristics of private and informal work (Haryono et al. 2022) . This makes domestic workers a potentially quite bad job for children because they are very vulnerable to exploitation, human trafficking, and violence, both physically, psychologically, and sexually.

Children who work as domestic workers are generally employed relatively equally, both in terms of working hours and work tasks (Kamal 2010) . The wages received are usually also far below the applicable minimum wage standards. This conflicts with Article 69 Paragraph (2) letters (c), (d), (f), and (g) of Law No. 13 of 2003 concerning Manpower, which regulates:

"(2) Employers who employ children in light work as referred to in paragraph (1) must fulfill the following requirements:

- a. Written permission from parents or guardians;
- b. Employment agreement between the entrepreneur and parents or guardians;
- c. Maximum working time 3 (three) hours;
- d. Done during the day and does not interfere with school time;
- e. Occupational safety and health;
- f. There is a clear working relationship; and
- g. Receive wages in accordance with applicable regulations.

This work is often not bound by a written employment relationship so that the status of children as child workers is also unclear. This causes children's rights as

workers to often not be fulfilled, such as wages, benefits, safety and health insurance, and leave days. Children who work as domestic workers are usually employed for approximately 10-14 hours a day with a 1-hour break without any holidays (Subekti 2018). Moreover, if the child lives with the employer, their working hours are unlimited.

The case that occurred in 2016, there were 4 (four) children who worked as domestic workers who were victims of abuse, and did not receive wages while working (Belarminus 2016). In 2023, a 15 (fifteen) year old child in Bandar Lampung often experienced abuse for 4 (four) months working as a domestic worker (DetikSumbagsel Team 2023). The victim experienced abuse in the form of physical violence and also nakedness.

Referring to Law No. 1 of 2000 concerning the Ratification of ILO Convention No. 182 Concerning the Elimination of the Worst Forms of Child Labor, it explains that the worst work for children is work whose nature or conditions in which the work is carried out can endanger the health, safety, or morals of children. Which means, all forms of work whose nature or conditions in which the work is carried out should be eliminated.

The existence of child labor is a fairly complex problem and is difficult to eliminate. This is due to factors of family background, parental influence, culture, and environment (Ayu and Bachtiar 2015). Given, the factors that cause children to work are poverty, low education, lack of skills, and loss of parents who provide for them (orphans and/or half-orphans).

When reviewing the substance of ILO Convention No. 189 on Domestic Workers (PRT), it stipulates that each member country must take preventive measures through legislation by setting a minimum age limit and protection for domestic workers under the age of 18 so that they are not disturbed in pursuing their education. In addition, the state is also required to take steps to ensure that all domestic workers enjoy effective protection from all forms of abuse, harassment, and violence (ILO 2011).

In fact, the government has set a minimum age limit for domestic workers through the Minister of Manpower Regulation No. 2 of 2015 concerning the Protection of Domestic Workers, namely in Article 4, which states:

“Requirements for domestic workers include:

- a. have identity documents;
- b. at least 18 (eighteen) years old; and
- c. obtain permission from the husband/wife for domestic workers who are already married.”

However, the regulation in this Ministerial Regulation is still not comprehensive because it only regulates policies related to domestic workers in the official scope of the Domestic Worker Placement Agency (LPPRT) (Aryawati 2020). Meanwhile, the majority of people who work as domestic workers are still often employed without

going through an official institution, such as domestic workers who are recruited directly through offers by employers (Santoso 2015) .

The ambiguity of the regulations regarding legal protection for children working in this employment sector has an impact on the vulnerability of acts of exploitation, violence, and deprivation of children's rights to continue to occur if there are no regulations that are legally able to guarantee certainty of protection for them. Based on the background description above, the author is interested in conducting research on this case through this thesis entitled "Legal Protection for Children Working as Domestic Workers".

METHOD

The type of research method used in this research is normative legal research. Normative legal research is carried out by referring to written regulations or other legal materials (Ali 2021) . In this research, the main research subject is legal protection for children who work as domestic workers. In this research, interpretive analysis will be carried out by referring to legal materials relating to child domestic workers.

There are 2 (two) approaches used in this research, namely the Statute Approach *and the Conceptual Approach. Approach*). This research uses primary legal materials, including:

- a. The 1945 Constitution of the Republic of Indonesia;
- b. Law No. 20 of 1999 concerning ILO Convention No. 138 concerning Minimum Limits for Admission to Work;
- c. Law No. 39 of 1999 concerning Human Rights;
- d. Law No. 1 of 2000 concerning ILO Convention No. 182 concerning the Worst Forms of Child Labor;
- e. Law No. 13 of 2003 concerning Manpower;
- f. Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection;
- g. Presidential Decree of the Republic of Indonesia No. 59 of 2002 concerning the National Action Plan for the Elimination of the Worst Forms of Child Labor;
- h. Minister of Manpower Regulation No. 2 of 2015 concerning Protection of Domestic Workers; and
- i. ILO Convention No. 189 concerning Domestic Workers

RESULTS AND DISCUSSION

1.1 Urgency of Legal Protection Regulations for Children Working as Domestic Workers

Legal Protection of Children in Human Rights

The theory of legal protection is a fundamental concept in the legal system that aims to protect individuals or groups from potential violations of rights or injustice. The theory of legal protection as put forward by Satjipto, emphasizes that the rights of every person are human rights, therefore through the provision of legal protection, it is attempted to be a means to protect human rights (Rahardjo 2006). The success of the law in achieving justice will be easier when the law is applied effectively and vice versa will be an obstacle if it is not applied effectively. Justice is the goal of law related to the strength of legal norms, so it must be reflected in legal regulations (Tarliman 2003).

Legal protection provided by the state is based on its relationship to human dignity, namely the recognition and protection of human rights. Protection of human rights in Indonesia is regulated in Law No. 39 of 1999 concerning Human Rights. This protection of human rights includes the right to life, the right to freedom, the right to family, the right to welfare, the right to justice, the right to protection, and special rights, such as children's rights.

In the concept of child protection, it is certainly closely related to the fulfillment of children's property rights. Article 52 Paragraph (1) of the Human Rights Law states, "Every child has the right to protection by parents, family, society, and also the state". Paragraph (2) states, "Children's rights are part of human rights and for their interests, children's rights are recognized and protected by law even from the womb". The two articles are interrelated as showing that child protection is a priority in Indonesia because children's rights are also part of human rights that must be upheld by the state. The regulation of child protection in the Human Rights Law is not only found in Article 52, but is regulated up to Article 66 which contains provisions related to the maintenance of children's rights and as it is the obligation of every person to comply with this policy.

Child protection in the international realm is a primary obligation in every country, so that an initiative and concern are created, namely by the United Nations (UN) through the Convention on the Rights of the Child (CRC) to recognize all children's rights as part of human rights and make it the responsibility of the state to protect them. The CRC was declared by the UN on November 20, 1989, which regulates the civil, political, economic, social, and cultural rights of children (Nainggolan, 2008). Indonesia itself has ratified the CRC through Presidential Decree No. 36 of 1990 and adapted its contents into the positive legal system, namely Law No. 23 of 2002 concerning Child Protection which was later amended in Law No. 35 of 2014, which contains regulations related to the protection of children's rights in a broad and specific manner. The contents also prioritize children's rights which include the right to education, the right

to health, the right to welfare, and the right to care. However, it cannot be denied that children are not free from discrimination, violence, harassment, and exploitation by adults. Therefore, legal protection plays an important role in supporting children's rights and eliminating all actions that have the potential to harm children as stated in the Human Rights Law and the Child Protection Law.

Occurrence of Violence and Non-Fulfillment of Rights for Children Working as Domestic Workers

In the discussion of urgency in this study refers to concerns about child labor in the domestic worker sector. These concerns arise from the many cases that have occurred and even reoccurred, but until now there has been no legal certainty in the form of clear legal protection that can prevent this. One example of a case that occurred in 2016 involved 4 (four) children who worked as domestic workers who were victims of abuse. In addition, they also did not receive their rights, namely wages while working. In another case that occurred in 2023, a 15 (fifteen) year old child in Bandar Lampung who often experienced abuse for 4 (four) months working as a domestic worker, where she experienced physical violence and nakedness if she made a mistake with her employer. In this case, she also did not receive her rights to education because she was a full-time worker who lived with her employer and was not allowed to leave the house.

Reviewing both cases shows that the government has failed to provide protection for child workers from year to year. Where a child should receive full protection from both society and the state, but the opposite is true. A child who is forced to work also has the right to obtain their rights properly, but child workers often receive unfair treatment while working and also do not obtain their rights, such as the right to wages and the right to education. Of course, this is very contrary to the concept of child protection contained in Article 2 of the UUPA which states that child protection is based on the principles of Pancasila, the 1945 Constitution, and the basic principles of the Convention on the Rights of the Child. The contents of the Article read:

"The implementation of child protection is based on Pancasila and based on the 1945 Constitution of the Republic of Indonesia as well as the basic principles of the Convention on the Rights of the Child, including:

1. non-discrimination;
2. the best interests of the child;
3. the right to life, survival and development; and
4. respect for children's opinions."

Article 3 reads:

"Child protection aims to ensure that children's rights are fulfilled so that they can live, grow, develop, and participate optimally in accordance with human dignity and honor, and receive protection from violence and discrimination, in order to realize Indonesian children who are qualified, have noble morals, and are prosperous."

Then reviewing Article 52 Paragraph 1 of the Human Rights Law, which reads, "Every child has the right to protection by parents, family, society, and the state". Referring to both cases, child workers do not receive any of the four principles mentioned in Article 2 of the UUPA. The protection of children is not only the responsibility of parents or families, but society and the state also play a major role in providing protection for children, especially for child workers who of course are not under the supervision of their parents or families while working. Public awareness is something that is very much needed in order to be aware of the rights and obligations of children as they should be. The government plays a role in providing protection in the form of legal certainty that can prevent cases of violence, discrimination, or non-fulfillment of the rights of child workers in the domestic worker sector in Indonesia.

In addition to focusing on cases of violence against children working as domestic workers, there are child workers' rights that must also be provided by employers and become the focus of attention for the government to guarantee their certainty, namely the right to decent wages, the right to security, and the right to education. As referred to in Article 69 Paragraph (2) of the UUK, it reads:

"Employers who employ children in light work as referred to in paragraph (1) must fulfill the following requirements:

- a. written permission from parents or guardians;
- b. work agreement between the entrepreneur and parents or guardians;
- c. maximum working time 3 (three) hours;
- d. carried out during the day and does not interfere with school time;
- e. occupational safety and health;
- f. the existence of a clear working relationship; and
- g. receive wages in accordance with applicable regulations."

Involving children in a job actually has a positive impact on them for the development of their interests and talents, as well as training children's sense of responsibility and independence in carrying out an obligation (Endrawati 2012) . However, not all children can feel this opportunity because of the situation and condition of the child who is required to work to help the family's finances. This situation forces children to sacrifice their education. With limited levels of education and expertise, the majority of children choose jobs that do not have special requirements, such as work in the informal sector.

The naive nature of a child in making a decision to work is certainly not based on mature consideration. Children are considered not yet able to understand the situation and conditions regarding the nature of the work they will do, whether it is formal or informal (KPPA and BPS 2012) . Children only tend to need wages that will be allocated for themselves or for their loved ones. Thus, it is undeniable that child workers are often victims of human rights violations, such as immorality, exploitation, discrimination, violence, and human trafficking (Haryono et al. 2022) . In addition,

because of their naive and immature nature, child workers are easily fooled by irresponsible people.

Low Legal Certainty from the Government in Providing Protection for Children Working as Domestic Workers

Legal protection is crucial for the state to guarantee legal certainty for its people. In seeking legal protection, it is necessary to fulfill 4 (four) elements in order to be called legal protection, namely there is protection from the government for the people, there is a guarantee of legal certainty, related to the rights of its citizens, and there are sanctions for those who violate it (Simanjutak 2011) . In seeking legal protection, it is necessary to be positive in laws and regulations as a form of the state's commitment to guaranteeing the certainty of protection of individual and group rights (Nasir 2017) .

Currently, the legal protection provided by the Indonesian government for child workers in the domestic worker sector is still relatively low. In fact, the number of child workers in this sector is not yet known for sure because this work sector is directed towards the private sector and is difficult to record, but based on data obtained by the Ministry of Women's Empowerment and Child Protection in 2023, the number of child workers recruited as domestic workers has reached 360,000 people (Alexander 2023) . Referring to the regulations governing domestic workers, currently only the Minister of Manpower Regulation on Domestic Workers (Permenaker PPRT) is available. Furthermore, this regulation is planned to be replaced by regulations with a higher hierarchy, namely the Domestic Workers Bill, but the existence of this Domestic Workers Bill is still in the discussion stage and has not yet reached the ratification stage.

The regulations contained in the PPRT Ministerial Regulation are not yet extensive and specific in protecting domestic workers in the informal sector. Most of the regulations are only focused on domestic workers in the LPPRT scope. Meanwhile, the majority of domestic workers in Indonesia carry out work relationships through (verbal) invitations between individuals, not through official work relationships such as through LPPRT. On the other hand, regarding the regulation of the minimum age limit in Article 4 of the PPRT Ministerial Regulation, there is no prohibition with consequences if there is a violation of the established policy. Logically, if workers in the domestic worker sector still do not receive proper legal protection from the government, of course child workers in this sector are very vulnerable to their safety at work.

In addition to the unclear minimum age limit regulation, the employment relationship between child workers and employers does not fulfill the elements of a clear employment agreement. In fact, Indonesia does not prohibit child labor, but child labor is required to meet certain requirements. If we look at Article 69 Paragraph (2) of the UUK, it states that one of the requirements for children to be allowed to work is that there is a clear employment relationship. Employment relationships are usually always based on an employment agreement, such as a written employment agreement or an oral employment agreement. However, if we look back at Article 69 Paragraph

(2) of the UUK, children are allowed to work if they must have a written employment agreement between their parents or guardians and their employers. Meanwhile, the employment relationship between domestic workers in general and their employers is rarely based on a written employment agreement if the worker is not part of the LPPRT.

Based on the explanation, it shows that the PPRT Ministerial Regulation is still not comprehensive in providing protection as its function. Of course, this will have an impact on the welfare of domestic workers in Indonesia who have a high potential to continue to receive discrimination, violence, non-fulfillment of rights, and human trafficking. Although the government has currently attempted to create a Domestic Workers Bill, almost 20 years since the bill was first created in 2004, the bill has not been passed into law. The government should be responsible and immediately provide legal certainty for workers regarding the protection and fulfillment of the rights of domestic workers, especially for child workers in this sector.

1.2 Legal Protection Efforts for Children Working as Domestic Workers

Legal protection according to the concept initiated by Philipus M. Hadjon, that there are 2 (two) efforts of legal protection facilities which he emphasizes on "government action" (bestuurshandeling or administrative action) (Hadjon 2011), namely preventive legal protection efforts and repressive legal protection efforts. The Indonesian government has not yet ratified the ILO Convention No. 189 as an effort to protect domestic workers comprehensively and specifically including child workers, but the Indonesian government has been seeking preventive legal protection for a long time, namely through the Presidential Decree No. 59 of 2002 concerning the National Action Plan for the Elimination of the Worst Forms of Child Labor. In the Presidential Decree, the government categorizes children who work as domestic workers as work that is part of the government's plan to be eliminated. Because this work is considered to exploit children physically and economically and can endanger the safety of children.

Based on the Presidential Decree, there are several things that are challenges for the government in eradicating child labor in this employment sector, including:

- a) There is no accurate and up-to-date data and information available on child labor regarding the number, location, type of work, working conditions, and impact on children.
- b) There is no information available on the worst forms of child labor.
- c) The limited capacity and experience of the Government, non-governmental organizations, and various other parties in efforts to eliminate the worst forms of child labor.
- d) Weak coordination between various parties related to the elimination of the worst forms of child labor, both at the central and regional levels (provinces and districts/cities).

- e) Low public knowledge, awareness and concern in eliminating the worst forms of child labor.
- f) The inadequacy of legal instruments and their enforcement required for action to eliminate the worst forms of child labor.
- g) There is no integrated and comprehensive policy for the elimination of the worst forms of labor.

The Presidential Decree has an action program with several stages in seeking elimination, namely:

- a) The first stage, the targets to be achieved after the first 5 (five) years.
 - Growing public awareness to eliminate the worst forms of child labor;
 - Mapping the problem of the worst forms of child labor and efforts to eliminate it;
 - Implementation of the program to eliminate the worst forms of child labor with priority given to child labor on offshore platforms and deep water diving, child labor trafficked for prostitution, child labor in mining, child labor in the footwear industry, child labor in the industry and distribution of narcotics, psychotropics, precursors, and other addictive substances.
- b) The second stage is the target to be achieved after 10 (ten) years;
 - Replication of the model for eliminating the worst forms of child labor that has been implemented in the first phase in other areas;
 - Development of programs to eliminate other worst forms of child labor;
 - Availability of policies and implementation tools for the elimination of the worst forms of child labor.
- c) The third stage is the target to be achieved after 20 (twenty) years.
 - Institutionalization of a national movement to effectively eliminate the worst forms of child labor;
 - Mainstreaming the elimination of the worst forms of child labor.

Referring to the three stages that have been determined, the government's action plan to eliminate the worst work for children, one of which is domestic workers, has not been implemented until now. In addition to the Presidential Decree, through the Child Protection Law, legal protection is provided as an effort to protect repressive law by establishing prohibitions along with sanctions or punishments for forms of economic exploitation or acts of discrimination, violence, and human trafficking against children. In this case, the form of efforts to protect child workers as domestic workers who experience these actions is directed as a criminal case as in Article 76A letter (a), 76C, 76E, 76F, and 76I of the Child Protection Law .

Article 76A letter (a) states:

"Everyone is prohibited from treating children in a discriminatory manner that results in children experiencing losses, either material or moral, thereby hindering their social function."

Article 76C states:

"Everyone is prohibited from placing, allowing, committing, ordering, or participating in committing violence against children."

Article 76E states:

"Everyone is prohibited from committing violence or threats of violence, forcing, using trickery, telling a series of lies, or persuading a child to commit or allow indecent acts to be committed."

Article 76F states:

"Everyone is prohibited from placing, allowing, carrying out, ordering or participating in the kidnapping, sale and/or trafficking of children."

Article 76I states:

"Everyone is prohibited from placing, allowing, carrying out, ordering or participating in economic and/or sexual exploitation of children."

Along with the prohibition, UUPA also stipulates criminal sanctions for perpetrators who violate it, namely in Article 77, Article 80, Article 82, Article 83, and Article 88 of UUP A.

Article 77 of the UUPA states:

"Any person who violates the provisions as referred to in Article 76A shall be punished with imprisonment of a maximum of 5 (five) years and/or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah)."

Article 80 of the UUPA states:

- "(1) Any person who violates the provisions as referred to in Article 76C shall be punished with imprisonment for a maximum of 3 (three) years and 6 (six) months and/or a maximum fine of IDR 72,000,000.00 (seventy two million rupiah).
- (2) In the event that a child as referred to in paragraph (1) is seriously injured, the perpetrator shall be punished with a maximum prison sentence of 5 (five) years and/or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah).
- (3) In the event that a child as referred to in paragraph (2) dies, the perpetrator shall be punished with a maximum prison sentence of 15 (fifteen) years and/or a maximum fine of IDR 3,000,000,000.00 (three billion rupiah).
- (4) The penalty is increased by one third from the provisions referred to in paragraph (1), paragraph (2) and paragraph (3) if the perpetrator of the abuse is the parent."

Article 82 of the UUPA states:

- "(1) Any person who violates the provisions as referred to in Article 76E shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah).
- (2) In the case of a criminal act as referred to in paragraph (1) being committed by a parent, guardian, child caretaker, educator or education personnel, the penalty shall be increased by 1/3 (one third) of the criminal threat."

Article 83 of the UUPA states:

"Any person who violates the provisions as referred to in Article 76F shall be punished with imprisonment of at least 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 60,000,000.00 (sixty million rupiah) and a maximum of Rp. 300,000,000.00 (three hundred million rupiah)."

Article 88 of the UUPA states:

"Any person who violates the provisions as referred to in Article 76I shall be punished with imprisonment for a maximum of 10 (ten) years and/or a maximum fine of IDR 200,000,000.00 (two hundred million rupiah)."

Thus, the forms of legal protection efforts for children working as domestic workers have been attempted by the government, although not yet maximal or complete in eliminating the worst jobs for children, especially those leading to material exploitation. Because Indonesia basically does not prohibit every child as the minimum age stipulated in the UUK and the Ratification Law of ILO Convention No. 138 to work. Because work is considered a means for them to train the ability of responsibility, independence, and creativity of children to be able to develop as superior and competent human resources.

CONCLUSION

1. That the urgency of regulating legal protection for children working as domestic workers in Indonesia is a child labor issue that must be addressed in terms of prevention and resolution because basically child protection is part of human rights whose importance must be recognized. This is because child workers are vulnerable to discrimination and violence by adults. As this treatment has been proven by the many criminal cases that befall child workers because of their naive and easily deceived nature. In addition, the urgency of regulating the protection of children working as domestic workers is also very minimal. Where the protection of domestic workers only relies on the PPRT Ministerial Regulation, while the regulation is not effective in providing protection for domestic workers in general.
2. That efforts to regulate legal protection for children working as domestic workers in Indonesia have been carried out in 2 (two) efforts, namely through Presidential Decree No. 59 of 2002 and UUPA. Where the Presidential Decree is an effort for preventive legal protection by determining various stages in eliminating child labor in the worst jobs, one of which is domestic workers. However, until now there are still many child workers in this work sector, so that the UUPA was created as an effort for repressive legal protection that stipulates acts of material exploitation or discrimination, violence, and human trafficking as criminal acts. Through the UUPA, several prohibitions and criminal sanctions are also stipulated for perpetrators of violations of applicable policies.

Suggestion

1. For the government in seeking legal protection for children working as domestic workers, it must maximize the regulations that can be included in the Domestic Workers Bill as a government commitment to guarantee legal certainty. In the case studied, the government has attempted to eliminate child labor in the domestic worker sector through Presidential Decree No. 59 of 2002, but it was not implemented even in the first stage. ILO Convention No. 189 can be used as a reference in determining legal protection for domestic workers specifically for child workers, where the minimum age requirement for child workers is not less than 16 (sixteen) years as stipulated in the Ratification Law of ILO Convention No. 138. And limiting working hours, namely not being carried out during the day which can interfere with school time or at night which can interfere with rest time. In addition, a policy is also needed that strictly prohibits along with determining the minimum age limit and working hour limits, by determining sanctions or criminal penalties along with administrative fines.
2. For the community, socialization is needed by NGOs that play a role in upholding the rights of domestic workers in Indonesia in raising public awareness to recognize child workers as workers who must also be treated equally as workers and prioritize their status as children who have the right to be given and protected their rights.

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