

CHILD EXPLOITATION AS A HUMAN RIGHTS VIOLATION: A JURIDICAL ANALYSIS IN THE CONTEXT OF NATIONAL AND INTERNATIONAL LAW IN INDONESIA

Irma Romi Anto

Institut Agama Islam H.M.Lukman Edy Pekanbaru

E-mail: irmaromiantonsk@gmail.com

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Corresponding Author:

Irma Romi Anto, E-mail: irmaromiantonsk@gmail.com

Abstract

Child exploitation constitutes a grave violation of human rights, directly undermining the dignity, development, and future of children as the nation's next generation. This article presents a juridical analysis of how Indonesian national law and international legal instruments protect children from various forms of exploitation, including economic exploitation, sexual exploitation, and trafficking. Employing a normative legal approach, this study examines relevant Indonesian legislation-such as the Child Protection Act and provisions in the Criminal Code-alongside international frameworks, notably the United Nations Convention on the Rights of the Child (CRC). The findings indicate that despite Indonesia's ratification of key international treaties and the existence of comprehensive domestic legal norms, significant challenges persist in enforcement, institutional coordination, and victim recovery processes. This paper argues for a more integrated and rights-based legal framework, improved law enforcement capacity, and stronger institutional mechanisms to ensure effective child protection. Strengthening these aspects is essential to align national practices with universally recognized human rights standards and to combat child exploitation more effectively.

Keywords: *Child exploitation, human rights, child protection, Indonesian law, international law*

Intisari

Eksplorasi anak merupakan pelanggaran berat terhadap hak asasi manusia yang secara langsung mengancam martabat, perkembangan, dan masa depan anak sebagai generasi penerus bangsa. Artikel ini menyajikan analisis yuridis terhadap perlindungan hukum bagi anak dari berbagai bentuk eksploitasi, seperti eksploitasi ekonomi, seksual, dan perdagangan anak, berdasarkan hukum nasional Indonesia serta instrumen hukum internasional. Pendekatan yang digunakan adalah pendekatan normatif dengan menelaah peraturan perundang-undangan nasional seperti Undang-Undang Perlindungan Anak dan Kitab Undang-Undang Hukum Pidana (KUHP) serta konvensi internasional, terutama Konvensi Hak Anak

(CRC) yang telah diratifikasi oleh Indonesia. Hasil penelitian menunjukkan bahwa meskipun Indonesia telah memiliki landasan hukum yang cukup memadai, implementasi perlindungan anak di lapangan masih menghadapi berbagai kendala, seperti lemahnya penegakan hukum, kurangnya koordinasi antarinstansi, serta keterbatasan dalam pemulihan korban. Oleh karena itu, diperlukan penguatan sistem perlindungan hukum, peningkatan kapasitas aparat penegak hukum, serta penerapan pendekatan berbasis hak anak dalam kebijakan nasional. Dengan demikian, perlindungan terhadap anak dari praktik eksploitasi dapat berjalan lebih efektif dan sejalan dengan prinsip-prinsip hak asasi manusia yang diakui secara universal.

Keywords: Eksploitasi anak, hak asasi manusia, perlindungan anak, hukum nasional, hukum internasional

1. Introduction

A child is a gift from God Almighty. Every child possesses fundamental human rights from the moment of birth, and no one may take away those rights as stated in the Child Protection Act No. 23 of 2002, Chapter III, Articles 4 to 19, concerning the rights of the child. In the early stages of development, a child should be given broad opportunities to grow and develop optimally physically, mentally, and socially. To realize this, one of the efforts that can be pursued is through education and child protection by ensuring the fulfillment of their rights.¹

Article 1 paragraph (1) of Law Number 35 of 2014, which amends Law Number 23 of 2002 concerning Child Protection, states that a child is a person under the age of 18 (eighteen), including a child who is still in the womb. In Article 46 of the Indonesian Criminal Code (KUHP), a child is defined as someone who has not yet reached the age of 16. Meanwhile, according to Law Number 3 of 1997, a child is a person who is at least 8 (eight) years old but under the age of 18 or has not yet turned 18 and has never been married.²

Children are the new generation who will carry on the aspirations of a nation and serve as human resources for national development. In order for children to become the

¹ Ninik Yuniarti, 'Eksploitasi Anak Jalanan Sebagai Pengamen Dan Pengemis Di Terminal Tidar Oleh Keluarga', 4.31 (2012), pp. 210–17.

² Fadli Andi Natsif Siti Novriannisya, 'Tindak Pidana Eksploitasi Anak Sebagai Bentuk Kekerasan Menurut Hukum Perlindungan Anak', 4.2 (2014), pp. 321–37.

nation's next generation, Presidential Decree No. 36 of 1990 outlines at least 10 fundamental child rights that must be fulfilled from an early age to ensure proper growth and development. However, there are still many children in Indonesia who experience exploitative treatment, which hinders the fulfillment of these rights.³

In the Kamus Besar Bahasa Indonesia (Indonesian Dictionary), exploitation is defined as the act of managing, utilizing, or taking advantage of something for profit, including the oppression or exploitation of another person's labor. Child exploitation, or *kinder uitbuiting* in Dutch, refers to a condition in which children are used by adults for economic purposes to serve personal interests.⁴

exploitative treatment refers to discriminatory or arbitrary actions toward children by their families or those closest to them, driven by economic, social, or political interests, without regard for the child's physical, psychological, or social development. In practice, children are often employed in various types of work to serve a wide range of motives.⁵

Child neglect is part of a form of violence against children, because it is included in social violence against children (social abuse). Social child abuse includes child neglect and child exploitation. Child neglect is the attitude and behavior of parents who do not give proper attention to the child's growth and development process. For example, children are ostracized, isolated by their families, or not given proper food, education and health.⁶

Article 34 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states: "The poor and neglected children shall be cared for by the state." This means that the development and care of neglected children, including street children, is the responsibility of the government. Essentially, the human rights of neglected children and street children are equal to those of other children, as stated in Law No. 39 of 1999 concerning the Ratification of the Convention on the Rights of the Child.

The Child Protection Law regulates the prohibition of child exploitation, which

³ Muhammad Ajhie Guntara and Azizah Husin, 'Eksplorasi Anak Sebagai Penjual Asongan Di Kota Palembang', 5.2 (2021), pp. 122–30, doi:10.15294/pls.v5i2.46644.

⁴ robby Lalaar And Others, 'Jurnal Restoratif Justice Copyright Legality Of Child Exploitation', 7.1 (2023), pp. 71–80.

⁵ Guntara and Husin, 'Eksplorasi Anak Sebagai Penjual Asongan Di Kota Palembang'.

⁶ M. A. Syahrin, 'Critical Study of Criminal Sanctions for Child Neglect By Parents in Indonesia', *Jurisprudentie : Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum*, 10.2 (2023), pp. 95–105 <<https://journal.uin-alauddin.ac.id/index.php/Jurisprudentie/article/view/42289>>.

includes :⁷

- a) Economic Exploitation refers to the utilization and exploitation of children's physical abilities and labor for the benefit of adults. This form of exploitation typically occurs when children are forced to perform work that is beyond their capacity at their age.
- b) Social Exploitation involves actions that hinder the emotional and social development of children. This form of exploitation is often found in situations where children are pressured or forced by parents, family members, or even teachers and schools to achieve high academic performance. Such conditions can make children vulnerable to stress and anxiety disorders.
- c) Sexual Exploitation is a form of exploitation that affects not only the child but also the future of the nation. This type of exploitation can occur in children from both normal family environments and those from troubled or dysfunctional families. According to several studies, child victims of sexual exploitation may later become perpetrators themselves, creating a cycle of abuse

Based on the theory of worker exploitation, there are specific criteria that define when child labor becomes exploitative. These include: full-time work at an early age; excessive hours spent working; jobs that cause physical, social, or psychological stress; inadequate wages; excessive responsibilities; work that hinders access to education; and work that undermines the dignity and self-worth of the child, such as slavery, forced labor contracts, or involvement in sexual activities.⁸

Regarding the definition of child exploitation, it can be understood as arbitrary actions carried out by society or adults with the aim of gaining profit without considering the inherent rights of the child. In fact, according to the Child Protection Law, child exploitation refers to the act of using a child, either economically or sexually, by placing the child in a situation to perform, be allowed to perform, or be instructed to perform actions that benefit the perpetrator. Therefore, it can be concluded that child exploitation is a reprehensible act driven by the perpetrator's own will.⁹

In Indonesia, human rights are enshrined in Law Number 39 of 1999 concerning

⁷ Lalaar and others, 'Jurnal Restoratif Justice Copyright Legality Of Child Exploitation'.

⁸ Muh Fauzan Khibran and others, 'Eksplorasi Anak Usia Dibawah Umur Sebagai Pengemis Di Lampu Merah Di Kota Makassar', 2.1 (2022), pp. 164–71.

⁹ Siti Novriannisya, 'TINDAK PIDANA EKSPLOITASI ANAK SEBAGAI BENTUK KEKERASAN MENURUT HUKUM PERLINDUNGAN ANAK'.

Human Rights, which states: “Human Rights are a set of rights inherent in the nature and existence of human beings as creations of God Almighty and are His gifts that must be respected, upheld, and protected by the state, law, government, and all individuals for the sake of honoring and safeguarding human dignity and worth.

The concept of human rights as recognized today by the United Nations has its roots in the history of social upheaval in Europe. The first milestone was the issuance of the Magna Carta (England) in 1215, which established a limited monarchy. Law began to apply not only to the people but also to the nobility and the royal family. The core content of the document emphasized that the king should not violate anyone’s property rights or personal freedoms. The Magna Carta also asserted that “no one shall be arrested, imprisoned, exiled, or destroyed except by the lawful judgment of his peers” (*judicium parium suorum*).¹⁰

The study of Child Exploitation as a Violation of Human Rights: A Juridical Analysis in the Context of National and International Law in Indonesia is highly important, considering that child exploitation is a serious violation of fundamental human rights. Children, as a vulnerable group, have the right to grow and develop in a safe and healthy environment, free from all forms of violence and exploitation. However, in reality, many children in Indonesia continue to fall victim to economic and sexual exploitation, as well as human trafficking. This phenomenon not only harms the future of children but also reflects the weakness of law enforcement and the protection of human rights in the country.

From a juridical perspective, this study is essential to assess the alignment and effectiveness of national regulations with international legal standards. Indonesia has ratified several international instruments such as the Convention on the Rights of the Child (CRC) and the Optional Protocol on the Sale of Children, but their implementation still faces serious challenges on the ground. By analyzing the provisions of the Child Protection Law, the Criminal Code (KUHP), and various derivative regulations, this study can reveal legal loopholes, regulatory disharmonies, and structural barriers that weaken the protection of children from exploitation.

Furthermore, this study holds urgency as a foundation for formulating policies that are more responsive and oriented toward the best interests of the child. Through a

¹⁰ Robert Audi dalam Majda El-Muhtaj, *Hak Asasi Manusia dalam Konstitusi-Konstitusi Indonesia*, Jakarta: Kencana, 2005, hlm. 52.

juridical approach, the analysis can serve as a basis for promoting legal reform, strengthening child protection mechanisms, and enhancing the state's accountability in fulfilling its constitutional and international obligations. Without a deep understanding and strong legal measures, child exploitation will continue to persist as a neglected human rights violation.

2. Research Method

This study employs a normative juridical method, which focuses on the examination of applicable legal norms. This method is carried out by analyzing national laws related to child protection, such as Law Number 35 of 2014 concerning Child Protection, the Indonesian Criminal Code (KUHP), and other relevant regulations. In addition, the research also examines international legal instruments ratified by Indonesia, such as the Convention on the Rights of the Child (CRC) and the Optional Protocol on the Sale of Children. The data in this study are obtained through library research, which includes both primary and secondary legal materials, such as statutes, international treaties, legal literature, scholarly journals, and relevant court decisions. The analysis is conducted qualitatively by examining the alignment between national and international legal norms and evaluating the effectiveness of their implementation in protecting children from exploitation. The aim of this method is to identify the strengths and weaknesses of the current legal system and to provide recommendations for improving the framework for the protection of children's human rights in Indonesia.

3. Discussion and result

National and International Law on Children's Rights

In the Indonesian legal system, children are considered legal subjects (*rechtspersoon*) who are entitled to greater protection compared to other legal subjects in older age groups. However, in practice, children are often treated as legal subjects whose rights are the most frequently neglected. This neglect frequently comes from parents or those closest to the child in the form of child exploitation. In fact, parents and close relatives should be the front line in protecting children from exploitative acts that could

have detrimental effects on both the child's future and that of the nation.¹¹

The effort to protect children's rights is a manifestation of justice, legal certainty, and the prioritization of the child's best interests. Under the protection provided by the state, it is clearly stated that children possess inherent rights of their own and require specific attention to ensure they are protected both socially and legally. In accordance with their capacity to grow, develop, and adapt to their environment with dignity, the instruments for child protection represent a form of granting children their freedoms and human rights. Violations of national criminal law including those that constitute abuse of power are considered crimes. Such violations result in harm and suffering to individuals or groups, including psychological and mental harm, economic losses, and the weakening of the fulfillment of basic rights. These harms often stem from actions or omissions that can be attributed to the State.¹²

The realization of children as a quality young generation implies the need for special protection for children and their rights, so that they are able to carry out their responsibilities within society.¹³ The protection of children's rights is embodied, among others, in the 1989 Convention on the Rights of the Child (CRC), while in Indonesia it is regulated under Law Number 35 of 2014, which amends Law Number 23 of 2002 on Child Protection.

Child protection is a fundamental aspect of Indonesia's national legal system. The primary legal reference currently in use is Law Number 17 of 2016, concerning the enactment of Government Regulation in Lieu of Law (Perppu) Number 1 of 2016 as the Second Amendment to Law Number 23 of 2002 on Child Protection. This law was enacted in response to the rising number of crimes against children, particularly sexual crimes and exploitation. The revision emphasizes that child protection is not only a moral obligation but also a constitutional mandate and a legal responsibility of the state.

In this law, child exploitation is explicitly regulated under Article 76F, which states that every person is prohibited from exploiting children economically and/or sexually. Economic exploitation includes employing children in hazardous conditions, subjecting them to excessive working hours, or involving them in work that disrupts their education

¹¹ lalaar And Others, 'Jurnal Restoratif Justice Copyright Legality Of Child Exploitation'.

¹² Siti Novriannisya, 'Tindak Pidana Eksploitasi Anak Sebagai Bentuk Kekerasan Menurut Hukum Perlindungan Anak'.

¹³ Nunung Nurwanti Auriel karina S.Z, 'ASASI MANUSIA DENGAN TINGKAT KEMATIAN ANAK', 3.2 (2020), pp. 91–109.

and development. Sexual exploitation refers to the use of children in sexual activities in exchange for material compensation or other benefits. This prohibition is a concrete form of protection for children's rights as guaranteed under Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

Furthermore, Article 88 of the Child Protection Law imposes strict criminal sanctions on perpetrators of child exploitation. A maximum prison sentence of 10 years and/or a fine of up to Rp 200 million reflects the state's commitment to providing a deterrent effect. The law also allows for sentence enhancement if the perpetrator is someone close to the child, such as a parent, guardian, or teacher. Additional sanctions such as chemical castration, electronic monitoring, and public disclosure of the offender's identity, particularly in cases of sexual violence demonstrate that the legal system has evolved toward a more comprehensive approach to child protection.

The legal provisions regarding children's rights as stipulated in the CRC (Convention on the Rights of the Child) include:

1. *Survival Rights (Hak terhadap Kelangsungan Hidup): According to Article 6, this right relates to how a child's growth and development can take place. The State has an obligation under Article 24:*
 - a. reduce infant and child mortality rates;
 - b. provide the necessary healthcare services;
 - c. combat disease and malnutrition;
 - d. provide pre-natal and post-natal healthcare for mothers;
 - e. ensure access to information, education, and support in basic knowledge of child health and nutrition;
 - f. develop preventive healthcare, parental guidance, and family planning education; and
 - g. take measures to eliminate traditional practices that are harmful to health services..

The child's right to life and survival:

- a. the right of the child to a name and nationality from birth (Article 7);
- b. the right to protection and the restoration of the basic aspects of the child's identity (such as name, nationality, and family ties) (Article 8);
- c. the right of the child to live with their parents (Article 9), and the right to be

protected from all forms of abuse by parents or others responsible for their care (Article 19);

- d. the right to special protection for children who are deprived of their family environment, and the guarantee of suitable alternative care that respects the child's cultural background (Article 20);
- e. adoption is permitted only when it serves the best interests of the child, with full legal safeguards authorized by competent authorities (Article 21);
- f. the rights of children with disabilities to receive care, education, and special training designed to help them achieve the highest possible level of self-reliance and confidence (Article 23);
- g. the right of the child to enjoy an adequate standard of living and the right to education (Articles 27 and 28)..

2. *Protection Rights* (Hak Perlindungan)

Protection Rights refer to the child's right to be protected from discrimination, violence, and neglect particularly for children without families and refugee children. Protection from discrimination includes the right of children with disabilities to receive education, care, and specialized training; and the rights of children from minority groups and indigenous communities to participate in the cultural and social life of the country..

3. *Development Rights* (Hak untuk Tumbuh Kembang)

Development Rights refer to the child's right to grow and develop, which includes all forms of education both formal and non-formal and the right to attain an adequate standard of living necessary for the child's physical, mental, spiritual, moral, and social development. The child's right to education is regulated in Article 28 of the Convention on the Rights of the Child, which states that: a). States Parties shall make primary education compulsory and available free to all; b). They shall encourage the development of different forms of secondary education, including general and vocational education, making them available and accessible to every child; c). They shall make educational and vocational information and guidance available and accessible to all children; and, d). They shall take measures to encourage regular attendance at schools and reduce dropout rates. h.

4. *Participation Rights* (Hak untuk Berpartisipasi)

Participation Rights refer to the rights of children to express their views in all matters affecting them. These rights include:

- a. the right to express opinions and to have those opinions taken into account;
- b. the right to access and understand information, and to express themselves freely;
- c. the right to associate, form relationships, and join groups or organizations; and
- d. the right to receive appropriate and accurate information, as well as to be protected from harmful or inappropriate content.

The Effectiveness of National and International Law Implementation in Preventing and Addressing Child Exploitation as a Violation of Human Rights in Indonesia

Children today often do not receive sufficient attention from their parents, which can negatively impact their future, as they may not understand the rights they are entitled to from their parents. Children are born free, and that freedom must not be taken away or erased. Instead, a child's freedom must be upheld especially in terms of securing their right to life and protection from their parents, family, relatives, community, nation, and the State. This protection is closely tied to the fulfillment of their absolute human rights, which must not be reduced or sacrificed in order to obtain other rights. In this way, children can fully enjoy their rights as complete human beings.¹⁴

Child exploitation is a serious violation of human rights as it deprives children of their rights to protection, education, and proper development. In Indonesia, this issue remains prevalent in the forms of economic exploitation, sexual exploitation, and child trafficking. The state is obligated to enforce the law to prevent and address such violations, through both national legal instruments and adherence to international law. However, the effectiveness of implementation remains a major challenge that must be critically examined.

Indonesia's national legal framework provides relatively comprehensive provisions, such as Law No. 35 of 2014 on Child Protection, which amended Law No. 23 of 2002. This law clearly prohibits all forms of child exploitation and imposes

¹⁴ Khibran and others, 'Eksplorasi Anak Usia Dibawah Umur Sebagai Pengemis Di Lampu Merah Di Kota Makassar'.

criminal sanctions on perpetrators. In addition, the Criminal Code (KUHP) and the Law on the Eradication of the Crime of Human Trafficking (TPPO) are also applied in prosecuting exploiters. However, weak law enforcement and a lack of synergy among law enforcement agencies remain key obstacles.

At the international level, Indonesia has ratified the Convention on the Rights of the Child (CRC) through Presidential Decree No. 36 of 1990, along with several additional protocols, such as the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. This commitment reflects Indonesia's seriousness in adhering to international child protection standards. Nevertheless, harmonization between international provisions and national law is not yet fully realized, particularly in enforcement and monitoring mechanisms.

At the implementation level, various challenges persist, including limited resources for law enforcement, lack of training on handling child victims, and insufficient recovery and social reintegration services for exploited children. Many child exploitation cases go unreported due to fear, social stigma, and public ignorance about children's rights. As a result, many perpetrators escape justice while victims continue to suffer.

Institutions such as the Ministry of Women's Empowerment and Child Protection (KPPPA), the Police, Komnas HAM, the National Commission on Child Protection, and various NGOs play important roles in combating child exploitation. However, weak inter-agency coordination and limited funding hinder the full effectiveness of child protection programs. An integrated and responsive system for reporting violence, along with a child rights-based approach at every stage of case handling, is urgently needed.

To make law enforcement more effective, there must be capacity building for law enforcement officers, reform of the juvenile justice system, and increased legal awareness among the public. Public education campaigns about child exploitation as a human rights violation should be intensified, including in schools and local communities. In addition, the government must strengthen monitoring and evaluation mechanisms for policy implementation and ensure the provision of ongoing psychosocial support for victims.

Normatively, Indonesia has a strong legal commitment to protecting children from exploitation. However, the effectiveness of its implementation is still hindered by

structural and cultural factors. Child protection, as part of the fulfillment of human rights, is not only the responsibility of the state but of all elements of society. Therefore, synergy between national and international law, along with the active involvement of all stakeholders, is essential to create a safe and child-friendly environment in Indonesia..

4. Conclusion

Children hold a special status within both national and international legal systems as legal subjects who require special protection. Law No. 35 of 2014 in conjunction with Law No. 17 of 2016 in Indonesia, along with the Convention on the Rights of the Child (CRC) ratified through Presidential Decree No. 36 of 1990, serve as a strong legal foundation for guaranteeing children's rights to survival, protection, development, and participation. Child exploitation in any form—whether economic, sexual, or trafficking—constitutes a severe violation of human rights because it deprives children of their basic rights to a decent, safe, and nurturing life. Therefore, child protection is not only a legal responsibility of the state but also a moral obligation shared by all levels of society.

Although the national legal framework and international commitments are in place, their implementation in practice still faces serious challenges. Limited human and financial resources, weak coordination among law enforcement agencies, insufficient training for officers, and lack of public awareness regarding children's rights contribute to the ineffective enforcement of child protection. Many cases of exploitation go unreported or unresolved, leaving victims to continue suffering. To ensure effective child protection, it is essential to strengthen a responsive legal system, build the capacity of enforcement personnel, provide recovery services for victims, and implement continuous public education about the importance of children's rights and the dangers of exploitation. Synergy between the state, society, and families is the key to creating a safe and supportive environment for children's growth and development.

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