

## REFORMATION OF LAW POLICY ON CHILDREN PROTECTION AGAINST ECONOMIC EXPLOITATION IN INDONESIA

Sri Yati

Prof.Dr.Mahmutarom HR, S.H., M.H

Dr.Akhmad Khisni, S.H., M.H.

### ABSTRACT

*Economic exploitation of children is a rife crime, not least in Indonesia. The forms of economic exploitation range from employing children to child labor, to busking and begging on the streets. Most of these children forced to work by their parents or families to help increase family income. In Indonesia, legal protection for children is regulated in Law No.23 of 2002 juncto Law Number 35/2014 on Children Protection against Violence. Unfortunately, these laws have not been able to tackle the economic exploitation of children. In addition to the substantial factor in the law, the ineffectiveness of the implementation of law enforcement caused by the un-synchronization of law enforcement institutions with related protection agencies. This condition exacerbated by the deepening of cultural poverty in poor communities that makes poverty hard to eradicate. The reform of the legal policy on child protection from economic exploitation is carried out by a) poverty alleviation; b) strengthening regulations for the protection of working children, and c) strengthening law enforcement institutions based on John Sullivan's view.*

Keywords: Economic Exploitation of Children, law enforcement, culture, poverty

### INTRODUCTION

According to Article 1 Convention on the Rights of the Child (CRC), a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier. The same definition is also given by Article 1 number 5 of Law No.39/1999 on Human Rights, child means every human being below of the age of eighteen and is not getting married, including a fetus in the womb for the sake of its interest. Those definitions come with the conclusion that children must be protected under law.

Legal protection for children is aimed to ensure that every child gets the right to live and develop and is protected against violence and discrimination.<sup>1</sup> In this case, legal protection is focused on protecting children from economic exploitation. Economic exploitation of children means, taking unjust advantage of children for one's own advantage or benefit by covering situations of manipulations, misuse, abuse, victimization, oppression or ill-treatment.<sup>2</sup> According to Article 32 of CRC recognizes that every child has the right to be protected from such exploitation, where children should not allow to perform any work that is likely to be hazardous, which interferes with child's education, or is harmful to the child's health or physical, mental, spiritual, moral, or social development.<sup>3</sup> If we take the Convention on the Rights of the Child as the basic framework, the economic exploitations are recognized as child labor, child pornography, or the use of children for criminal activities such as drug trafficking.<sup>4</sup>

In Indonesia, children protection toward economic exploitation has been regulated in Article 64 of Law No.39/1999 on Human Right *jo.* Article 13(1) letter b Law No. 23/2002 on Children Protection against Violence.<sup>5</sup> According to this law, economic exploitation is defined as an act with or without the child consent victims which include but are not limited to prostitution, forced labor or services, slavery or practices similar to slavery, oppression, extortion, physical, sexual, reproductive, or internal use against the law of transferring or transplanting organs and/or body tissues or utilize child energy or ability by other parties to get personal benefit materially. Otherwise, sexual exploitations are all forms of utilization of sexual organs or other body organs of the child to obtain benefits, including but not limited to all prostitution and molestation activities.<sup>6</sup>

Based on the definition above it can be concluded that economic exploitation on children has various forms, where the main elements that distinguish an act including as economic exploitation of children or not be seen from the intentions (*mens rea*) of people who force the children to work. In this case, indicators that can be used to measure whether a child has been exploited economically according to White, include the existence of long working hours, low wages, and endangered children's education.<sup>7</sup> Thus it is known that economic exploitation is a crime caused by child labor.

Although child protection against exploitation has been regulated in such a way, it does not neglect the fact that both laws have not been able to protect children's rights. Those laws are only able to ensnare exploiters who clearly force or exploit children directly. Such conditions cause perpetrators who exploit children indirectly can't be committed to criminal acts as

<sup>1</sup> Article 28B(2) of The 1945 Constitution of Republic of Indonesia

<sup>2</sup> Economic Exploitation of Children, pg.3 retrieved from <http://www.ohchr.org/EN/HRBo dies/CRC/Documents/Recommendations/exploit.pdf>.

<sup>3</sup> Kilkelly,U. 2003. Economic Exploitation of Children: A European Perspective, *Saint Louis University Public Law Review*,Vol.22:321, pg.323. Retrieved from <https://scholarship.law.slu.edu/cgi/viewcontent.cgi?Article=1340&context=plr>.

<sup>4</sup> *Ibid.*

<sup>5</sup> Indonesia has ratified the Convention on the Rights of the Child through Presidential Decree No.36/1990 on August 25<sup>th</sup>, 1990. Hence the presidential decree form the basis formulation of Law No. 23/2002 *jo.* Law No. 35/2014 on Children Protection against Violence.

<sup>6</sup> Article 66 explanation on Law No.35/2014 on the Change of Law No.23/2002 on Children Protection against Violence.

<sup>7</sup> White, B. 1994, *Children, Work and 'Child Labor': Changing Responses to the Employment of Children. Development and Change*, 25 (4), pg. 849– 878. Also can be read on Beta S.Iryani and D.S. Priyarsono, 2013. Exploitation of Working Children in Indonesia, *Jurnal Ekonomi dan Pembangunan*, Vol.13, No.2, pg.179.

regulated in Law No. 23/2002 *jo.* Law No. 35/2014 on Children Protection against Violence. Besides, the concept of child protection above was negated by Law No. 13/2003 on Employment. Law No.13/2003 opens the opportunity to place children as one of the workers even though the law allows children to work with certain conditions.<sup>8</sup>

Besides regulatory issues, the main cause that makes children being forced to work is the economic reason. Poverty is the main reason that force children to work to ensure their life.<sup>9</sup> Also, the lack of parental education and the roots of patriarchal culture are other reasons that force children to take part in working early. Based on the data from the Indonesian National Police-Criminal Investigation Agency, around 2011-2013 there are 205 cases of sexual exploitation and 213 cases of economic exploitation.<sup>10</sup> The number increased into 306 cases of commercial exploitation and 351 cases of economic exploitation (exploitation of child labor) in 2016.<sup>11</sup> Among the forms of economic exploitation carried out were forcing children to beg, selling newspapers, using babies for begging, and forcing children to labor.

The data presented don't describe the factual data that occur in the field. The problem of economic exploitation of children can be seen as an iceberg phenomenon that appears on the top only, while undetected ones are far many to mention. This is why this research towards this matter becomes substantially important for further.

## PROBLEM STATEMENT

This paper only focus to discuss the economic exploitation of children's cases in Indonesia even though the cases happened widely in other countries. Therefore, the writing of this paper divided into two areas, namely a description of the implementation of law enforcement on the economic exploitation of children in Indonesia and the proposed concept for reforming law enforcement on the economic exploitation of children in the future.

Also, this paper is a kind of normative study that is analyzed using the statutory approach and conceptual approach. The data used are secondary data consisting of primary legal data in the form of laws and regulations against economic exploitation of children, secondary legal data in the form of supporting literatures, and tertiary legal data in the form of legal dictionaries and online information. The primary data found in this paper is part of the literature's citation from the previous research or the related topic paper.

## ECONOMIC EXPLOITATION OF CHILDREN IN INDONESIA

Economic exploitation of children in Indonesia analyzed by using Lawrence M. Friedman's legal theory. According to Friedman, according to this matter, there are three important factors in law enforcement, they are: 1) legal structure; 2) legal substance; and 3) legal culture.<sup>12</sup> The structural component is an institution created by the legal system with a variety of functions to support the operation of the system. This component used to portray the problems of law enforcement on implementing legal protection for children from economic exploitation.

The cultural component consists of the values and attitudes that bind the system and determine the place of the legal system in the nation's culture as a whole. This component describes cultural issues, especially the culture of the community that influences the success or failure of legal protection for children from economic exploitation. Lastly, a substantial component is a set of values translated in the form of a legal norm realized in the form of regulations, doctrines, decree, and used by regulators and regulated parties. This component analyzes the problem of law enforcement for children from economic exploitation in terms of relevant regulations.<sup>13</sup>

## ECONOMIC EXPLOITATION OF CHILDREN: REGULATORY ISSUES

Firstly, legal arrangements have so far only been able to ensnare those who force or exploit children for economic benefits by using violence or deception. According to Article 88 of Law No.35/2014 on Children Protection against Violence, "every person who violates the provisions referred to Article 76I, is sentenced to a maximum imprisonment of 10 years and/or a maximum fine of Rp 200,000,000.- (two hundred million rupiah)". Where the provisions referred to Article 76I, "Everyone is prohibited from placing, allowing, committing, committing to do, or participating in economic and/or sexual exploitation of children". Based on the clause of Article 76I above, there are five types of acts that reflecting economic exploitation on children.

The protection paradigm in Law No.23/2002 *junto* Law No.35/2014 on Children Protection against Violence tends to apply only to perpetrators who are directly proven to have fulfilled the elements of place, allowing, committing, committing to do, or participating in economic and/or sexual exploitation of children. In practice, many cases occur where children exploited

<sup>8</sup> Sibuea, H.P. and Anasthasya S.Mandagi. 2016. Perlindungan Hukum terhadap Anak Atas Tindakan Eksploitasi Ekonomi dalam Perspektif Negara Hukum Kesejahteraan, *Jurnal Hukum*, Vol.2, No.1, pg.4.

<sup>9</sup> Beta S.Iryani and D.S. Priyarsono, *Op.Cit.*, pg.180.

<sup>10</sup> Komisi Perlindungan Anak Indonesia (KPAI). 2018. *KPAI: Ada 32 Kasus Trafficking dan Eksploitasi Anak di Indonesia pada Awal 2018*. Retrieved from <https://www.kpai.go.id/berita/kpai-ada-32-kasus-trafficking-dan-eksploitasi-anak-di-indonesia-pada-awal-2018> on June 9<sup>th</sup>, 2020.

<sup>11</sup> Komisi Perlindungan Anak Indonesia (KPAI). 2016. *Rincian Data Kasus Berdasarkan Klaster Perlindungan Anak, 2011-2016*. Retrieved from <https://bankdata.kpai.go.id/tabulasi-data/data-kasus-per-tahun/rincian-data-kasus-berdasarkan-klaster-perlindungan-anak-2011-2016> on June 10<sup>th</sup>, 2020.

<sup>12</sup> Lawrence Friedman, *American Law*, London: WW Norton and Company, pg.5-7. Friedman describes the three factors as follows: *the structure of a legal system consists of elements of this kind: the number and size of courts, their jurisdiction, and modes of appeal from one court to another, how the legislature organized, what procedures the police department follows, and so on; substance, by this meant the actual rules, norms, and behavior pattern of people inside the system; legal culture, by this we mean social attitudes toward law and legal system, their beliefs, values, ideas, and expectations*. The original statement also can be read at Naibaho, N. 2011. *Human Trafficking in Indonesia: Law Enforcement Problems*, *Indonesia Law Review*. Vol.1. No.1. pg.86.

<sup>13</sup> Lawrence M, Friedman, *Legal Culture and Social Development* in Rahardjo, S. 1978. *Hukum dan Masyarakat*. Bandung:Angkasa. pg.84-86.

indirectly. This condition occurs in children who indoctrinated to work on the grounds of helping parents from an early age, so children are accustomed to working without knowing that work is not their primary task as a child. Furthermore, indoctrination or efforts to order children to work not accompanied by pressure, violence, or deception, but come from children's will to help parents' economy protected from various kinds of article snares in Law No. 23/2002 jo. Law No. 35/2014 on Children Protection against Violence. These conditions often hamper the investigation process due to the lack of evidence to prove the case. In this case, the family is one of the perpetrators who have the highest possibility of carrying out acts of children's economic exploitation in the field of financially supporting the family.

Secondly, the asynchronous spirit of child protection against acts of economic exploitation between Law No.23 of 2002 jo. Law No. 35 of 2014 on Children Protection against Violence to Law No. 13 of 2003 on Employment. Law No. 23 of 2002 jo. Law No. 35 of 2014 on Children Protection against Violence is centered on a paradigm to protect children's rights to support child development so that it does not tolerate the exploitation of children. Unfortunately, this paradigm is negated by Article 69 Law No. 13 of 2003 on Employment that provides an economic exploitation gap for children by allowing children to work with certain conditions.

Article 69 of Law No. 13 of 2003 states that children aged 13 to 15 do light work as long as it does not interfere with their physical, mental, and social development and health. The businessman who wants to employ children must meet the following requirements: a) written permission from parents or guardians; b) work agreements between businessman with parents or guardians; c) maximum working time of 3 hours; d) working hours during the day and do not disturb school time; e) occupational safety and health; f) clear employment relations and g) receive wages by applicable regulations. The purpose of Article 69 is that children shall work under their parent's or guardians' permission. Thus this article indirectly provides a gap for parents or guardians who indeed intend to have the child to work.

### ECONOMIC EXPLOITATION OF CHILDREN: LAW ENFORCEMENT

Law enforcement to protect children from acts of economic exploitation can only be effective if the family sector, law enforcement institutions, educational/religious institutions, child protection institutions, and the community work together in synergy. To uphold legal protections for children, the Government of Indonesia has formed an independent regulatory body called the Indonesian Child Protection Commission (KPAI). In carrying out its duties, KPAI is independent without being interfered with by primary institutions that have the authority to provide protection and oversee children's rights. Therefore in practice, KPAI accepts all complaints relating to violations of children's rights, including cases of economic exploitation of children.

Complaints addressed to KPAI are then filtered to provide follow-up forms of appropriate handling. If the complaints are fulfilling elements of violations of children's rights, the KPAI can continue to report the complaints to the police. Conversely, if the complaints can be resolved by KPAI itself, there is no need to forward the report to the police. KPAI can provide assistance and guidance to children or families to protect children's rights.

Furthermore, the economic exploitation of children in Indonesia takes several forms outlined in the previous discussion. The crime tends to be related to other exploitation like sexual exploitation and child trafficking in persons. Therefore in some cases, the crime of economic exploitation does not only apply as a single criminal offense but becomes the cause of the other criminal acts that accompany it. In this case, it is often difficult to investigate the existence of sexual exploitation and child trafficking. These happen because traffickers are increasingly adept at hiding trade motives, which makes it difficult for the police because of the lack of child trafficking experience. This condition exacerbated by the limited number of personnel and budget provided during the investigation process, resulting in many disclosing cases of child trafficking.<sup>14</sup> By not disclosing cases of child trafficking, it can lead to the unfolding of economic exploitation of children cases.

Besides, many economic exploitations cases not revealed in the investigation due to a lack of evidence. That is due to the lack of witnesses who are willing to give witness to the case. Most of the witnesses did not wish to give witness for several reasons such as a) the hearing process was complicated and took a long time; b) there is no safety guarantee for the witness from every kind of threat; c) less care from the agencies to the witness so that the witness becomes scared or reluctant to deal with the law enforcement agencies; 4) the reasons for time and costs are specific obstacles for the witness to the deal with the law enforcement agencies.<sup>15</sup>

Concerning witness and victim protection, in Indonesia itself has another independent regulatory agency named the Protection of Witness and Victim Agency (LPSK). LPSK, following its name, has to protect witnesses and/or victims from a criminal case.<sup>16</sup> In terms of child protection, LPSK prioritized to help the victims to get restitution.<sup>17</sup> The restitution used to help children maintain their trauma healing both physically and mentally. Unfortunately, the existence of LPSK doesn't optimally use by the community considering the small number of requests for protection for child victims. Based on LPSK data, in 2017 there were 104 applications for child protection (cases of sexual assault). The number increased to 264 requests in 2018 for the same cases.<sup>18</sup> If noted, this amount only covers protection against sexual violence cases that are not in the category of economic

<sup>14</sup> Naibaho, N. *Op.Cit.*,pg.91.

<sup>15</sup> Naibaho, N. *Ibid.*,pg.92.

<sup>16</sup> In more detail, the duties and authority of LPSK in general include: a) determining what services will be provided to witnesses to provide evidence in any trial; b) carry out administrative duties concerning the protection of witnesses and related persons including those concerning temporary protection and other services; c) make agreements about the assistance to be carried out by people, institutions or organizations; d) use the facilities and equipment under the management of the department and obtain the required documents for the protection of a protected person; and e) establish procedures for implementing Law No.13/2006 on Protection of Witness and Victim; f) has the right to provide recommendations on the conditions of witnesses or victims; and g) has the right not to provide information about certain data from witnesses who enter the witness protection program.

<sup>17</sup> Restitution is compensation for loss of wealth, suffering due to criminal acts and/or reimbursement of medical and/or psychological care costs. Article 7 (1) letter b Law No.13 of 2006 on Protection of Witness and Victim.

<sup>18</sup> Institute for Criminal Justice Reform (ICJR). 2019. *Rekomendasi untuk Kinerja LPSK ke Depan*. Jakarta: ICJR. pg.5.

exploitation of children. Thus it can be said that the existence of LPSK is not optimized to protect child victims from economic exploitation.

Based on the explanation above, we know that many child victims did not apply for protection at LPSK. This condition is suspected because the process of filing requests for approval of protection requests often confuses witnesses and victims.<sup>19</sup> Witnesses and victims are required to go through a long process to get legal protection. Administrative problems seem to dominate the reason that many witnesses and/or victims are reluctant to ask for protection from LPSK, given that most witnesses and/or victims do not understand the law.<sup>20</sup>

An assumption spreading that LPSK's protection does not guarantee witness' or victims' safety due to the problems that occurred during the trial. Police/judges do not want to hear, see, or feel whether witnesses feel safe or comfortable during the investigation process, including witnesses' family members and/or victims. Under certain conditions, witness family and/or victims forced to remember every detail of facts that occurred in the crime, even though sometimes they forget these things.<sup>21</sup> Those conditions indicate that the criminal justice system in Indonesia does not yet refer to witness and/or victim protection. The main focus of criminal justice is to punish the perpetrators of crimes so that the target of the investigation lies in efforts to expose the crime and punish the perpetrators. Criminal law in Indonesia has not touched efforts to rehabilitate victims' conditions.

## ECONOMIC EXPLOITATION OF CHILDREN: CULTURAL PROBLEM

The main problem of economic exploitation is poverty.<sup>22</sup> According to Irwanto, "poverty and the emergence of child labor are often used as propositions whose truth is obvious though how the linkages between these two variables have not proven. The economic exploitation of children begins when parents take advantage of the innocence and helplessness of children to get money, not trying to do other economic activities that can help meet the family's economy. In this regard, Bonger argues that some poor families resort to illegal means to obtain material if the income they receive is legally inadequate, which then shows that poverty drives people to commit crimes.<sup>23</sup> Based on Bonger's argument above, we know that the economic exploitation of children is an illegal method taken by some parents or families to obtain money or materials.

In addition to the poverty factor, the low level of education of parents is also a reason to exploit children. Most parents do not know and understand the rights of children that must be fulfilled so without feeling guilty about sending children to work. In this condition, the child is placed as a living maid but slowly changes to become the primary breadwinner through indoctrination conducted by their parent or family.<sup>24</sup>

Such conditions occur in children who live on the banks of Gajahwong River, Yogyakarta City, Yogyakarta Special Region Province, where children are required to work as scavengers, buskers, and beggars after school from street children. The condition repeated so that the children are unconsciously exploited indirectly by their parents or family. Begging, busking, and scavenging then develops into habits that are hard to lose because the results of the street work can meet their daily needs.<sup>25</sup>

Not only in Yogyakarta, but a similar case also occurred in Banda Aceh City, Aceh Province. Most children employed in formal sectors such as factories, construction, plantations, agriculture, mining, fishermen and fish auctions, or informal sectors such as beggars, scavengers, and newspaper messengers. Their parents let their children work so they can contribute 20-25% of family income.<sup>26</sup> The reason parents employ children on the streets (read: begging) is that they do not have decent work or they do not get as much money as their children when begging. Parents see that sending their children to become beggars provides its benefits.<sup>27</sup> These conditions indicate the intentions of parents by delegating their responsibilities to work for their children.

The negative impact of these actions is that children become accustomed to work and assume that work is usual for children their age. In the long run, the effects of exploitation carried out indirectly will result in children experiencing both physical and mental disorders. Physical disorders refer to children's health conditions that tend to easily expose to diseases that affect the child's physical growth. Besides, vulnerable children also experience workplace accidents that not infrequently result in injury to the nervous system, weakening of the five senses, and even potentially contracting sexual diseases (STIs / HIV / AIDS) caused by sexual exploitation.<sup>28</sup>

<sup>19</sup> Based on Article 6 and 7 of LPSK Regulation No.6 / 2010 on Procedures for Filing Protection Requests, requests for witness and victim protection include: a) application letter addressed to the Chairperson of LPSK for the examination of the complete requirements; b) additional requirements such as Result of Audit Report (BPA); The importance of testimony in cases; summons for police or prosecutor or court; a letter of report or information to the relevant official (police, State Commission, Government, regional government, relating to the testimony as a reporter), and a letter from the relevant agency regarding the case. In addition, according to Article 30 (1) Law No.13 / 2006 on Protection of Witness and Victim, witnesses and/or victims are required to sign a statement of willingness to follow the terms and conditions of witness and victim protection such as a) the willingness of witnesses and/or victims to give testimony in the judicial process; b) willingness of witnesses and/or victims to obey the rules regarding their safety; c) willingness of witnesses and/or victims not to be connected in any way with anyone other than with the approval of the LPSK, while in the protection of the LPSK; d) the obligation of witnesses and/or victims not to notify anyone of their existence under the protection of LPSK; and e) other matters deemed necessary by the LPSK).

<sup>20</sup> Tuage, S.N. 2013. Perlindungan Hukum terhadap Saksi dan Korban oleh Lembaga Perlindungan Saksi dan Korban. *Jurnal Lex Crime*. Vol.II. No. 2. pg.61.

<sup>21</sup> Sunarso, S. 2012. *Viktimologi dalam Sistem Peradilan Pidana*. Jakarta: Sinar Grafika. pg.305.

<sup>22</sup> The research has been conducted by PKPM Atmajaya team, led by Irwanto in 2008. Besides, street children research conducted by Sri Sanituti and Bagong Suryanto from LPA East Java Province in 2005.

<sup>23</sup> Simanjutak, B. 1981. *Pengantar Kriminologi dan Patologi Sosial*. Bandung: Tarsito. pg.232.

<sup>24</sup> Suyanto, B and Hariadi, S.S. 2002. *Krisis dan Child Abuse*. Surabaya: Universitas Airlangga. pg.25.

<sup>25</sup> Interview with Fakhruddin Faiz, Founder of Gajahwong School on January 12<sup>th</sup>, 2020.

<sup>26</sup> Lismaida and Ida Keumala Jempa. 2017. Tindak Pidana Melakukan Eksploitasi Anak Secara Ekonomi Sebagai Pengemis (Suatu Penelitian di Kota Banda Aceh). *JIM Bidang Hukum Pidana*. Vol.1. No.1.pg.77.

<sup>27</sup> *Ibid*. pg.80.

<sup>28</sup> Usman, H and Djalal, N. 2004. *Pekerja Anak di Indonesia: Kondisi, Determinan, dan Eksploitasi (Kajian Kualitatif)*. Jakarta: PT.Gramedia Widisarana Indonesia. pg.180.

Meanwhile, in terms of mentality, children tend to grow into individuals who are unable to interact with their social environment. Children find it difficult to collaborate with others and even a crisis of confidence. The worst thing that happens is that children are unable to distinguish right from wrong because they grow up in harsh situations.<sup>29</sup> If these conditions continue to occur it will affect the lives of children as adults.<sup>30</sup>

Such a culture is not impossible that will be passed on by these children in the future. Oscar Lewis in the Cultural Poverty Theory states that poverty can arise as a result of the values or culture embraced by the poor, such as lazy, easy to surrender to fate, and lack a work ethic. Such conditions lead to the emergence of structural poverty in the form of external factors that prevent someone from having difficulty accessing resources. The above view illustrates that basically, poverty occurs not because of the inability of a person to work but the inability of social systems and structures in providing opportunities and access for someone to work. This condition is known as structural poverty.

Structural poverty causes poverty to grow institutionalized, giving rise to a culture of poverty. The culture of poverty among the poor then forms the vicious circle of poverty, which is an endless cycle of poverty that is grown from within the poor.<sup>31</sup> In other words, people intentionally impoverished systematically to depend on their fate in certain groups. Dependency (dependency ratio) will be high because these impoverished groups tend not to get access to proper education so that it falls in the brink of ignorance and socio-cultural underdevelopment. Such conditions, indirectly placing the label "pulp" is underestimated by other groups of society. As a result, poverty becomes a permanent attribute that is difficult to be released from the poor and is the main reason why the poor continue to commit illegal acts (read: economic exploitation of children) to make a living.

## REFORMATION ON CHILDREN PROTECTION AGAINST ECONOMIC EXPLOITATION

Based on the description in the first discussion, we know that each sub-discussion of the economic exploitation of children's regulatory aspect, law enforcement aspect, and community culture aspect, have their problems, where the main problems caused by poverty. Therefore the solution to tackle the economic exploitation of children refers to efforts to reduce poverty, strengthen the regulation of economic exploitation of children, and strengthen law enforcement to eradicate acts of economic exploitation of children.

Firstly, poverty alleviation. Poverty is a problem that is not easy to solve in almost all countries least in Indonesia. Poverty is a problem that involves various aspects of life as economic, political, and social-psychological.<sup>32</sup> In Indonesia, poverty alleviation efforts are directed at the community both personally and in groups with the aim of empowerment that divided into three clusters. Cluster I in the form of groups is focused on reducing the burden of life and improving the quality of life in meeting food, health, and education needs, such as the provision of assistance for Community Health Insurance, Poor Rice Distribution, financial or educational support. Cluster II is in the form of improving the capabilities of the poor carried out by implementing the National Program for Community Empowerment in Mandiri. Cluster III aims at empowering community groups such as Small and Medium Enterprises Sized (SMEs) development programs, and people's business credit.<sup>33</sup>

The programs mentioned are a picture of poverty alleviation efforts undertaken by the government. Poverty alleviation is not enough to rely on programs from the government. Poverty alleviation needs to be supported by the efforts of the community itself to be free from the shackles of poverty. This effort by reconstructing poverty theology and building awareness of collectivity.<sup>34</sup> Reconstruction of the theology of poverty is an effort to build self-awareness that poverty is not a God-given condition that cannot be changed (taqdir). Everyone must have a work ethic and enthusiasm to change their conditions for the better.

Meanwhile, building collectivity awareness is a teaching of socialism to share with the needy, in other words applying cooperation. This condition is an implementation step of the application of the Pancasila economic system.<sup>35</sup> Mubyarto stated that the rational basis for the implementation of the Pancasila economic system refers to efforts to build a national economy following the ideology of the nation and ways to develop alternative economic knowledge and education based on the value system, socio-culture, and real economic life of the Indonesian people.<sup>36</sup> The spirit of collectivity must be raised in every individual of Indonesian society as a form of awareness to move forward together.

Secondly, reinforce the law. Law reinforcement is done by synchronizing the substance related to the economic exploitation of children's regulations between Law No.23 of 2002 junto Law Number 35 of 2014 on Children Protection against Violence to Law No. 13 of 2003 on Employment. Where the arrangements in Law No.13 of 2003 on Employment that allow children aged 13-15 years to work with specific requirements need to emphasize. In this case, member states required to ensure

<sup>29</sup> *Ibid.*

<sup>30</sup> Suyanto, B. 2010. *Masalah Sosial Anak*. Jakarta: Kencana Prenada Group. pg.111.

<sup>31</sup> Datuk Imam Marzuki, *Kemiskinan yang Terstruktur*, retrieved from <https://www.jurnalasia.com/opini/kemiskinan-yang-terstruktur/> on May 28<sup>th</sup>, 2020.

<sup>32</sup> Economic aspects refer to the lack of resources that can be used to meet the needs of life and improve the welfare of a community. The political aspect refers to the view of poverty in terms of low access to power. This political aspect influences the formation of structured poverty. Finally, the social-psychological aspect of looking at poverty is the lack of networks and social structures that support in placing opportunities for increasing productivity. Elis and Suharto on Umami, U. 2013. Cara Pandang dan Upaya Pemerintah dalam Mengurangi Kemiskinan, *Jurnal Pembangunan Wilayah dan Kota*. Vol.9. No.4. pg.347.

<sup>33</sup> *Ibid.* pg.350.

<sup>34</sup> Ilmi, S. 2017. Konsep Pengentasan Kemiskinan Perspektif Islam. *Al-Maslahah Jurnal Ilmu Syariah*. Vol.13. No.1. pg.10.

<sup>35</sup> Pancasila economy is a market economy that refers to the Pancasila ideology, which means the mechanism of operation of the Pancasila economy based on real data on the Indonesian economy and the actions of economic actors that are moralistic, socio-nationalistic, and socio-democratic. Pancasila economics describes real terms of the obvious behavior of Indonesian people who are homo socius, homo ethicus, and homo economicus in an economic system based on the principle of kinship. Hastangka, 2007. *Refleksi Kritis atas Konsep Ekonomi Mubyarto*. Bachelor Thesis Faculty of Philosophy, Gadjah Mada University. pg.78.

<sup>36</sup> Hastangka. 2012. Filsafat Ekonomi Pancasila Mubyarto. *Jurnal Filsafat*. Vol.22. No.1.pg.36.

the work carried out by minors under their performance limits and ensure to offer protection against economic exploitation, health, and safety risks. Also, the government needs to oversee the procedure for the submission of working conditions proposed by parents or guardians of children, where the potential implementation of economic exploitation of children begins with the filing of the work permit. Granting permission to work by parents or guardians can be based on reasons to help meet the needs of families in which there is a hidden intention to exploit their children. Besides being potentially exploited by parents or family, children have the potential to be exploited by the company/factory where they work. Furthermore, state board members need to record the type of light work that can be done by children. Thus if it found that children work outside of the light work determined by the government, then the child must be protected.

*Thirdly*, strengthening law enforcement. Strengthening law enforcement referred to is reinforcing the law in terms of law enforcement institutions. There are three fundamental elements affect the police performance in the field, such as a) law enforcement institutions along with various supporting facilities and infrastructure and institutional work mechanisms; b) work culture related to its police members, including regarding the welfare of its police members; c) a set of regulations that support both institutional performance and those regulating legal material that used as work standards.

Based on the paragraph above, we know that to obtain the implementation of systemic law enforcement is necessary to synchronize aspects of carrying capacity, the welfare of the police, and a decisive set of regulations. If we pay close attention to the carrying capacity and police's prosperity, it can help improve the performance of law enforcement officials to prevent the economic exploitation of children. Therefore we need a managerial reconstruction of the bureaucratic law enforcement apparatus which, according to John Sullivan, can be fulfilled by a) well motivation; b) well education; and c) salary.<sup>37</sup> *Firstly*, well motivation refers to one's motivation to devote oneself to law enforcement. From the start, a law enforcer must know and be motivated that the implementation of law enforcement is both a challenge and an arduous task. *Secondly*, well education means that a law enforcer should meet specific education standards so that in addition to formal education, non-formal education also needed to be related to legal knowledge. *Thirdly*, the salary of a law enforcement salary must be considered so that in carrying out their duties, law enforcers can carry it out properly, law enforcement officials not charged with the costs of carrying out their duties.

## CONCLUSION

Based on the description, we can conclude that the problem of economic exploitation of children's implementation dominated by poverty that causes parents or closest relatives to exploit children for specific purposes. The exploitation carried out by making children work as factory workers or earn money on the streets by becoming beggars, scavengers, and newspaper sellers. The above conditions occur because of the lack of synchronization of the spirit of child protection between Law No.23 of 2002 jo. Law Number 35/2014 on Children Protection against Violence to Law No. 13/2003 on Employment, the weak law enforcement of economic exploitation of children, and the root culture of poverty by the poor.

The methods used to reform legal policies towards protecting children from economic exploitation are focused on three things: firstly, alleviating poverty internally (from within the poor) and externally (government assistance programs); secondly, strengthening regulations by specifying the types of work that can be done by children and limiting the age of children who are allowed to work at least 15 years with specific requirements; and thirdly, strengthening law enforcement by law enforcers by increasing the support of infrastructure, welfare, and education of its members following the ideas of John Sullivan.

## REFERENCES

### Books

- B.Simanjuntak. (1981). *Pengantar Kriminologi dan Patologi Sosial*. Bandung: Tarsito.
- Friedman, L. (1984). *American Law: An Introduction*. New Jersey: WW Norton&Company
- Hastangka. (2007). *Refleksi Kritis atas Konsep Ekonomo Mubyarto*. Bachelor Thesis, Faculty of Philosophy. Gadjah Mada University
- Institute for Criminal Justice Reform (ICJR).(2019). *Rekomendasi untuk Kinerja LPSK ke Depan*. Jakarta : IJCR
- Rahardjo, Satjipto. (1978). *Hukum dan Masyarakat*. Bandung: Angkasa
- Sunarto, Siswanto. (2012). *Viktimologi dalam Sistem Peradilan Pidana*. Jakarta: Sinar Grafika
- Suyanto, Bagong and Sri Sanituti Hariadi. (2002). *Krisis and Child Abuse*. Surabaya: Universitas Airlangga
- Suyanto, Bagong. (2010). *Masalah Sosial Anak*. Jakarta: Kencana Prenada Group
- Usman, Hardius dan Nachrowi Djalal. (2004). *Pekerja Anak di Indonesia: Kondisi, Determinan, dan Eksploitasi (Kajian Kualitatif)*. Jakarta: PT.Gramedia Widisarana Indonesia
- Wibowo, Tri. (Translator).2005. *Public Policy, Pengantar Teori dan Praktek Analisis Kebijakan*. Jakarta : Kencana

### Journal

- Beta S.Iryani and D.S. Priyarsono. 2013. Exploitation of Working Children in Indonesia. *Jurnal Ekonomi dan Pembangunan*. Vol.13. No.2. DOI <https://doi.org/10.21002/jepi.v13i2.226>
- Hastangka. 2012. Filsafat Ekonomi Pancasila Mubyarto. *Jurnal Filsafat*, Vo.22. No.1. DOI <https://doi.org/10.22146/jf.12984>
- Hotma P.Sibuea and Anasthasya S.Mandagi. 2016. Perlindungan Hukum terhadap Anak Atas Tindakan Eksploitasi Ekonomi dalam Perspektif Negara Hukum Kesejahteraan. *Jurnal Hukum*. Vol.2. No.1. Retrieved from <http://journal.uta45jakarta.ac.id/index.php/STAATRECHTS/article/view/254>
- Lismaida and Ida Keumala Jempa, Tindak Pidana Melakukan Eksploitasi Anak Secara Ekonomi Sebagai Pengemis (Suatu Penelitian di Kota Banda Aceh), *JIM Bidang Hukum Pidana*, Vol.1, No.1, Agustus, 2017

<sup>37</sup> Tri Wibowo. (Ed). 2005. *Public Policy, Pengantar Teori dan Praktek Analisis Kebijakan*. Jakarta:Kencana. pg xi-xii.

- Nathalina Naibaho, Human Trafficking in Indonesia: Law Enforcement Problems, *Indonesia Law Review*, No.1, Vol.1, January-April 2011.
- Saristha Natalia Tuage, Perlindungan Hukum terhadap Saksi dan Korban oleh Lembaga Perlindungan Saksi dan Korban, *Jurnal Lex Crimen*, Vol.II, No. 2, April-Jun, 2013.
- Syaiful Ilmi, Konsep Pengentasan Kemiskinan Perspektif Islam, *Al-Maslahah Jurnal Ilmu Syariah*, Vol.13, No.1, April 2017.
- Ulfatul Umami, Cara Pandang dan Upaya Pemerintah dalam Mengurangi Kemiskinan, *Jurnal Pembangunan Wilayah dan Kota*, Vol.9, No.4, Desember 2013.
- Ursula Kilkelly, Economic Exploitation of Children: A European Perspective, *Saint Louis University Public Law Review*, Vol.22:321, 2003.
- White, Ben. 1994. *Children, Work and 'Child Labor': Changing Responses to the Employment of Children. Development and Change. Development and Change*. Vol 25. Issue 4. DOI <https://doi.org/10.1111/j.1467-7660.1994.tb00538.x>

#### Internet

- KPAI. (2016, July 17). *Komisi Perlindungan Anak Indonesia*. Retrieved from [kpai.go.id: https://bankdata.kpai.go.id/tabulasi-data/data-kasus-per-tahun/rincian-data-kasus-berdasarkan-klaster-perlindungan-anak-2011-2016](https://bankdata.kpai.go.id/tabulasi-data/data-kasus-per-tahun/rincian-data-kasus-berdasarkan-klaster-perlindungan-anak-2011-2016)
- Marzuki, D. I. (2018, January 19). Retrieved from [jurnalasia.com: https://www.jurnalasia.com/opini/kemiskinan-yang-terstruktur/](https://www.jurnalasia.com/opini/kemiskinan-yang-terstruktur/)
- OHCHR. (n.d.). *United Nation Human Right Office of The High Commissioner*. Retrieved from <http://www.ohchr.org/EN/HRBoD/CRC/Documents/Recommendations/exploit.pdf>.
- Setyawan, D. (2018, April 3). *Komisi Perlindungan Anak Indonesia*. Retrieved from [kpai.go.id: https://www.kpai.go.id/berita/kpai-ada-32-kasus-trafficking-dan-eksploitasi-anak-di-indonesia-pada-awal-2018](https://www.kpai.go.id/berita/kpai-ada-32-kasus-trafficking-dan-eksploitasi-anak-di-indonesia-pada-awal-2018)

#### Regulations

- The 1945 Constitution of Republic of Indonesia
- Law No. 39 of 1999 on Human Right
- Law No.23 of 2002 on Children Protection Against Violence
- Law No 13 of 2003 on Employment
- Law No.13 of 2006 on Protection of Witness and Victim
- Law No.35 of 2014 on the Changes of Children Protection Against Violence
- LPSK Regulation No.6 / 2010 on Procedures for Filing Protection Requests

Sri Yati  
School of Law  
Universitas Islam Sultan Agung Semarang, Indonesia  
Email: [sriyati.12smg@gmail.com](mailto:sriyati.12smg@gmail.com)

Prof.Dr.Mahmutarom HR, S.H., M.H  
School of Law  
Universitas Wahid Hasyim Semarang, Indonesia  
Email: [mahmutaromhr@yahoo.co.id](mailto:mahmutaromhr@yahoo.co.id)

Dr.Akhmad Khisni, S.H., M.H.  
School of Law  
Universitas Islam Sultan Agung Semarang, Indonesia  
Email: [ahmad.khisni@unissula.ac.id](mailto:ahmad.khisni@unissula.ac.id)