



Crime Of Exploitation Child Work As Household Service

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Abstract

Law Number 35 Article 1 paragraph 6 of 2014 concerning Child Protection is a criminal law policy to protect children who are exploited, sexually assaulted, or employed as housemaids. The issues discussed in this article pertain to the factors that contribute to the occurrence of criminal acts of exploitation of children employed as housemaids, as well as the prevention of criminal acts of exploitation of children employed as housemaids. The research method used was normative juridical and empirical juridical. Data collection was done through literature study and field study, while the data obtained were analyzed qualitatively. Based on the results of research and discussion, economic problems, bad environmental influences, low education, social factors, lack of public and government awareness, being easily deceived, weak parental supervision, and weak law enforcement are among the factors that encourage the exploitation of children employed as housemaids. Efforts to tackle the crime of child exploitation as domestic helpers consist of pre-emptive, preventive, repressive, and rehabilitation efforts.

A. Introduction

Children, as well as the younger generation, are the inheritors of the nation's struggle ideals as well as human capital for national development. As the younger generation, children are human resources with the potential to carry on the nation's ideals and struggles. They play a strategic role that requires special protection to ensure their complete physical, mental, and social growth and development. Indonesia regulates the protection of children in Article 34, paragraph (1) of the 1945 Constitution, which reads, "The State protects poor people and neglected children."



International human and child rights conventions are the foundation for child protection. The Indonesian government has ratified the convention in the form of legislation. In reality, children who are still physically and psychologically unstable are more likely to become victims of crime, including those who employ minors.

The Indonesian state has grasped the importance and significance of the child as a mandate and gift from God Almighty, endowed with inherent dignity as a complete human being. Children are the nation's future and future generations, with limited ability to comprehend and protect themselves from the various influences of the current system.¹ International human and child rights conventions are the foundation for child protection. The Indonesian government has ratified the convention in the form of legislation. However, the facts in society show that children with physically and psychologically unstable conditions are vulnerable to becoming victims of crime, including exploitation for employment.

Children are frequently used for the benefit of irresponsible people looking to make a quick profit through the practice of employing minors.² Children, in this case, should receive protection, affection, and supervision from their parents, as well as be adequately educated and cared for by their rights as children to prevent deviations in their growth and development. However, the reality reveals numerous issues related to child exploitation in some areas, one of which is the employment of minors. The primary reason is that due to the economic needs of both parents and other people or specific individuals, take the solution to employ. The practice of employing minors is a violation of the law. Children's growth and development rights are rights that allow children to have a healthy growth and development process from childhood through adolescence and adulthood while also receiving protection.³

In general, the definition of employing minors is asking children to do routine work for their parents, others, or themselves, which takes a long time to receive or not receive compensation. According to Article 1 paragraph (26) of Law Number 13 of 2003 concerning Manpower, it is stated that a child is every person under the age of 18 (eighteen) years. Everyone has the same opportunity to get a job and is entitled to equal treatment without discrimination from employers.⁴

Exploitation by employing minors is caused by several factors that encourage a shift in the involvement of children in the public sector. Most girls said they worked 14 to 18 hours per day, seven days a week, without even a day off. Many of them explained that their employers forbid them from leaving the homes where they work, isolating them from the outside world and thereby putting them at higher risk of harassment situations with few options for help.

The law that provides genuine protection for child domestic workers is Law no. 23 of 2002 concerning Child Protection and Law no. 23 of 2004 concerning the Elimination of Domestic Violence. Law Number 23 of 2002 concerning Child Protection stipulates harsher penalties than those stipulated in the Criminal Code for economic or sexual exploitation of children and acts of violence against children. Law Number 23 of 2004 concerning the Elimination of Domestic Violence prohibits physical, psychological, and sexual violence against domestic workers living in the employer's house.

The novelty of this research is the essence; a child makes his childhood like a world of play in which they are not expected to work and become the family's economic backbone. Children can only be in three places: home, school, and play. Whatever the reason, parents

¹Wardah. Commercial sexual exploitation of children-CSEC.<http://wordpress.com>. Commercial Sex Exploitation of Children-CSEC. Retrieved 08 November 2017, pkl. 15.59

²Farid Faith. Children's Rights in Islamic Law. Jakarta: PustakaBangsa Press. 2007.Pg. 46.

³Bagong suyanto. children's social problems. page. 122.

⁴Prihatin Effendi and Devi Ratnasari, "GENDER EQUALITY IN THE PERSPECTIVE OF LAW NUMBER 13 OF 2003 REGARDING MANPOWER," *Jurnal Pro Hukum: Research Journal in the Field of Law, University of Gresik*7, no. 2 (December 12, 2018), <http://journal.unigres.ac.id/index.php/JurnalProHukum/article/view/701>.

employ and abandon their children; it is an act that violates Law Number 35 Article 1 number 6 of 2014, which regulates Child Protection where it is stated that "Abandoned children are children whose needs are not met properly, physically, mentally and socially" which is also against Islamic teachings. The problems in this study include whether the factors that cause crime and what efforts are being made to tackle the crime of child exploitation are employed as housemaids.

The research methods used in this article are normative juridical and empirical juridical. Determination of sources is done by interviewing respondents. Data was collected using literature studies and field studies. The data analysis used is a qualitative analysis, where the data that has been processed is analyzed descriptively qualitatively, namely describing quality data in the form of regular, logical and practical sentences to facilitate data interpretation and understanding of the results of the analysis to answer existing problems.

B. Discussion

1. Causes of the Crime of Child Exploitation Employed as Domestic Helpers

Children are part of the younger generation who are the successors of the ideals of the nation's struggle because of their strategic role and unique characteristics which, on the other hand, also need guidance and protection to ensure physical, mental, and social growth in a complete, harmonious, and a manner balanced. Fostering and providing protection for children requires support in terms of institutions and those closest to them.⁵ Because of adequate protection and legal instruments, child protection efforts must be implemented as best as possible. Therefore, the provisions regarding administering courts for children need to be carried out. Specifically, children reflect the existence of justice, benefit, and legal certainty in a society.⁶ Article 1 (1) of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection states that a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb (meaning all interests efforts to protect children have started since they were in the womb until they were 18).⁷

According to Erna Dewi, child exploitation, especially in Bandar Lampung City, is caused by their parents' low level of education. This causes parents to find it challenging to get a decent job, so their economic level becomes low.⁸ One of the crimes against children is the exploitation of children by parents or other parties. Child exploitation is placing, allowing, carrying out, ordering to do, or participating in economic or sexual exploitation of children (Article 66 paragraph 3 of Law Number 23 of 2002 concerning Child Protection). Thus, it is clear that the exploitation of children is dishonorable because it has robbed them of their rights, such as getting love from their parents, proper education, and age-appropriate play facilities. Besides, children's exploitation can impact physical and psychological disorders.⁹ Disturbance in children can have a long-term impact on children who are less able to distinguish between right and wrong due to exploited children's low educational levels.

This can be seen from some of the data obtained from the study's results, "where the data shows that the exploitation of children that occurred in Bandar Lampung City from January to April 2022, January was the highest number of cases and victims. Where for 45 cases of violence with 55 victims," said the Head of the Lampung Province PPPA Service, Fitrianita

⁵Mohammad TaufikMakarao, et al., *Child Protection Law and the Elimination of Domestic Violence*, Jakarta: RinekaCipta, 2013, p. 1

⁶Suwardi Sagama, "Analysis of the Concept of Justice, Legal Certainty and Benefit in Environmental Management," *MAZAHIB* 15, no. 1 (December 15, 2016), <https://doi.org/10.21093/MJ.V15I1.590>.

⁷Dony Pribadi, "PROTECTION OF CHILDREN IN AGREEMENT WITH THE LAW," *Volkgeist 3 Journal of Law*, no. 1 (December 14, 2018): 15–28, <https://doi.org/10.35326/volkgeist.v3i1.110>.

⁸ Interview with the Lecturer of the Criminal Section of the Faculty of Law, University of Lampung.

⁹Rusmilawati Windari, "Commercial Sexual Exploitation of Children (CSEC) Countermeasures Based on Global - Local Based Approach (Glocalization)," *Soumatra Law Review* 2, no. 2 (November 20, 2019): 282–96, <https://doi.org/10.22216/SOUMLAW.V2I2.4369>.

Damhuri, Friday, June 10, 2022.¹⁰ From the case data, it can be seen that there are still many children who are victims and have not received assistance. This number is only a tiny part that appears and has not yet reached the surface. Many cases of violence against children still have not been revealed.

According to the findings of the researchers after analyzing data from relevant agencies and conducting field research, several factors that cause the exploitation of children as domestic helpers are as follows:

1) Internal factors

a. Economic Factor

Because economic problems are closely related to basic human needs, the economic aspect is a factor that causes problems in people's lives. Many different types of crimes are committed as a result of individual or group financial constraints. If humans face food shortages as a matter of life and death, they will do anything to survive, regardless of whether their actions are legal.

The family's financial situation is dire, forcing them to earn a living using all their resources, including hiring children as domestic helpers.¹¹ However, a serious issue that must be considered in this case is that when these children work on the streets, they lose many of their rights, including the right to education, love, and even protection, because many of them are exposed to violence, as well as the risk of becoming victims of other crimes, such as child trafficking.

b. Family and Environmental Encouragement Factors

Some children who become housemaids are closely related to the involvement of parents and the environment. Due to urgent economic needs and difficulty finding decent work, parents or families order and let their children become housemaids to earn money.¹² In addition to these family factors, environmental factors are significant for a child to become a housemaid.

c. Weak Factors in Law Enforcement

The lack of law enforcement for the perpetrators or those who employ children and legal protection for the children themselves are some reasons why children are easily employed as domestic helpers. In Indonesia, there is only one law concerning child protection, Law Number 23 of 2002, which can be applied to perpetrators or others who force children to work as domestic servants.¹³

2) External Factors

a. Environmental factor

In addition to economic factors, environmental factors are also one of the factors causing the economic exploitation of children by employing them as housemaids. According to the author's findings, environmental factors significantly influence the occurrence of economic exploitation of street children. Most street children come from the same neighborhood. Even in Bandar Lampung, there is an area where most of the population works as beggars and live in a small environment.

¹⁰ <https://m.lampost.co/berita-137-kasus-kekerasan-perempuan-dan-anak-terjadi-di-lampung-selama-januari-april.html>.

¹¹Based on the results of an interview on November 5, 2019 at the Office of Psychologist Octa Reni Setiawati Rajabasa Bandar Lampung.

¹²Puji Lestari et al., "CHANGES IN FAMILY STRUCTURE," DIMENSIA: Journal of Sociological Studies 7, no. 1 (August 30, 2018): 1978–192, <https://doi.org/10.21831/DIMENSIA.V7I1.21053>.

¹³Liliana Hasibuan, "Woman Trafficking and Psychosocial Counseling as Helpers," Al-Irsyad Journal: Journal of Islamic Counseling Guidance 3, no. 1 (June 30, 2021): 135–54, <http://194.31.53.129/index.php/Irsyad/article/view/4176>.

b. Educational Factor

Education is the cornerstone of creating a high-quality family,¹⁴ and it is easier to raise intelligent children when intelligent parents educate them. In other words, low education causes social problems, high crime rates, and lawlessness. Irma Lestari explained that parents with a high education level are more likely to fulfill their children's rights, such as providing a haven, love, and protection, as well as children's rights to be educated to become respectful and valuable members of society. Highly educated children can better protect themselves from promiscuity, smoking, drinking alcohol, fighting with parents, gambling, stealing, using illegal drugs, and other harmful things.¹⁵

It is essential to recognize that education is one of the factors that contribute to crime. In this case, the educational factor impacts the perpetrator rather than the victim. Many criminals are uneducated and unwilling to work and employ minors.

c. Social Factor

Low parental education and economic and cultural limitations are easily found in our society,¹⁶ which regards children as potential family members who must serve. The position of children, who have rights and must be protected, is neglected in such a culture. Therefore, it's understandable that many parents take shortcuts to ensure that their children cease attending school and instead work as housemaids.

d. Factors of Lack of Public and Government Concern

Awareness of the importance of child protection and prohibition of child exploitation is not enough to be understood only by parents and children but must be understood and carried out by all components of society.¹⁷ According to the author, the low quality of child protection in Indonesia has drawn criticism from various elements of society. Based on Law no. 30 of 2014 in conjunction with Law no. 23 of 2002 concerning Child Protection, those who are obliged and responsible for implementing child protection are the state, government, community, family, and parents.

2. Efforts to Combat the Crime of Child Exploitation, Employed as Domestic Helpers

Efforts can be taken by the government and law enforcement officers to handle and eliminate violent crimes against children employed as domestic helpers, one of which is by socialization to all elements of society regarding Law Number 23 of 2002 regarding Child Protection. Socialization to the community must be intensively carried out by the government and law enforcement officers so that the public knows that all forms of violence against children, including employing children as housemaids, can be classified as acts of economic exploitation of children so that they can be subject to severe sanctions.¹⁸

Some of the efforts made in tackling criminal acts of exploitation of children as domestic helpers include the following:

¹⁴Fahrina Yustiasari Liri Wati Auliaurasyidin, "The Main Foundation Family Prints a Literacy Cultured Generation," *Peguruang Journal: Conference Series* 1, no. 2 (November 30, 2019): 152–56, <https://doi.org/10.35329/JP.V1I2.569>.

¹⁵Based on the results of Erna Dewi's interview on November 8, 2019 at the Criminal Section of the Faculty of Law, Unila Bandar Lampung..

¹⁶Ni Putu et al., "CHILD LABOR PHENOMENON REVIEW FROM HUMAN RIGHTS PERSPECTIVE," *Journal of Advocacy* 7, no. 2 (September 11, 2017): 229–44, <http://e-journal.unmas.ac.id/index.php/advocation/article/view/332>.

¹⁷Go Lisanawati, "Cyber Child Sexual Exploitation in the Perspective of Cyber Crime Protection," *Pandecta Research Law Journal* 8, no. 1 (2013), <https://doi.org/10.15294/PANDECTA.V8I1.2348>.

¹⁸Agustin Widjiastuti, M Hum, and Rena Zefania Ritonga, "ROLE OF LOCAL GOVERNMENTS IN MANAGING CHILDREN WHO WORK UNDER AGE AS HOUSEHOLD SERVICES," *JOURNAL OF STAATRECHTS* 2, no. 1 (April 12, 2016), <http://journal.uta45jakarta.ac.id/index.php/STAATRECHTS/article/view/237>.

1. Pre-Emptive Effort

Pre-emptive efforts are the initial efforts made by the police or other parties to prevent the occurrence of criminal acts. Efforts in pre-emptive crime prevention aim to instill good values or norms so that these norms are internalized in a person. This prevention method comes from the NKK theory, namely the existence of intentions and opportunities for a crime to occur. There will be no crime if there is the possibility of committing an infraction or a crime but no intention to do so. For this reason, in the Pre-Emtif effort, the intention factor is lost even though there is an opportunity.¹⁹

The same effort was made by the Police, as informed during the interview with Karel Rahman, that the room's persuasive efforts were more in the form of appeals and socialization by the *Kentibmas* section in each *kelurahan* to the RT/RW. There is also a Door to Door approach, in which we conduct inspections directly at people's houses. We will obtain clues about a crime from this stage, including the exploitation of children working as domestic assistants.²⁰

Preventive efforts in resolving the criminal conduct of exploiting children as domestic staff are essential, as evidenced by the two remarks above. This is an internal public awareness campaign to ensure that positive values always guide them daily.

2. Preventive Effort

Preventive efforts are a follow-up to Pre-Emptive efforts, which are still at the level of prevention before the occurrence of a crime.²¹ In preventive efforts, the focus is on eliminating opportunities for crime to be committed. As a member of law enforcement and community partners, the police are expected to ensure as much security and order as feasible in society. Due to the challenging work at hand, as well as the disparity between the number of officers and the size of the community, the police have adopted the following measures:

- a. Regulating the implementation and supervising/directing the community outreach implementation.
- b. Fostering forms of self-defense by competent sub-sections.
- c. Fostering cooperative relationships with organizations/institutions, community social figures, and local government agencies within regional autonomy to increase citizens' awareness and obedience to laws and regulations.
- d. Self-defense development.
- e. Fostering a positive connection between the police and the community in carrying out the duties of the police.

3. Repressive Effort

"repressive" refers to social control or attempts performed after a breach.²² In repression, a person who breaks the law is punished or arrested by the police and imprisoned. For example, a student was spotted using drugs on the street and was arrested shortly after. He was taken to the police station and questioned further.

4. Rehabilitation

Rehabilitation efforts include assistance, training and education, capacity recovery and redistribution to new settlements through transmigration and among the community, supervision, and further guidance. This effort aims to give children who become domestic

¹⁹ASalam, Introduction to Criminology, Reflection Library, Makassar, 2010, p. 79-80.

²⁰Based on the results of interviews with investigators from the PPA Unit of the Bandar Lampung Police on November 6, 2019 at the Bandar Lampung Police Office, Lampung.

²¹Muhammad Al Habsy Ahmad, "Law Enforcement Against Judicial Action: A Study of Majene Police," Indonesian Journal of Criminal Law 2, no. 2 (July 25, 2020): 119–31, <https://doi.org/10.31960/IJOCL.V2I2.533>.

²²Hesti Komah et al., "SOCIAL CONTROL BY TEACHERS IN OVERCOMING VIOLATIONS OF SCHOOL ATTRIBUTES IN MA KHULAFUR RASYIDIN," Journal of Equatorial Education and Learning 6, no. 7 (July 13, 2017), <https://jurnal.untan.ac.id/index.php/jpdpb/article/view/20766>.

helpers the ability to live a decent life with human dignity and as citizens of the Republic of Indonesia.

The novelty of this research is about the criminal act of exploiting children employed as housemaids, with many supporting factors, such as internal and external factors. To eradicate these crimes, prevention efforts are needed in dealing with criminal acts involving children.

C. Conclusion

As a conclusion to this thesis, the writers draw the following conclusions based on the findings of their study and discussion of the issues raised in this thesis:

1. Criminal acts related to the exploitation of children employed as domestic helpers are caused by economic problems, bad environmental influences, low education, social factors, lack of public and government awareness, being easily deceived, weak parental supervision, and weak law enforcement.
2. Efforts to tackle the crime of child exploitation as domestic helpers consist of pre-emptive, preventive, repressive, and rehabilitation efforts. Repressive efforts are carried out in the context of tackling crimes of child exploitation, repressive efforts or legal action. Rehabilitation in this case, is in the form of mental development by providing skills at school.

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