



## Crime of Exploitation Child Work as Household Service

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### Abstract

*Article 1, Paragraph 6 of Law Number 35 of 2014 regarding Child Protection serves as a legal framework aimed at safeguarding children from exploitation, particularly those subjected to sexual abuse or forced into domestic service. This article delves into the various factors contributing to such exploitation of child domestic workers, alongside strategies for its prevention. Employing normative juridical and empirical juridical methodologies, the research gathers data through literature review and field research, subsequently analyzed qualitatively. Findings highlight economic hardships, negative environmental influences, limited education, societal pressures, inadequate awareness among the public and authorities, susceptibility to deception, lax parental supervision, and deficient law enforcement as primary catalysts for child exploitation in domestic roles. Efforts to combat this crime encompass preemptive, preventive, punitive, and rehabilitative measures.*

### A. Introduction

Children and the younger generation serve as custodians of our nation's ideals and represent invaluable human capital for its development. As the torchbearers of our nation's legacy, children possess the potential to carry forward its ideals and struggles. Their pivotal role demands special safeguards to ensure their holistic growth—physically, mentally, and socially. Indonesia underscores this imperative in Article 34, paragraph (1) of the 1945 Constitution, affirming, "The State protects impoverished individuals and neglected children."

The cornerstone of child protection lies in international human and child rights conventions, which Indonesia has ratified into law. However, the stark reality persists that



children, especially those who are still in their formative years and vulnerable psychologically and physically, often fall prey to various crimes, including exploitation in the workforce.<sup>1</sup>

Recognizing children as divine gifts endowed with inherent dignity, the Indonesian state acknowledges their crucial role as the architects of our nation's future. Despite their limited understanding and vulnerability to societal influences, they remain the bedrock of our future generations. Despite legislative measures, societal challenges persist, underscoring the ongoing need for concerted efforts to safeguard the welfare and rights of our children.

Children are frequently exploited for the gain of unscrupulous individuals who seek quick profits through the reprehensible practice of child labor. In these situations, children require protection, care, and guidance from their parents, along with access to education and the enforcement of their rights, to safeguard their growth and development. However, the harsh reality reveals numerous instances of child exploitation, particularly in the realm of child labor.<sup>2</sup>

The root cause of this exploitation lies in economic pressures faced by parents and others, leading them to resort to employing minors. This practice blatantly violates the law and deprives children of their rights to a nurturing and secure upbringing. Child labor, broadly defined, involves assigning children to perform menial tasks for their parents, others, or themselves, often without adequate compensation and for prolonged durations.<sup>3</sup>

According to Article 1, paragraph (26) of Law Number 13 of 2003 concerning Manpower, a child is defined as any person below the age of 18 years. It is imperative that every individual has equal opportunities for employment and is entitled to fair treatment without discrimination from employers. The exploitative employment of minors arises from various factors that drive children into the labor force. Shockingly, many children, particularly girls, endure grueling work schedules of 14 to 18 hours per day, seven days a week, without respite. They are often confined to their workplace, isolated from the outside world, thus rendering them vulnerable to exploitation and harassment with limited avenues for assistance.

Genuine protection for child domestic workers is provided by 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 sets forth harsher penalties for economic or sexual exploitation of children and acts of violence against them than those stipulated in the Criminal Code. Additionally, Law Number 23 of 2004 prohibits physical, psychological, and sexual violence against domestic workers residing in the employer's household.

The essence of this research lies in the notion that childhood should resemble a realm of play, wherein children are not burdened with work responsibilities and are not expected to become the family's primary breadwinners. According to Islamic teachings and Law Number 35 Article 1 number 6 of 2014 on Child Protection, abandoning children, whether through employment or neglect, constitutes a violation. It defines abandoned children as those whose physical, mental, and social needs are inadequately met.

The research investigates factors contributing to child exploitation and explores efforts aimed at combating the exploitation of children employed as housemaids. Employing normative juridical and empirical juridical research methods, the research utilizes interviews with respondents, literature reviews, and field studies for data collection. Qualitative analysis

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

<sup>2</sup>Bagong suyanto. children's social problems. page. 122.

<sup>3</sup>Prihatin 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>.

is employed to interpret the data descriptively, facilitating an understanding of the issues at hand and offering insights into potential solutions.

## **B. Discussion**

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

Children, integral to the younger generation and inheritors of the nation's struggle, play a pivotal role that demands guidance and protection for their holistic development—physically, mentally, and socially. Such nurturing requires support from both institutions and those closest to them.<sup>4</sup> With adequate legal frameworks in place, efforts to safeguard children must be diligently executed, including provisions for specialized courts to administer justice for children. Children epitomize the presence of justice, welfare, and legal certainty within a society, as outlined in Article 1 (1) of Law No. 35 of 2014, which defines a child as anyone below the age of 18, including those in the womb, emphasizing the continuum of protection efforts from conception to adulthood.<sup>5</sup>

Erna Dewi identifies low parental education levels as a significant factor contributing to child exploitation, particularly in Bandar Lampung City. This circumstance often forces parents into precarious economic situations, leading to exploitation of children by their own parents or other parties. Child exploitation encompasses various forms of economic or sexual exploitation, as delineated in Article 66 paragraph 3 of Law Number 23 of 2002 concerning Child Protection.<sup>6</sup> Such exploitation not only deprives children of fundamental rights like parental affection, education, and appropriate recreational facilities but also exposes them to physical and psychological harm. Consequently, children subjected to exploitation may suffer long-term consequences, including impaired moral discernment due to inadequate education.

Erna Dewi highlights the correlation between child exploitation, particularly prevalent in Bandar Lampung City, and parents' low levels of education, which often hinder their ability to secure decent employment, resulting in economic hardship.<sup>7</sup> This unfortunate circumstance contributes to the vulnerability of children to exploitation by their parents or other individuals. Child exploitation encompasses various acts, including economic or sexual exploitation, as defined in Article 66 paragraph 3 of Law Number 23 of 2002 concerning Child Protection. Such exploitation flagrantly violates children's rights, depriving them of parental love, proper education, and age-appropriate recreational opportunities, while also exposing them to physical and psychological harm.<sup>8</sup>

Data from Bandar Lampung City reveal a concerning trend observed from January to April 2022 regarding Child Exploitation. Fitrianita Damhuri, Head of the Lampung Province PPPA Service, disclosed that January recorded the highest number of cases and victims, with 45 reported incidents of violence affecting 55 victims.<sup>9</sup> However, these figures likely represent only a fraction of the true extent of child exploitation, as many cases remain unreported and victims lack access to assistance. The magnitude of the issue remains largely concealed, emphasizing the urgent need for heightened awareness and intervention efforts.

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<sup>4</sup>Mohammad Taufik Makarao, et al., *Child Protection Law and the Elimination of Domestic Violence*, Jakarta: Rineka Cipta, 2013, p. 1

<sup>5</sup>Dony 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>.

<sup>6</sup>Suwardi 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>.

<sup>7</sup>Interview with the Lecturer of the Criminal Section of the Faculty of Law, University of Lampung.

<sup>8</sup>Rusmilawati 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/SOURLAW.V2I2.4369>.

<sup>9</sup><https://m.lampost.co/berita-137-kasus-kekerasan-perempuan-dan-anak-terjadi-di-lampung-selama-januari-april.html>.

After conducting comprehensive analyses of data from pertinent agencies and engaging in field research, several factors contributing to the exploitation of children as domestic helpers have been identified and explained in the following section.

### 1) Internal factors

#### a. Economic Factor

Economic challenges profoundly impact human existence, often leading to various societal issues. Financial constraints, whether experienced individually or collectively, frequently drive individuals to resort to criminal activities to meet their basic needs. When faced with the prospect of starvation, people may prioritize survival above legality.

In dire financial circumstances, families may be compelled to exhaust all available resources, even resorting to employing children as domestic helpers.<sup>10</sup> However, this situation raises significant concerns, particularly regarding the rights and well-being of these children. When forced to work on the streets, they are deprived of fundamental rights such as education, affection, and protection. Moreover, they are vulnerable to exploitation and violence, including the grave threat of being trafficked.

#### b. Family and Environmental Encouragement Factors

The decision for some children to work as housemaids is often influenced by both familial circumstances and environmental factors. Economic pressures and the struggle to secure stable employment push parents or families to enlist their children as housemaids as a means of generating income.<sup>11</sup> Beyond familial dynamics, environmental factors also play a crucial role in a child's path to becoming a housemaid.

#### c. Weak Factors in Law Enforcement

Children being readily employed as domestic helpers can be attributed to several factors, including inadequate law enforcement against perpetrators and insufficient legal safeguards for the children. In Indonesia, for instance, the limited scope of child protection laws, such as Law Number 23 of 2002, contributes to the vulnerability of children forced into domestic labor.<sup>12</sup>

### 2) External Factors

#### a. Environmental factor

Environmental factors, alongside economic considerations, play a crucial role in the exploitation of children through their employment as housemaids. The author's research underscores the significant impact of environmental factors on the economic exploitation of street children. It is evident that many street children originate from the same neighborhoods, exemplified by areas like Bandar Lampung, where a predominant portion of the population engages in begging, often residing in densely populated and limited living spaces.

#### b. Educational Factor

Education serves as the cornerstone for nurturing high-quality families,<sup>13</sup> facilitating the upbringing of intelligent children by educated parents. Conversely, low educational attainment correlates with social issues, elevated crime rates, and a breakdown of law and

<sup>10</sup>Based on the results of an interview on November 5, 2019 at the Office of Psychologist Octa Reni Setiawati Rajabasa Bandar Lampung.

<sup>11</sup>Puji 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>.

<sup>12</sup>Liliana 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>.

<sup>13</sup>Fahrina Yustiasari Liri Wati Auliaurasyidin, "The Main Foundation Family Prints a Literacy Cultured Generation," Peqguruang Journal: Conference Series 1, no. 2 (November 30, 2019): 152–56, <https://doi.org/10.35329/JP.V1I2.569>.

order. Irma Lestari elucidates that parents with higher levels of education are better equipped to fulfill their children's rights, providing them with a nurturing environment, affection, protection, and the essential education necessary for them to develop into respectful and productive 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.<sup>14</sup>

It is imperative to acknowledge that education significantly influences crime, predominantly impacting the perpetrators rather than the victims. Many offenders lack education, displaying a reluctance to engage in lawful employment and resorting to the exploitation of minors.

c. Social Factor

In our society, the prevalence of low parental education and economic constraints often leads to a perspective where children are seen primarily as contributors to the family unit rather than individuals with inherent rights and protections.<sup>15</sup> Therefore, many parents withdraw children from school and let them work as housemaids.

d. Factors of Lack of Public and Government Concern

The understanding and implementation of child protection and the prohibition of child exploitation should extend beyond just parents and children; it must involve all sectors of society. Criticism of the inadequate level of child protection in Indonesia has been voiced by various segments of society. According to Law no. 30 of 2014, in conjunction with Law no. 23 of 2002 concerning Child Protection, the responsibility for implementing child protection falls upon multiple entities, including the state, government, community, family, and parents.

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

Government and law enforcement authorities can implement various strategies to address and eradicate violent crimes against children employed as domestic helpers. One crucial approach involves comprehensive societal education on Law Number 23 of 2002 concerning Child Protection. It is imperative that the government and law enforcement agencies actively engage in widespread socialization efforts, ensuring that all segments of society understand that any form of violence against children, including their exploitation as domestic workers, constitutes economic exploitation and warrants severe sanctions.<sup>16</sup>

Key initiatives aimed at combating the exploitation of children as domestic helpers consist of:

### **1. Pre-Emptive Effort**

Preventive measures are the initial steps taken by law enforcement or other entities to deter criminal activities. The goal of preventive crime measures is to cultivate positive values or norms so that individuals internalize them. This approach stems from the NKK theory, which posits that the combination of intention and opportunity leads to criminal behavior. If there is no intention to commit a crime despite the opportunity, then the crime is unlikely to

<sup>14</sup>Based on the results of Erna Dewi's interview on November 8, 2019 at the Criminal Section of the Faculty of Law, Unila Bandar Lampung..

<sup>15</sup>Ni 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>.

<sup>16</sup>Agustin 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>.

occur. Thus, in preventive efforts, the focus shifts away from opportunity when intention is absent.<sup>17</sup>

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.<sup>18</sup>

## 2. Preventive Effort

Preventive efforts serve as a continuation of Pre-Emptive efforts, both aimed at preventing crimes before they occur. In these preventive endeavors, the emphasis lies in reducing or eliminating opportunities for criminal activities to take place. As integral members of law enforcement and community collaborators, the police bear the responsibility of maximizing security and maintaining order within society. However, given the demanding nature of their tasks and the often vast size of communities relative to the number of officers available, the police have implemented 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 measures taken after a breach.<sup>19</sup> In repression, individuals who break the law face punishment or arrest by law enforcement and may be subsequently imprisoned. For instance, if a student is observed using drugs in public, they may be apprehended by the police and taken into custody. Subsequently, they would be transported to a police station for further questioning.

## 4. Rehabilitation

Rehabilitation efforts encompass a range of interventions including assistance, training, education, capacity-building, resettlement through transmigration, community integration, supervision, and ongoing guidance. These endeavors are directed towards empowering children who have been exploited as domestic helpers, enabling them to lead dignified lives as citizens of the Republic of Indonesia.

The novelty of this research lies in addressing the criminal exploitation of children in domestic service, influenced by various internal and external factors. To effectively combat these crimes, preventive measures are crucial in addressing criminal activities involving children.

<sup>17</sup>ASalam, Introduction to Criminology, Reflection Library, Makassar, 2010, p. 79-80.

<sup>18</sup>Based 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.

<sup>19</sup>Hesti 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/jdpdp/article/view/20766>.

### **C. Conclusion**

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

1. Criminal acts involving the exploitation of children employed as domestic helpers stem from various factors including economic hardships, negative environmental influences, limited education opportunities, societal pressures, insufficient awareness among the public and government, susceptibility to deception, inadequate parental supervision, and lax law enforcement.
2. Efforts aimed at addressing the crime of child exploitation within domestic service encompass pre-emptive, preventive, repressive, and rehabilitation measures. Repressive actions are taken within the framework of addressing such crimes, involving legal interventions. Rehabilitation efforts in this context focus on mental development through educational initiatives aimed at imparting skills and knowledge.

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