

Labor Legal Protection of Underage Workers in the Perspective of Law No. 13 of 2003

Azis Budianto¹, Eko Riyadi²
hukkrim@yahoo.com¹, riyadieko24@gmail.com²

Universitas Borobudur^{1,2}

Abstract. In Law Number 23 of 2002 concerning Child Safety article 59, it is stated that government institutions and state institutions are obliged and can be relied upon to provide special guarantees to the young generation who are in crisis, the young generation who are struggling with the law, the young generation from minority groups and disconnected, young generation who are in minority groups, financially or potentially taking advantage physically and who is being dealt with. Therefore, the state will take a step forward that every child has an intrinsic right to life and the state will guarantee this as much as possible for the child's survival and progress. This kind of exploration is organizing research. The methodology used is a legal methodology and a calculated methodology. The data source used is secondary data. Data analysis was carried out descriptively qualitatively. Drawing conclusions is carried out using a deductive method, namely summarizing general matters to specific matters, especially those related to the research topic, namely the Legal Protection of Employment of Underage Workers in the Perspective of Law no. 13 of 2003. This research resulted in the finding that children are the next generation of the nation and also the successors of development, namely the next generation of the nation who are prepared as subjects for implementing sustainable development and at the same time holding control of the future of a nation. , including the Indonesian people.

Keywords: Legal Protection of Employment; Underage Workers; Law No. 13 of 2003

1 BACKGROUND OF STUDY

Children as a vulnerable group have special rights due to their limitations. This makes children need protection of their rights. Youngster assurance is movements of every kind to ensure and safeguard kids and their privileges so they can live, develop, create, and take part ideally by their pridefulness, develop, create, and take an interest ideally following their respect and humankind so they get insurance from viciousness and separation. In 1989, nations on the planet, through the Unified Countries, marked the Assembled Countries Show on the Privileges of the Youngster. This Show is a Worldwide Show that controls the common, political, monetary, social, and social privileges of kids. Nations that confirm this global show will undoubtedly execute it by worldwide regulation. This is by one of the standards of worldwide regulation, in particular the guideline of Pacta Sund Chandra Gautama, the Show on the

Freedoms of the Youngster; Guide for reporting, Advancement Press Study Organization, Jakarta, p, 21 3 Article 1 section (2) Regulation No. 23 of 2002, concerning Security of Servanda Youngsters. As per this standard, an understanding is restricting like a regulation for the gatherings concurring. Despite the fact that globally numerous shows manage the assurance of youngsters' freedoms and are confirmed by numerous nations, infringement of kids' common liberties are as yet far reaching on the planet. One issue that requires unique consideration is the issue of kid work [1].

In Regulation Number 23 of 2002 concerning Kid Assurance, as per article 59, it is expressed that the public authority and state establishments are obliged and mindful to give extraordinary security to youngsters in crises, youngsters in struggle with the law, youngsters from minority and detached gatherings, kids who are taken advantage of. monetarily and additionally physically as well as dealt. Globally, the security of youngsters is managed in the 1989 Show on the Freedoms of the Kid, which requires partaking nations to give unique assurance and care to youngsters due to their physical and mental youthfulness. In Article 3 passage (2) of the 1989 Show on the Freedoms of the Kid, it is expressed that partaking nations should endeavor to guarantee that youngsters will get such security and care as is important for their government assistance, considering the expectations of kids and for this reason, will make all the stride that each kid has the intrinsic right to life and the state will ensure this to the most extreme degree of the kid's endurance and advancement [2].

Employment comes from the word labor, which in the employment law Article 1 point 2 of Regulation no. 13 of 2003 concerning Business expresses that "Work is each individual who can take care of business to create merchandise and additionally benefits either to address their own issues or for the local area." In the mean time, the meaning of work by Article 1 point 1 of Regulation No. 13 of 2003 concerning work is that business is everything connected with work previously, during, and after the commitment span. To work on the way of life, it is important to do development in various aspects. This is no exception to employment development which is carried out on the principle of integration through central and regional cross-sectoral functional coordination. Laborer security can be done, either by giving direction or by expanding acknowledgment of basic liberties, physical and specialized as well as friendly and financial insurance through standards that apply in the workplace. Every human being always needs money to fulfill their daily needs [3]. To earn living expenses someone needs to work. Work can be done independently or work for other people. Working for other people can be done by working for the state, hereinafter referred to as an employee, or working for other people.

Realizing the importance of workers for companies, government, and society, it is necessary to think so that workers can maintain their safety while carrying out their work. Likewise, it is necessary to ensure workers' calm and health so that they can pay as much attention to what they encounter at work as possible so that vigilance in carrying out the work is guaranteed. These thoughts constitute a worker protection program, which in daily practice is beneficial for maintaining company productivity and stability. Specialist security should be possible, either by giving direction or by expanding acknowledgment of common freedoms, physical and specialized as well as friendly and monetary insurance through standards that apply in the workplace.[4].

Regulation Number 13 of 2003 concerning Business has supported giving over piece of the work execution to different organizations or organizations giving specialist/work

administrations, which is popularly called outsourcing. Outsourcing is an employment association in which workers/laborers are utilized in a company using a contract system, but the agreement is not given by the employing company but by the company employing the workforce. The outsourcing system includes employment relationships based on employee sending/borrowing agreements (uitzendverhouding). In this employment relationship, three parties are found, namely the company providing or sending the workforce/workers (provider), the company using the workforce/hirelings (users), and the workforce/workers. Even though outsourcing is an entrepreneur's right, those who exercise this right certainly have certain requirements and must not conflict with applicable laws and regulations. This means that outsourcing must meet the material and formal requirements that have been determined, and must not substantially reduce the normative rights of workers/laborers [5].

In 2003, an individual's more right than wrong to find a new line of work came into force. also, can work, this right is executed to understand the satisfaction and assurance of the law, to be specific by giving Regulation no. 13 of 2003 arrangements with Business, hereinafter alluded to as the Work Regulation. Every citizen has the right to work and also has the right to obtain work in return, namely a decent wage, as well as fair and decent treatment in the employment relationship, which is one of the basic principles contained in this law. This Employment Law also concerns protection. Laws regarding wages, as well as regarding the welfare of child workers, are contained in CHAPTER X, there are provisions in Article 68 to Article 75 in this chapter. In Article 68 it is determined that entrepreneurs are not allowed to employ children. Philosophically, the sole purpose of the prohibition on employing children is so that these children receive legal protection for the child's growth and development, as well as in developing his or her dignity to prepare for the child's future [6].

Security of laborers is planned to ensure the essential freedoms of laborers and guarantee uniformity of chance and treatment without separation on any premise to understand the government assistance of laborers and their families while as yet focusing on improvements in the business world. 11 Extent of assurance for laborers/workers as indicated by Regulation Number 13 of the Year 2003 concerning Business, including 1) insurance with respect to wages, government assistance, and federal retirement aide for laborers; 2) insurance of word related wellbeing and wellbeing; 3) legitimate insurance for shaping and becoming individuals from laborers/worker's guilds; 4) insurance of the essential freedoms of laborers/workers to haggle with managers. Labor law (Law No. 13 of 2003) is established as a legal umbrella for the field of industrial relations and is engineered to maintain order, as well as social control, primarily providing a basis for rights for production actors (goods and services), apart from being a legal umbrella for projected labor law. for tools in building partnerships[7].

Children are the next generation of the nation and also the successors of development, namely the next generation who are prepared as subjects for implementing sustainable development and are also in control of the future of a nation, including the Indonesian nation. Children are not meant to be employed, but children must also receive special guidance and guidance from parents so that children can grow and develop like normal children who grow up intelligent and completely healthy. Children are a gift from God Almighty as the nation's next generation who are still in their physical and mental development period. In Law Number 13 of 2003 concerning Employment, hereinafter referred to as the Employment Law, Article 1 states that children are all people under the age of 18 (eighteen) years. So if we look at child psychology, the child's highly curious nature certainly requires special attention from the child's

parents in looking after their child. Workers are referred to as residents who are already working or currently working who are looking for work and who are also carrying out other activities such as the academy.[8].

2 Methodology

This research is Normative research. The approaches used are a statutory approach and a conceptual approach. The data source used is secondary data. Data analysis was carried out descriptively qualitatively [9]. Concluding is carried out using a deductive method, namely concluding from general to specific, especially those related to the research topic, namely Legal Protection of Employment of Underage Workers in the Perspective of Law no. 13 of 2003. Qualitative data analysis is carried out if the empirical data obtained is a collection of words and cannot be arranged into categories. Data can be collected in various ways (interview observations, document instances, and recording tapes). It is usually processed first before being used in qualitative research, including the results of interview transcripts, data reduction, analysis, data interpretation, and triangulation.[10].

3 RESULTS AND DISCUSSION

3.1 Implications of Legal Protection for Employment of Underage Workers in the Perspective of Law No. 13 of 2003

In the form of violations regarding the child's work requirements, it is not solely caused by the fault of the entrepreneur or the person employing the child, but it could also be due to the child worker or the child's parents' guardians who want the conditions as stipulated to be not fulfilled in the provisions of Article 69 paragraph (2) of the Manpower Law. For example, if there is no written permission from the parents, or guardians, regarding working hours, whether wages are received by applicable regulations, regarding overtime pay, here the child's parents must know how the work will be carried out by the child, whether it will not interfere with the child's development, both physically, mentally, and socially. Therefore, it can be said that it is important for parents or guardians to fulfill the above requirements because if these written requirements are not fulfilled, it will certainly violate the provisions of Article 69 paragraph (2) letter (a) of the Employment Law and this is a violation of work requirements, in employing children who may be subject to sanctions as regulated in the provisions of Article 185 of the Manpower Law which provides sanctions for parties who violate those referred to in these provisions may be subject to imprisonment for a minimum of 1 year and a maximum of 4 years and/or may be subject to a fine of up to a minimum of 100,000,000 rupiah and a maximum of 400,000,000 rupiah[1].

To safeguard the wellbeing of laborers/workers to acknowledge ideal work efficiency, word related security and wellbeing endeavors are done. This protection is carried out by applicable laws and regulations. To realize work safety protection, the

government has made efforts to develop norms in the field of employment. In terms of norm development, this includes the meaning of establishing, implementing, and monitoring the norms themselves. Labor law in providing protection must be based on legal aspects from an ideal perspective realized in autonomous laws and regulations. According to Article 102 paragraph 2 of Law no. 13 of 2003, in essence, workers carrying out industrial relations are obliged to carry out work for the sake of continuing production, advancing the company, and on the other hand, receive rights as appreciation for carrying out their duties [11].

Juridically, based on Article 27 of the 1945 Constitution, the position of workers is the same as entrepreneurs, but socio-economically, the position of the two is not the same because the position of entrepreneurs is higher than workers. Legal protection is always related to power. Two powers are consistently a worry, in particular government power and monetary power [5]. About government power, the issue of legitimate insurance for individuals (who are represented) and the public authority (who administers). There are a few objects of work security directed in Regulation Number 13 of 2003 concerning Business, for this situation, what is being read up is exceptional insurance for female specialists with regards to leave and wages. Legitimate security for female specialists, particularly in regards to leave, is directed in Article 76 to Article 83 of Regulation Number 13 of 2003 concerning Work, and pay assurance is managed in Article 88 to Article 98 of Regulation Number 13 of 2003 concerning Business. specialist/worker wellbeing to acknowledge ideal work efficiency, word related security, and wellbeing endeavors are done [12].

Kid Security, hereinafter alluded to as (Youngster Assurance Regulation), expresses the meaning of a kid, as follows, "A kid is somebody who isn't yet 18 (eighteen) years of age, including kids who are still in the belly." Then, at that point, the ILO Show Number 138 manages the base age for an individual to work. In the Work Regulation, the exemption for kid work is, "It is feasible for youngsters matured between 13 (thirteen) to 15 (fifteen) years to accomplish light work as long as it doesn't disrupt physical, mental and social turn of events and wellbeing." The philosophy of prohibiting children from working or employing children as regulated in the Employment Regulation is firmly connected with endeavors to safeguard common liberties, whose security is additionally ensured in Regulation Number 39 of 1999 concerning Basic freedoms. in accordance with the arrangements of article 52 passage 1 of Regulation no. 39 of 1999 concerning Common liberties, which discovers that each kid has the privilege to security by guardians, family, society and the state[2].

3.2 The Urgency of Legal Protection for Employment of Underage Workers in the Perspective of Law No. 13 of 2003

Many factors cause a child who should be able to play and enjoy his childhood to have to work. These factors can come from parents who are unable to meet the family's needs, or perhaps also social influences such as the surrounding environment which regulates children to develop a work ethic from an early age. Child labor is defined as children aged 4-18 years who work in various fields of work which can take up all their time for studying, playing, and growing. Legal protection for child labor is realized in

the form of restrictions on forms of work that are prohibited for child labor. Legal protection will maintain the existence of a child along with its position as a legal subject. Efforts to protect children must be carried out as early as possible, from the time the child is in the womb until they reach the age of 18 years. The law puts the commitment to safeguard kids in view of the rule of non-segregation, the guideline of the wellbeing of the kid, the standard of the right to life or endurance, and the guideline of advancement and regard for the kid's perspectives. Kid assurance is partitioned into two sections, in particular juridical and non-juridical youngster security [13].

This protection is carried out by applicable laws and regulations. To realize work safety protection, the government has made efforts to develop norms in the field of employment. In terms of norm development, this includes the meaning of establishing, implementing, and monitoring the norms themselves. On this basis, Law Number 1 of 1970 concerning Work Safety was issued, as a replacement for the previously existing regulations in the field of work safety, namely Veilegheids Regulation Stbl Number 406 of 1910, which was deemed no longer by the progress and development of employment issues. Realizing the importance of workers for companies, government, and society, it is necessary to think so that workers can maintain their safety while carrying out their work. Likewise, it is necessary to ensure workers' calm and health so that they can pay as much attention to what they encounter at work as possible so that vigilance in carrying out the work is guaranteed [11]. These thoughts constitute a worker protection program, which in daily practice is useful for maintaining company productivity and stability. Laborer security can be done, either by giving direction or by expanding acknowledgment of basic liberties, physical and specialized as well as friendly and financial insurance through standards that apply in the workplace.

According to Article 1 point 23 of Law Number 13 of 2003, a strike is an action of workers/laborers that is planned and carried out jointly and/or by a trade/labor/labor union to stop or slow down work. In principle, a strike is a basic right of workers/laborers and trade/labor unions carried out legally, orderly, and peacefully as a result of failed negotiations as stated in Article 137 of Law Number 13 of 2003. What is meant by failed negotiations is Failure to reach an agreement to resolve an industrial relations dispute can be caused by one of the parties not wanting to negotiate or the negotiations have reached an impasse [14].

A child with a level of thinking that is not as mature as an adult, sometimes a child behaves carelessly and acts based on his feelings, thoughts, and desires, but the surrounding environment has a big influence in shaping the child's behavior. Guidance, guidance, protection, and motivation from parents, teachers, and other adults are very much needed in the process of developing a child's identity. A family is a group or collection of individuals who live together as a single unit or the smallest unit of society. Families are headed by a head of household and often consist of members who are related by blood, marriage, or other means.. Children are an important part of the family who require special care and protection and are still dependent on the help and assistance of adults, especially in the first years of life. The growth development and welfare of children will be disrupted if the rights inherent in children are not fulfilled properly. [8].

The state's obligation to facilitate and protect citizens so that they can earn an income with a decent standard of living so that they can meet their living needs fairly based on

human dignity, provide legal protection in the field of employment through legal instruments that regulate legal protection for children involved in work relationships and other forms of work through articles 68 to 74 as explained above. Meanwhile, children who do work outside the employment relationship are regulated by Article 75 of the Manpower Law which mandates the Government to take action against children who are employed and the worst job with more technical guidelines. Law enforcement efforts in the context of child protection related to work relations as stated in article 68 "Employers are prohibited from employing children[15]".

4 CONCLUSION

1. Children are the next generation of the nation and also the successors of development, namely the next generation who are prepared as subjects for implementing sustainable development and who are also in control of the future of a nation, including the Indonesian nation. Children are not meant to be employed, but children must also receive special guidance and guidance from parents so that children can grow and develop like normal children who grow up intelligent and completely healthy. Children are a gift from God Almighty as the nation's next generation who are still in their physical and mental development period.
2. Employment law is all matters relating to labor before, during, and after the period of employment. In order to improve the standard of living, it is necessary to carry out development in various aspects. This is no exception to employment development which is carried out on the principle of integration through central and regional cross-sectoral functional coordination.
3. Regulation Number 23 of 2002 concerning Kid Security as per article 59 states that the public authority and state establishments are obliged and dependable to give unique insurance to youngsters in crises, kids in struggle with the law, youngsters from minority and detached gatherings, kids who are monetarily and additionally physically took advantage of and who are dealt. Globally, the assurance of kids is managed in the 1989 Show on the Privileges of the Kid, which requires partaking nations to give unique security and care to youngsters due to their physical and mental adolescence.

5 SUGGESTION

1. Regulations in Indonesia, especially regarding child labor, have not been regulated separately, so legal protection is inadequate, especially in terms of law enforcement regarding child labor if there is a legal violation of the child's rights, whether physical violence or non-fulfillment rights of the child in terms of wages and in terms of exceeding working hours. Regarding the regulation of child labor, it should be more comprehensive to minimize the opportunity for legal violations of children's rights to occur in a separate legal regulation.

2. The government as a legal administrator must be able to control every existing industrial activity. For this reason, Law No. 13 concerning Employment was enacted. Law Number 13 of 2003 concerning Manpower also regulates the process of resolving industrial relations disputes, one of which is through the negotiation process. However, when the negotiation process fails and an agreement is not reached, workers can exercise their right to strike.
3. The parent or guardian who enters into the agreement and the production house as the party that requires labor or creativity from the child must know more about and pay more attention to the provisions contained in the Labor Law, especially regarding child labor itself.

References

- [1] Sudrajat, "Perlindungan Hukum Terhadap Anak Sebagai Hak Asasi Manusia Dalam Perspektif Sistem Hukum Keluarga Di Indonesia," *Kanun J. Ilmu Huk.*, vol. 03, pp. 19–27, 2011.
- [2] dan M. B. S. Angkasa, Saryono Hanadi, "Model Peradilan Restoratif Dalam Sistem Peradilan Anak," *J. Din. Huk.*, vol. 9, pp. 21–32, 2009.
- [3] A. Kahfi, "Perlindungan Hukum terhadap Tenaga Kerja," *J. Jurisprud.*, vol. 3, pp. 1–15, 2016.
- [4] W. Muhammad, "Perlindungan Hukum Tenaga Kerja Kontrak dalam Perjanjian Kerja Waktu Tertentu berdasarkan Undang-undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan," *J. Huk. Khaira Ummah*, vol. 12, pp. 32–45, 2017.
- [5] Suhartoyo, "Hukum Bagi Buruh Dalam Sistem Hukum Ketenagakerjaan Nasional," *Administrative Law Gov. J.*, vol. 1, pp. 17–27, 2019.
- [6] Imran, "Penegakan Hukum Terhadap Tindak Pidana Penyalahgunaan Narkotika Yang Dilakukan Oleh Anak," *Indones. J. Crim. Law*, vol. 03, pp. 31–43, 2020.
- [7] Cabrita, "Intellectual Capital and Business Performance in Portuguese Banking Industry," *Int. Technol. Manag.*, vol. 03, pp. 47–58, 2009.
- [8] I. Hermanda, "Penerapan Mediasi Penal Dalam Penanganan Kasus Tindak Pidana Yang Dilakukan Oleh Anak," *J. Publ. Depok Univ. Indones.*, vol. 55, pp. 23–33, 2012.
- [9] L. J. Moleong, *Metodologi Penelitian Kualitatif*, 7th ed. Bandung: PT. Remaja Rosdakarya, 2004.
- [10] Amirudin, *Pengantar Metode Penelitian Hukum*, 1st ed. Jakarta: PT Rajawali Press, 2010.
- [11] C. Ramadhani, "Perlindungan Hukum Tenaga Kerja Pada Perjanjian Kerja Outsourcing," *MEDIA LAW SHARIA*, vol. 2, pp. 19–33, 2020.
- [12] Maimun, *Hukum Ketenagakerjaan Suatu Pengantar*, 1st ed. Jakarta: PT Prajna Paramita, 2007.
- [13] Susanti, "Strategi Pencegahan Perilaku Negatif pada Anak-Anak sebagai Akibat Tayangan Televisi dan Model Tayangan Edukatif untuk Anak-Anak," *Semin. Nasional, Implementasi Sist. Manaj. Kualitas ISO 9001-2008 dan IWA 1 dalam Upaya Meningkatkan. Kualitas Dosen dan Mhs. Fak. Ekon. UPN*, vol. 03, pp. 12–31, 2009.
- [14] Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*, Second Edi. Jakarta: Sinar Grafika, 2009.
- [15] Soedardji, *Hukum Ketenagakerjaan di Indonesia: Panduan bagi Pengusaha, Pekerja, dan Calon Pekerja*, 2nd ed. Jakarta: Pustaka Yustisia, 2008.