

CHAPTER ONE

INTRODUCTION

A. Background

Child Labor is a work performed by a child that is likely to interfere with his or her education, or to be harmful to their health or physical, mental, spiritual, moral or social development.¹ Child labor case is not a case that has just emerged. This case has been around for a long time since 1369² and has claimed the rights of children throughout the world to grow and develop for a child. Child labor cases have been happened throughout the world to children with economic, cultural and poor law enforcement background.³

In general, child labor is a serious problem⁴, especially in countries with developing states or countries with weak economies,⁵ as shown in Child Labor Global Database released by UNICEF and updated in November 2017.

¹Athena K. Ramos, 2018, "Child Labour in Global Tobacco Production: A Human Rights Approach to an Enduring Dilemma", *Health and Human Rights Journal*, Vol. 20, No.2, p. 2.

²Concern Worldwide, Child Labour, p. 6, 2017.

³Concern Worldwide, Child Labour. 11, 2017.

⁴ Harrison Kwame Golo, Lucy Effeh Attom, Emmanuel Brew, Isaac Eshun, 2018, "Human Rights Issues of Child Labour and Economic Activities: The Way Forward", *American Journal of Social Science Research*, Vol. 4, No.2, Page 2.

⁵Anjana Verma, 2018, "Child Labour: The Effect on Child", *International Journal of Advanced Educational Research*, Vol. 3 No.83, P. 85.

GLOBAL DATABASES
[data.unicef.org]

Child labour

Last update: November 2017

Countries	Child labour (%) ^a										
	Total	Male	Sex Female	Urban	Place of residence		Poorest	Second	Wealth quintile		
						Rural			Middle	Fourth	Richest
Finland	-	-	-	-	-	-	-	-	-	-	-
France	-	-	-	-	-	-	-	-	-	-	-
Indonesia	7 x,y	-	8 x,y	-	-	-	-	-	-	-	-
Japan	-	-	-	-	-	-	-	-	-	-	-
Myanmar	9 y	10 y	y	9 y	y	7 y	10 y	y	-	-	-

Notes: - Data not available
x Data refer to years or periods other than those specified in the column heading. Such data are not included in the calculation of regional and global averages.
y Data differ from the standard definition or refer to only part of a country. If they fall within the noted reference period, such data are included in the calculation of regional and global averages.
^a Data from the fourth round of MICS (MICS4, 2009–2012) included in the table have been recalculated according to the indicator definition used in MICS3 surveys, to ensure cross-country comparability. In this definition, the activities of fetching water or collecting firewood are classified as household chores rather than as an economic activity. Under this approach, a child would have to be engaged in fetching water or collecting firewood for at least 28 hours per week to be considered as a child labourer.
* Data refer to the most recent year available during the period specified in the column heading.
KFR: Key Findings Report

Based on data from UNICEF, it is clear that this number is a quite alarming. One of the countries with this alarming number is Indonesia despite the fact that the country should be able to protect the rights of all children to grow well and be protected from all harmful aspects. Not only the data released by UNICEF, according to the results of the Child Labor Survey (SPA) conducted by the Indonesian Statistics Agency (BPS), in 2009 the number of children aged 10-17 years in Indonesia amounted to around 35.7. Of about 3.4 million or 10 percent of it is a standard definition that is said to work.⁷ Furthermore, according to data released by the National Labor Force Survey (SAKERNAS) conducted by the Central Statistics Agency (BPS) in 2017

⁶ X Data refer to years or periods other than those specified in the column heading. Such data are not included in the calculation of regional and global averages. Y Data differ from the standard definition or refer to only part of a country. If they fall within the noted reference period, such data are included in the calculation of regional and global averages. Global Database on Child Labour, UNICEF, from <https://data.unicef.org/topic/child-protection/child-labour/>, accessed on April 6th 2019 at 21:26 PM.

⁷Badan Pusat Statistik, Survey Pekerja Anak Indonesia 2009, Jakarta, Indonesia, 2010, page 27.

showed that an increase of 6.99% had previously decreased the number in 2012-2015⁸.

Even more worrying is the results of a survey conducted by the Indonesian Central Statistics Agency (BPS) which shows that the average working hours for these children is 27 hours a week. This case indicated a violation on Indonesian Labor Law No. 13 of 2003. Even though a child can do work, a child can only do light work and have a limit of working hours in a day or even a week.⁹

The cause of why underage children work is poverty and lack of education which leads to socio-economic problems¹⁰ This notion has been supported by data from the Central Statistics Agency (BPA) which shows an increase of 11 to 12% over the years.¹¹ The problem of poverty, which is one of the main factors in the occurrence of this problem in Indonesia, is influenced by parents who allow and even force their children to work in order to help a minimum family income.¹²

⁸Profil Anak Indonesia 2018, Tri Windiarso, Al Huda Yusuf, Ambar Dwi Santoso Setio Nugroho, Siti Latifah, Riyadi Solih, Fera Hermawati, Lukmi Ana Purbasari, Anita Rahmawatiningsih, Indonesia: Kementerian Pemberdayaan Perempuan dan Perlindungan Anak (KPPPA), 2018, page 160.

⁹Sabiha Hussain, 2015, A Lost Childhood in the Aroma of Agarbatti: The Case of Female Child Labour in North India”, *International Journal of Sociology of the Family*, Vol. 41, No.1, p. 38.

¹⁰Idris Isyaku Abdullahi, Zaleha Mohd Noor, Rusmawati Said, Ahmad Zubaidi Baharumshah, 2016, “Does Poverty Influence Prevalence of Child Labour in Developing Countries?”, *International Journal of Economics and Financial Issues*, Vol. 6, p. 8.

¹¹Dayang Haszelinna binti Abang Alia, G. Reza Arabsheibani, 2016, *Child Labour in Indonesia*, Universitas Indonesia, Vol. 62, No. 3, p. 4.

¹²Dayang Haszelinna binti Abang Alia, G. Reza Arabsheibani, 2016, *Child Labour in Indonesia*, Universitas Indonesia, Vol. 62, No. 3, p. 4.

The problem of children in Indonesia doing work is a matter of safety and is also feared that their development will be disrupted.¹³ The International Labor Organization (ILO) quotes that any work that includes children's involvement does not support the development of children and does not have a negative impact to be classified as positive.¹⁴

Since the Declaration of the Rights of the Child was adopted by the UN General Assembly in 1959, countries have followed and acknowledged the moral obligation to act in the best interests of children. In France, the Child Protection Act has existed since the mid-19th century, more precisely in 1841, the Law was passed to protect children in the workplace. France, which is well aware of the importance of child protection, ratifies the law to provide a child protection system in France.¹⁵

France and Indonesia share the Civil Law system but are very different in handling child labor cases. The number of case child labor in France is very minimum.¹⁶ This can be seen from the case of minimal exploitation of children in France and government protection of children in their country is guaranteed. One of the strongest evidence with the French government that it strictly protects children in their country from becoming child laborers is to become

¹³Faten Mohammad Saad Mohammad Ridwan, Amal M. El-Dakhari, Shadia F. Mahmoud, Relation, 2018, "Relation between Child Labour and Aggressive Behaviour among School Age Children", *Egyptian Journal of Health Care*, Vol. 9, No.3, p 28.

¹⁴What is Child Labor, International Labour Organisation (ILO) from <https://www.ilo.org/ipec/facts/lang--en/index.htm>. Accessed on May 8th 2019.

¹⁵Humanium, The Protection of Children in France, from <https://www.humanium.org/en/the-protection-of-children-in-france-2/>, accessed on May 8th 2019 at 22:17 PM.

¹⁶ Global Database on Child Labour on November 2017, UNICEF, updated on November 2017. See further at <https://data.unicef.org/topic/child-protection/child-labour/>, accessed December 11th 2018, 19:28 AM.

one of the countries in 1990 that first signed and supported the ILO preamble which systematically created a program to tackle child labor. France along with the governments of Germany, Spain, Belgium, and the United States has supported and signed the ILO preamble which is known as the International Program on Elimination of Child Labor (IPEC).¹⁷

This is also reinforced by France which applies the child protection law concerned with child labour. This policy is explained in Article L211-1. The article explains: Obey to the provisions of the second sentence of Article L. 117-3, children under the age of sixteen may not be accepted or employed in the company and profession mentioned in the first paragraph of Article L. 200 -1 (*Sous réserve des dispositions de la deuxième phrase de l'article L. 117-3, les mineurs de moins de seize ans ne peuvent être admis ou employés dans les établissements et professions mentionnés au premier alinéa de l'article L. 200-1.*). One of the policies required for all providers of jobs for follows the conditions described, such as:

1. Students in general education can conduct information visits organized by their teachers or, for the last two years of their compulsory schooling, follow the order of observation according to the method determined by the decision;
2. Students who take alternative or vocational education can do, for the last two years of their compulsory school, introductory courses, application

¹⁷Global Estimates of Child Labour: Results and Trends 2012-2016, Geneva: Alliance, 2017, p. 23.

period or workplace training in accordance with the terms and conditions applied.

In all the cases mentioned above, an agreement was made between the students educational home institution and the company. There is no agreement that can be concluded with a company for the purpose of recognizing or employing a student in a place where it has been established by the supervisory authority that its working conditions are such that it affects the safety, security and health or physical or moral integrity of the people present there.

Subject to what is stated in Article L. 117-3 (paragraph 1, 2nd sentence in France Labour Code) children of both sexes may not be employed or accepted in any capacity in the institution mentioned in paragraph 1 Article L. 200-1 before being regularly released from compulsory education. The provisions in France Labor Code (*Code du Travail*) of the preceding paragraph will not prevent students from taking alternative courses from conducting preliminary or vocational training courses for the last two years of their compulsory school. These courses can only be carried out by approved commercial or craft companies or small or medium-sized companies.

With the signing of this preamble, Indonesia followed France and several of these countries after the IPEC program began in 1991. Indonesia only responded, signed and supported the movement only after the MOU was signed by the Director General of the ILO and the Minister of Employment of the Republic of Indonesia.

As a developing country with a good child protection system, Indonesia can emulate and implement a system to protect children from exploitation in any field that can endanger the future of the nation's generation. From the explanations and data that have been explained, it is interesting to make comparison of laws and actions on child protection between Indonesia and France in protecting children as the future generation from exploitation especially for commerce purpose as child labour.

B. Statement of Problems

Based on the background above the research formulates, the problem statements of this research as follow:

1. How do the laws and regulations regulate underage worker protection in Indonesia, and France?
2. What are the similarities and the differences between Indonesian and France laws and regulations in protecting children from child labour?

C. Objective of Research

1. To understand the regulation concept on child labour properties in Indonesia and France.
2. To analyse the similarities and differences between Indonesia and France laws and regulations in protecting children from the exploitation.
3. To propose suggestions and recommendations to the government through this undergraduate thesis on the rights and regulations in protection of underage workers.

D. Benefit of Research

1 Theoretically

This comparative study will give benefit in improvement of law and regulation concerning protection of children from the practices of child labour.

2 Practically

This comparative study will give a benefit to Indonesian government and related organization which regulate the rights of underage workers.