THE PROTECTION OF EDUCATIONAL RIGHTS FOR CHILD LABOUR
(A Case Study Of Child Labour At Horse Stable In Central Aceh, Indonesia)

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Abstract - Indonesia has been ratified UNCRC through a Presidential Decree No. 36 of 1990. Meanwhile, under article 68 of Law No. 13 of 2003 on Labour, provide the prohibition of the employer from employing the children, with the exception in article 69. In Central Aceh, it is a habit for horse owners to hire children. This paper aim to find the protection of educational rights for child labour in Indonesia generally according to International Human Rights Instruments; and the protection of child labour especially in case of Child Labour at Horse Stable in Takengon, Central Aceh. The research use normative empirical approach. The result found the protection of educational rights have been stated in several International Human Rights Instruments; and it is the duty of government along with family toward the protection of educational rights for child labour. It is suggested to the Indonesian government to create a monitoring body that focus on Child Labour issue. The government of Central Aceh should make local regulation regarding the educational rights for child labour.

Keywords : Central Aceh, Child Labour, Educational Rights, Horse Stable.

INTRODUCTION
A.BACKGROUND

The state are obliged to ensure a quality education and without discrimination to every citizen. Every state have obligation to fulfills and protects human rights for its citizen. In article 3 of Law No. 20 of 2003 concerning the National Education System provides: “in order to educate the nation’s life, education serves to shape the character of students and develop abilities so that the achievement of a dignified nation, with religious values, knowledge, competency, independence and responsibility”1.

Indonesia signed United Nations Convention on the Rights of the Child (UNCRC) on January 26 of 1990 and ratified it into national law on September 5 1990 through Presidential Decree No. 36 of 1990. The ratification is a manifestation of the government's commitment to guaranteeing the fulfillment of the rights and protection of all Indonesian children.

As a result of the 1989 UNCRC, child labour began to be considered as a human rights rather than a labour regulation issue2. One of many problems of children that must get special attention is the issue of child labour. This issue has become global because so many

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1Article 3 of Indonesian Law No. 20 of 2003 concerning the National Education System.
children around the world enter work at the age of school that can cause the education process did not proceed properly.

In Central Aceh, since long time ago the Gayo people dissolved in the culture of raising horses, the traditional horse racing competition was used as a people's party and a gathering place in Gayo land.\(^3\) This traditional horse race become a habit for horse owners to hire horse jockeys who are children, these labourers work to clean the stable, train horses, and also feed them. Children were employed to take care of horses in horse stable. The child labour commonly work more than 3 (three) hours in a day and did not get paid appropriately by the horse owner.

B. PROBLEM IDENTIFICATION

1. How are the educational rights for child labour regulated under International Human Rights Law and Indonesian system?
2. How is the fulfillment of educational rights for child labour working in Horse Stable in Central Aceh?

C. RESEARCH OBJECTIVE

1. To describe the protection of educational rights for child labour under International Human Rights Law and Indonesian Law.
2. To analyze the implementation of educational rights for Indonesian child labour in Central Aceh who work in Horse Stable.

D. LITERATURE REVIEW


   The United Nations Convention on the Rights of the Child (UNCRC) is a legally-binding international agreement setting out the civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities.\(^4\)

   There are 54 articles under UNCRC that set out children’s rights and how governments should work together to make them available to all children. Under the terms of

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the convention, governments are required to meet children’s basic needs and help them reach their full potential.\(^5\)

2. **Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection**

Law No. 23 of 2002 concerning Child Protection is the basis for law enforcers, especially in the protection of children, where this law confirms that the responsibility of parents, family, community, government and state is a series of activities carried out continuously for the sake of protection children's rights. The series of activities must be continuous and directed in order to ensure the growth and development of children as a whole. This action aims to realize the best life for children who are the hope for the successor of the nation that has the potential, tough, has a nationalism imbued with the existence of noble character and Pancasila values, and is willing to maintain the unity of the country.

3. **Law No. 13 of 2003 concerning Labour**

Under article 68 of Law No. 13 of 2003 concerning Labour provide that “Employers are prohibited from employing the children”\(^6\). On the other hand, there is still a gap for children to work as state in the exception of article 68 in article 69 regarding the requirements to hire the children.

**RESEARCH METHOD**

The study uses normative-empirical approach. The subject of the study is the implementation of the provisions of positive law and contracts in fact in each particular legal event that occurs in the community in order to achieve a determined goal. Normative-empirical legal research starts from the positive legal provisions that apply to the legal events in the society.

**RESEARCH FINDING**

The assertion of the rights of children to basic education contained in the Universal Declaration of Human Rights article 26 paragraph (1) which states:

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and

\(^5\) United Nations on The Rights of The Child (UNCRC).

\(^6\) Article 68 of Law No. 13 of 2003 concerning Labour.
professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit”

The state are obliged to ensure a quality education and without discrimination to every citizen. Every state have obligation to fulfill and protects human rights for its citizen. As a member of United Nation, Indonesia has a strong commitment to the promote and protect human rights for its citizen. It is shown by the willingness of Indonesian government to ratify the instruments of International Human Rights.

Indonesia already ratified some of the instruments of International human rights such as CEDAW, ICESCR and ICCPR. Instead of these International Human Rights instruments, Indonesia also ratified United Nations Convention on the Rights of the Child (UNCRC). Indonesia has the obligation to apply the ratified instruments and create its own the national law.

Under International Human Rights Law, there are various regulation toward educational rights and also child labour, such as Universal Declaration of Human Rights, UN Committee on Economic, Social, and Cultural Rights (CESCR), ILO Convention on Minimum Age for Employment, 1973 (No. 138), UN Convention on the Rights of the Child, 1989 (CRC), ILO Convention on Worst Forms of Child Labour, 1999 (No. 182).

Under Qanun Aceh No.11 of 2014 on Education, there is no regulation regarding child labour. Law No. 35 of 2014 concerning Child Protection is the implementation of the United Nations Convention on the Rights of the Child (UNCRC) which was approved by the UN General Assembly on 30 November 1989. The convention on children's rights can be categorized as affirming children's rights, child protection by the state.

Under article 32 of the UNCRC, it is stated that children have the right to be protected from all forms of economic exploitation and from any forms of work that are dangerous and disrupt their education, endanger their health or disrupt the physical, mental, spiritual, moral and social development of children. Therefore the state is obliged to determine the minimum age limit for child labor, regulate the hours and conditions of work placement, and set sanctions and punish those who violate these regulations.

In this case, Indonesia has fulfilled its obligation through Labour Law. The state has set a minimum age limit for child labor and has stipulated that children must be avoided from hazardous work conditions, but the implementation issues are a very different problem.
Horse race in Central Aceh held twice a year, on February and on August. One of the forms of child labour that exist is child labour who work in horse stable. Traditionally, the horse owner hires the child to work for them. Children work to feed horses, clean horse stables, and also train horses to prepare for a race held by the Central Aceh government. Sometimes child workers are not even paid at all when doing this work, but when a horse that is taken care of by child workers wins in a horse race, then child workers get paid. but there is no guarantee how much child labour will be paid.\textsuperscript{7}

The child was hired to work in horse stable without any work agreement\textsuperscript{8}, as long as the child labour get the permission from parent or guardian. There is no time determined how many hours the child have to work, usually the child works from 1 pm to evening on weekdays. However, when race week the child must leave the time to study at school to train horses, this is considered a consequence of work.\textsuperscript{9}

Both International and National regulations mandate the state to responsible to the fulfillment of human rights. The role of the state to finance education not only by the central government, but also by the regional government. The government is responsible for ensuring the welfare of the community and providing child protection. For this reason, in addressing the problem of child labour, efforts need to be made to empower families and communities. Family and community empowerment activities are aimed at improving the welfare for the poor families.

In Takengon, Central Aceh there is no local regulation on the education. The legal base of the education derived from Qanun Aceh No. 11 of 2014 on The Education\textsuperscript{10}. The government of Central Aceh also emphasize some steps to promote the importance of education, such as a routine dissemination and increase specific subject in school.

**CONCLUSION**

The educational rights has been set up in some regulations both International Human Rights Instrument and Indonesia Legal System. The action of Indonesian government on the ratification of UNCRC is a manifestation of the government's commitment to guaranteeing the fulfillment of the rights and protection of all Indonesian children. The 9-year compulsory education program that has been set is expected to be implemented optimally. In accordance

\textsuperscript{7}Interview with Horse Owner on March 27\textsuperscript{th} 2019.
\textsuperscript{8}Ibid.
\textsuperscript{9}Ibid.
\textsuperscript{10}Interview with Drs.Uswatuddin, Mpd as the Chief of Aceh Tengah Education Affair.
with Law No. 20 of 2003 concerning the National Education System. It has been stated that every citizen aged 7-15 years is required to attend basic education. Generally, there is no reason for children of compulsory age to have a non-school status. The main obstacle is in terms of implementation.

The protection of educational rights for child labour work in horse stable in Central Aceh still has not fully fulfilled, due to a lack of awareness of the importance of education. The protection of education rights must be supported by the government and the family with a high awareness. Education is one of the efforts to help the development of personality and the ability of each child to be able to improve the quality of life in the future. On the other hand, there are contradictions about the need for children to work to obtain prosperity because of their family's economic condition with the right of a child to receive a proper education and focus merely on education for the sake of the children’s future, but reality shows that poor parent made children lose the opportunity and the right to get education.

BIBLIOGRAPHY


