

LEGAL PROTECTION TO CHILD LABOUR: THE EFFECTIVENESS OF NATIONAL CRIMINAL LAW AND INTERNATIONAL LAW INSTRUMENT (A CASE STUDY OF INDONESIA AND CHINA)

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ABSTRACT

The research focused on legal protection to child labor in Indonesia and China. The area of the research intersects between criminal law, human rights law, labour law, international law, and as well as laws and regulations establishment. The primary objective of this research is to investigate the effectiveness of national criminal law and international instrument to provide a legal protection to child labour in Indonesia and China. It will analyze the law enforcement with its complexity concerning to the case. It will also compare similarities and differences the implementation of legal protection to child labour in Indonesia and China. Finally, it will analyze the opportunities and challenges to the effective implementation of legal protection to child labour to promote better law enforcement in both countries Indonesia and China. This research uses qualitative approach that follows a combination of three main methods: direct observations, in-depth interviews, and document analysis. This research compares the legal arrangements in two countries, China and Indonesia. This research confirms that the legal protection efforts for child labor in these two countries are specifically regulated in various laws and regulations, be it laws relating to direct employment, child protection law, social security law, law education legislation, and human rights legislation.

Keywords: legal protection, child labour, effectiveness, criminal law, international law

INTRODUCTION

The problems of labour become a special problem and challenge for developed and developing countries, especially in Asia. The labor issues are not only about human resource capacity but also closely related to the fulfillment of workers' rights in the context of human rights itself. The existing problems of human rights may include unfair job wages, inadequate facilities and employment protection, overtime, and even exploitation of under-age child. For the last—the exploitation of under-age child or child labors—in many cases is in consequence of the weak legal protection of them. With a high population, China (approximately 1,41 million people) and Indonesia (265 billion people) in the World, have the same problems regarding this child labor. The previous research concerning to rights of children as well as the basic human rights protection showed that in certain cases, the limitation of justice can be different, especially in the case of children protection (Setyaningrum and Arifin, 2019; Putri and Arifin 2018; Arifin, Rasdi, and Alkadri, 2018; Arifin, 2017a; Arifin 2017b; Ramada, 2017; Sulistiyono and Arifin 2017).

International Labor Organizations (ILO) has been released data of child domestic labour in Indonesia that showed a large number of children involved to labour activities. ILO publication on 2004 emphasized that around 700,000 children younger than 18 work in household in the country, Indonesia. ILO based on their report, highlighted that, children working situation are very serious which calls for immediate attention and support from the society at large. Nearly 20 per cent of child domestic workers work longer than 15 hours a day, while 99 per cent of them do not have even one day of weekly rest. Of those surveyed, 30.7 per cent received 125,001–150,000 rupiah (US\$13–\$16) per month in salary while minimum wage for Jakarta is 819,100 Rupiah (US\$82), and 92.8 per cent were girls (Matsuno and Blagbrough, 2010).

Based on 2014 data, Indonesia has 1.7 million child labors who mostly work in the informal sector. Of these, only 63,055 children were withdrawn from their work to be returned to school throughout 2008-2014. Based on data from the Ministry of Manpower (*Kemenaker*), large pockets of child labors are in East Java, Central Java, West Java, Banten, East Nusa Tenggara and South Sulawesi (Kompas, 2014; Ministry of Manpower, 2015).

Child Labor has been around for decades, they are spread in various countries in the world, especially in developing countries including Indonesia. The International Labor Organization (ILO) reveals that many 5-7 year olds are employed in hazardous work. In Indonesia, the Central Bureau of Statistics data shows that 1.7 children are workers. Child labor is found in almost all districts in Indonesia.

According to ILO records, at least 215 million child labors, 115 million work in hazardous places around the world. There is an increase in child labor in danger areas by 15-17 years. Nearly 60 per cent of working children in dangerous places are men. Children employ in some dangerous places such as mining, quarrying, agriculture, surveillance, household services and service industries. The use of child labor is very risky in accidents.

The issue of child labor is closely related to human rights and is not only national but international. The international community has paid serious attention to the issue of child labor. This is evidenced by the realization of international agreements set forth in various conventions, including ILO Convention No. 138 concerning Minimum Age for Employment Permitted and ILO Conventions no. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

Throughout Asia, child domestic workers have been socially acknowledged and ordinarily depended upon in families. A child's engagement as a local labor in another person's home frequently is viewed as sheltered and non-slandering, even a piece of his/her improvement procedure and isn't considered "work". Parents who send their children off as domestic workers may not know how harsh the functioning conditions can be. Remarks made by the two businesses and individuals from the overall population in nations, for example, Cambodia and Indonesia demonstrate that a substantial extent of individuals don't view the work of kids as household labors to be perilous or exploitative. In numerous archived occasions, the truth has demonstrated altogether different from the apparent thoughts (ILO-IPEC, 2004; Blagbrough, 1995). Moreover, Matsuno and Blagbrough (2010) emphasized that the real-life circumstance of child domestic workers and the all-too-often suffering many endure have long been covered up from public affront, mostly because it is an area excluded from labor laws and thus government inspection requirements due to it taking place in the personal domain.

This condition—the problem of child labor—also happened in China, in which with a population of 1.3 billion and a gross domestic product growing at an impressive rate of 10 percent per year, China has quickly become one of the largest contributors to the global market. Deng Xiaoping's reforms of the late 1970s and early 1980s vastly improved the country's standard of living and made economic development possible; unfortunately, China's remarkable growth has a dark side: the forced labor of men, women and children. The country's unique combination of Communist ideology and decentralized economic power has contributed to the use of both state-sanctioned and unsanctioned forced labor, the latter of which is perpetuated through ineffective policies, corruption, and a lack of legal enforcement. Systematic statistics on the extent of forced labor are not available due to China's repressive political system. However, news articles, reports, research, and the testimonies of past forced labors attest to the severity of the situation (Lepillez, 2014).

China Labour Bulletin (2007) emphasized that child labour in any society poses a complex challenge, one simultaneously ethical, legal and economic in nature, and China is no exception to this rule. The income generated by underage workers is often critical to a family's overall livelihood, especially in the poorer rural areas from where most such workers originate, and so identifying *culprits* who can be suitably punished under the law is not always the best way to proceed. Indeed, except in the most egregious of cases the sternly punitive approach may even be counterproductive, both by forcing this sector of the economy further underground and by pushing underprivileged families—and hence the children themselves—deeper into hardship and poverty.

Since the problem of law enforcement concerning to the protection of child labour, the citizens especially children need to make sure that the laws and regulations have been effectively implemented to solve their problems, as well as to provide the protection of human rights, promote social justice and welfare. The unfair treatments as well as the ambiguity of laws and regulations occurs incomprehensive protection (Sumardiana, 2015a; Sumardiana 2015b; Sulistiyono, 2018). Do laws and regulations consist of some provisions to protect their civil rights? Are these laws and regulations strong enough to protect the children rights especially in case of child labour? The objective of this research proposal is to answer to these questions. The proposal is intended to observe and investigate the laws and regulations in Indonesia and China in order to get a better picture on how legal protection to child labour provided in the context of human rights and social welfare.

RESEARCH METHOD

This research is a combination both empirical legal research and normative legal research, where researchers directly compare the implementation of the law relating to legal protection of child labor in Indonesia and China. This research involved two institutions, the Faculty of Law, Universitas Negeri Semarang (UNNES) Indonesia and Wuhan Law School, China especially at the Center for Labour and Social Security. The data obtained is field data and secondary data. The parties that become sources of information relating to implementation in China are Professor Shu Hong Yu, Dr. Xio Hui Ban, Mr. Tian An Meng from the Center of Labor and Social Security, Wuhan Law School, China. Data relating to Indonesia were obtained from the Ministry of Manpower, National Child Protection Commission, Study Center and Legal Clinic for Child and Women's Protection, and Study Center and Labor Law Clinics at the Faculty of Law, UNNES. This study also compares laws and regulations in both countries, namely:

The Manpower Law of Republic Indonesia, Law No. 13 of 2003 concerning Manpower

1. The Labour Law of the People's Republic of China
2. Social Insurance Law of the People's Republic of China
3. Labor Contract Law of the People's Republic of China
4. Provisions on Prohibition of Child Labour (Adopted at the 63rd Executive Meeting of the State Council on September 18, 2002, promulgated by Decree No. 364 of the State Council of the People's Republic of China on October 1, 2002, and effective as of December 1, 2002).

The activities carried out in the analysis of legal research data in addition to analyzing field information directly from observations, in-depth interviews, and document analysis, were also conducted by analyzing data through qualitative descriptive analysis of data that cannot be calculated. Legal material obtained is then discussed, examined and grouped into certain parts to be processed into information data. The results of the analysis of legal materials will be interpreted using a method of interpretation (a) systematic; (b) grammatical; and (c) teleological.

The systematic interpretation is intended to determine the legal structure in this study. Systematic interpretation (*systematische interpretatie, dogmatische interpretatie*) is interpreting by observing other legal texts. If interpreted is the articles of a law, the same provisions especially one principle in other regulations must also be used as a reference. In this interpretation, looking for provisions that are in it are interconnected as well as whether the relationship determines the next meaning. However, in an un-codified legal order relationship, referring to the system is possible as long as the systematic character can be assumed.

The grammatical interpretation (what does it linguistically mean?) that is the method of legal interpretation on the meaning of the text that is stated in the rule of law. Interpretation in this way is based on the meaning according to the use of daily language or technical-judicial eating which is common or considered standard. Grammatical interpretations in this study are

related to the meaning of the text in child labor and employment for children, whereas teleological interpretations which are interpretive methods are focused on decomposing or formulating legal norms according to their purpose and reach. Furthermore, the interpretation pressure on the facts that the rule of law contains the purpose or principle as the basis and that the purpose or principle influences the interpretation. In such interpretation also takes into account the social reality context actual.

LEGAL PROTECTION TO CHILD LABOUR: A CASE OF INDONESIA AND CHINA

According to the Bureau of Statistics of the International Labor Organization, in 1995 at least 120 million of the world's children between the ages of five and fourteen years did full-time, paid work (ILO 1996; Kebebew Ashagrie 1998). Many of them worked under hazardous and unhygienic conditions and for more than ten hours a day. This is not a new problem. In different parts of the world, at different stages of history, the laboring child has been a part of economic life.

What has increased is the awareness of and concern for children who work as laborers. This is caused, in part, by the increasing globalization of the world, which has brought not only more information about the condition of labor in different nations to academics and activists the world over, but also goods produced by children in faraway lands into the hands of consumers in high-income countries. This has, in turn, brought two very different kinds of people onto the same platform—individuals who are genuinely concerned about the plight of children in poor countries, and those who comprise the forces of protectionism in developed countries. The two have rallied together to support a variety of interventions in Third World labor markets, ranging from banning imports into industrialized nations of products “tainted” by child labor inputs, through setting international labor standards to be monitored by international organizations such as the WTO or ILO, to labeling products that involved child labor so as to give the consumer the option to boycott them.

Any such intervention is likely to have not just an impact on the well-being of children, but also spillover effects on others. It is imperative, therefore, that policy in this area be based on careful analysis and research, and not just emotion or impulse.

The literature on child labor is enormous, but it is scattered across the social sciences and piecemeal, lacking a common theoretical foundation. The aim of this paper is to provide an analytical survey of this field, keeping in mind that this is an area where the primary reason for theorizing is ultimately to influence policy.

In the policy context, child labour is understood through its legal and statistical definitions. Differences in definitions arise as the legal definition of child labour is sometimes unable to capture the grounded reality of working children. The statistical definition is then applied to fill the gap; in turn, it is not always precisely similar to the legal definition. This is accepted among international communities as a resolution in the 18th International Conference on Labour Statistics held in Geneva in 2008 (ILO, 2008:2). Legal definitions of child labour mainly refer to the international legal standards, including three influential conventions: the United Nations Convention on the Rights of the Child (hereafter referred to as UNCRC); the ILO Convention No. 138 (in 1973) concerning Minimum Age for Admission to Employment (hereafter referred to as ILO C.138); and the ILO Convention No. 182 (in 1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (hereafter referred to as ILO C.182; see also Weston and Teerink, 2005: 3-25, for further discussion on other conventions related to child labour). This section therefore first attempts to explain the definitions of four types of children's work by referring to these conventions including the definitions of child work, child labour/hazardous work, worst forms of child labour other than hazardous work, and light work.

The first category ‘child work’ constitutes “all types of paid productive activity as well as certain types of non-paid productive activity” (Fors, 2012) or any activity performed by children “falling within the production boundary of the System of National Accounts (SNA)” (ILO, 2008:4; see ILO, 2008:11-12 for further explanation on the SNA). Examples of non-paid productive activity include “production of goods for own (household) use or domestic work outside the child's own household”. The ILO, however, does not count domestic work performed by children within their own household as economic activity (Fors, 2012:571). Children who perform child work are then categorised as ‘working children’.

The term child labour, which is close to the concept of hazardous work, is defined as “work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development” (ILO & IPU, 2002:16). It also refers to the type of work stated in the UNCRC 1989, Article 32 as “work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development”. The Conventions, however, do not determine what types of work are exactly hazardous; rather, they leave it to ratifying countries to determine ‘what constitutes as hazardous’ based on their own criteria: “the child's age, the type and hours of work performed, the conditions under which it is performed and the objectives pursued by individual countries” (ILO, 2004:16; ILO, 2014:12). In determining child labour on hazardous work based on the child's age, the ratifying countries mainly refer to the Minimum Age Convention (ILO C.138 in 1973). The term “worst forms of child labour” is defined in ILO C.182 (in 1999) Article 3. It comprises:

“(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”

The first three items in Article 3 are often referred to as ‘the worst forms of child labour other than hazardous work’, while Article 3d is often equated with hazardous work. Contrasted to the concept of hazardous work is the notion of light work. It is defined in ILO C.138 (1973) in Article 7 as work which is:

“(a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.”

CHILD LABOUR IN INDONESIAN POLICY PERSPECTIVE

Indonesia has been one of the most productive countries in producing and ratifying legal foundations for child protection and for the elimination of child labour. Indonesia’s Law No. 23 (in 2002) was established as an umbrella for child protection, including children falling within the category of the worst forms of child labour. Prior to this law, Indonesia had established Law No 20 (in 1999) on Ratification of ILO C.138 (in 1973) concerning the minimum age for admission to employment. Indonesia had also established Law No. 1 (in 2000) on Ratification of ILO C.182 (in 1999) concerning the worst forms of child labour. The latter was then adopted in Law No. 13 (in 2003) on the manpower needed to combat WFCL.

Based on these regulations, the Indonesian government defines child labour as “all persons aged 5 to 17 years who, during a specified time period, were engaged in one or more of the following categories of activities: (1) worst forms of child labour, and (2) employment below the minimum age for employment or work” (Statistics Indonesia and ILO, 2010:15). In 2009 the BPS-Statistics Indonesia and the ILO Country Office Jakarta conducted the first ever Indonesian Child Labour Survey and formulated the definitions of several types of working children—as shown in Table 1.

Table 1. Framework for Statistical Identification of Child Labour

Age group	Light work	Regular work	Worst forms of child labour (WFCL)	
			Hazardous work	WFCL other than hazardous work
Children below the minimum age specified for light work: 5-12 years	Employment below the minimum age for light work	Employment below the general minimum working age	Employment in industries and occupations designated as hazardous, or work for long hours and/or at night	Children trafficked for work; forced and bonded child labour; commercial sexual exploitation of children; use of children for illicit activities and armed conflict
Children within the age range specified for light work: 13-14 years			industries and occupations not designated as hazardous	
Children at or above the general minimum working age: 15-17 years				

Source: Statistics Indonesia and ILO (2010:17)

- = denotes child labour as defined by the 18th ICLS resolution
- = denotes activities not considered child labour, and is permissible work by children
- + = denotes children in employment/working children/children’s work/child at work

Based on the framework adopted from the 18th International Conference on Labour Statistics, the Indonesian government classifies working children into two broad groups – those doing ‘permissible’ work and those engaged in ‘child labour’. The first group (marked with green colour) consists of working children in two categories: those in permissible light work, that is children aged 13-14 & 15-17 doing light work; and those in permissible regular work, that is children aged 15-17 doing regular work. These two categories of working children are not considered as child labour. The second group (marked with yellow colour) consists of four categories of working children regarded as child labour. The first category is child labour in light work, consisting of those aged 5-12 doing light work. The second category is child labour in regular work, consisting of children aged 5-12 & 13-14 doing regular work. The third category is child labour in hazardous work, consisting of all persons aged 5 to 17 engaged in industries and occupations designated as hazardous, or work for long hours and/or at night industries and occupations not designated as hazardous. The fourth category is child labour in the worst forms of child labour other than hazardous work: that is all persons aged 5 to 17 trafficked for work; forced and bonded child labour; commercial sexual exploitation of children; use of children for illicit activities and armed conflict.

However, due to the reality that child labour in ‘hazardous work’ and the ‘worst forms of child labour’ are difficult to capture in a household survey, the Indonesian Child Labour Survey 2009 considered defining child labour as “working children who are engaged in any kind of presumably hazardous work as indicated by working hour” referring to the Manpower Law No. 13 of 2003 (Statistics Indonesia and ILO, 2010:15). This means the definition of hazardous work is solely based on working hours as a proxy measure and age of child and not by the type of work children involved. This is acknowledged as one of the deficits of the survey, as the survey was then unable to reveal the evidence of child labour based on the type of children’s work. The statistical definition of child labour in Indonesia therefore consists of three categories, including: “all working children aged 5-12, regardless their working hours; working children aged 13-14 worked more than 15 hours per week; and working children aged 15-17 worked more than 40 hours per week” (Statistics Indonesia and ILO, 2010:16).

The third problem is the use of a child's age to determine child labour. The common conception of child labour is that an interconnection exists between "the determination of the child's age" and "the definition of child labour" in which the one determines the other (ILO, 2014:12). Myers (1999), however, argues that the serious weakness of defining childhood based on a specified age is that there is no universal value to distinguish between children and adults. Moreover, indicating specified ages to differentiate between the child and adult may set an unsuitable categorization of age ranges. A 17-year-old boy will be more appropriately placed in a group of 19-year-old boys rather than a group of 10-year-old boys. Elsewhere, the use of a child's age to determine child labour has also been criticized as contradictory to children's rights to participation. Child work is not only an attempt to gain economic benefit, but also relates to how children attempt to participate in their society. Ennew et.al. (2005: 51) have also argued that any attempt to remove children's rights to work is legitimate only if their need of protection is obvious. A consideration merely based on a specified minimum age is unjustifiable.

Another limitation in defining child labour is related to the notion of binary categories, which strictly segregates the world into children and adults, work and school, and work and play. This is problematic because in the global south there is no clear-cut line between children's work, play, and education/learning. For example, they move easily between work and education or between work and play (see, for example, Katz, 2004; Punch, 2003; Robson, 2004). Understandably, removing children from work will also eliminate their opportunity to fulfill their needs to play and to gain education. This is also problematic, as Bourdillon (2006) argues, as binary categories seem to neglect the areas between the extremes. On the one hand, binary categories may be able to cover extreme cases appropriately: to encourage the benefit arising from one pole and to abolish the disadvantage arising from another pole. On the other hand, binary categories may not be able to cover the problem situated along the continuum of the two extremes. A binary policy model results in disadvantages for children: they would either receive no attention or lose the benefits. Myers (2001:47) argues that policies on child labour based on binary model are difficult to apply and sometimes receive no attention of the targeted groups. The difficulties often result from the inappropriateness of the standards compared to the community and cultural practices.

Furthermore, based on Indonesian legal system and refer to Indonesian Manpower Act (Law No. 13 of 2003) specifically stated concerning to Child Labor, especially in Article 68 until Article 75 of the Manpower Act. Basically Article 68 of the Manpower Law prohibits employers from employing children, but there are exceptions in the Manpower Act which regulates the rights of child labors, as follows:

1. *Child labors who do light work*

For children aged between 13 (thirteen) years and up to fifteen (15) years, they can do light work as long as it does not disturb the development and physical, mental and social health of the child. Companies that will employ children in light work must meet the following requirements:

- a. written permission from parents or guardians;
- b. employment agreement between the entrepreneur and the parent or guardian;
- c. maximum working time of 3 (three) hours;
- d. carried out during the day and does not interfere with school time;
- e. occupational Health and Safety;
- f. the existence of a clear working relationship; and
- g. receive wages in accordance with applicable regulations.

However, there are exceptions for children who work in their family business, ie there are no things needed in letters a, b, f, and g above.

For the company who violate the requirements of the scope of light work for child labors, they can be subject to imprisonment sanctions of at least 1 (one) year and a maximum of 4 (four) years and/or a fine of at least Rp. 100,000,000 (one hundred million) rupiah and a maximum of Rp. 400,000,000 (four hundred million rupiah).

2. *Child labors who work in the workplace which is part of an education or training curriculum that is authorized by an authorized official*

Those who can work in the workplace are children who are at least fourteen (14) years old. However, the entrepreneur concerned must have several requirements for child labors working in his place, namely:

- a. given clear instructions on how to carry out work and guidance and supervision in carrying out work; and
- b. given occupational safety and health protection.

3. *Child labors who work to develop their talents and interests*

The purpose of this type of child work is so that efforts to develop children's talents and interests are not hampered in general. Entrepreneurs who employ children to develop the talents and interests of child labors must fulfill the following requirements:

- a. work is carried out under the direct supervision of a parent or guardian;
- b. working time, no later than 3 (three) hours a day, and;
- c. working conditions and environment do not interfere with physical, mental, social and school development.

For the company who violate these requirements, a criminal sanction of at least 1 (one) month and a maximum of 12 (twelve) months and/or a fine of at least Rp. 10,000,000 (ten million rupiah) and a maximum of Rp. 100,000,000 (one hundred million rupiah).

4. *Child labors who are employed together with adult workers/labors*

In this case, the child's workplace must be separated from the work place of the adult worker.

5. *Prohibition of employing and involving children in the worst jobs.*

The worst jobs include:

- a. all work in the form of slavery or the like;
- b. any work that utilizes, provides, or offers children for prostitution, the production of pornography, pornographic shows, or gambling;
- c. all work that utilizes, provides, or involves children for the production and trade of liquor, narcotics, psychotropic substances and other addictive substances; and / or
- d. all jobs that endanger a child's health, safety or morals.

Employers or parties that employ and involve children in the worst jobs can be subject to sanctions in the form of imprisonment of at least 2 (two) years and a maximum of 5 (five) years and/or a fine of at least Rp. 200,000,000 (two hundred million rupiahs) and a maximum of Rp. 500,000,000 (five hundred million rupiahs).

The obligation to protect child labor must not only be carried out by employers who employ children, but also must be done by the Government. The government is required to make efforts to control children who work outside of work relations. The purpose of these mitigation efforts is to eliminate or reduce children who work outside the work relationship. These countermeasures must be carried out in a planned, integrated and coordinated manner with the relevant agencies. Examples of children who work outside work relationships are shoe shine children, newspaper sellers, and many other child labors.

CHILD LABOUR IN CHINESE POLICY PERSPECTIVE

There is no consensus regarding the definition of child labor in the literature. Most studies adopt a stringent definition and define child labors as children in wage work. Some researchers define them as children who engage in economic production. A few researchers define child labor as all non-school and non-leisure activities of children. From this perspective, child labor would include domestic chores, such as cooking, home cleaning or caring for family members. The definition officially employed by the International Labor Organization's (ILO) depends on whether the work is harmful to a child's health or development, regardless of whether this work is economic or non-economic, market or nonmarket.

Partly because of controversy over what types of activities can be considered harmful, the definition of child labor employed by the ILO's Statistical Information and Monitoring Program on Child Labor (SIMPOC) has varied over time (Edmonds, 2008). For more detailed discussion on the definition of child labor, we refer to Guarcello et al. (2005) and Edmonds (2008).

Household chores as well as taking care of family members are unlikely to be harmful to a child's health or development, and do not affect school attendance. Thus, in this paper, we mainly focus on work outside the household for pay (cash or in kind), work in agriculture for the household, and work in a household business. More specifically, we code any child with positive time in the work category as a child labor, and also construct the variable working hours from this category alone. Nevertheless, to consider as a wide range of activities as the data permit, in Section 4 we also investigate factors associated with child time allocation to household chores and taking care of family members.

In general, the minimum age of employment is 15 years old, which is the minimum age of completion of compulsory schooling (ILO, 1973). In China, three relevant laws, namely, the Labor Law of the People's Republic of China (Article 15), Regulations Banning Child Labor (Article 2) and the Law of People's Republic of China on the Protection of Minors (Article 28), stipulate that state organs, social bodies, enterprises, institutions, nongovernmental not-for-profit organizations and private businesses are prohibited from employing children under the age of 16. 6 Employment of children under the age of 16 is referred to as using child labor. Employers who use child labor shall be fined by the labor protection authorities at the rate of 5000 yuan per month for each child labor used (Regulations Banning Child Labor, Article 6). Additionally, adolescent workers (aged from 16 to 18) are protected from any over-strenuous, poisonous or harmful labor or any dangerous operation by the Law of People's Republic of China on the Protection of Minors (Article 28). Thus, in this study we restrict our sample to children aged between 10 and 15 years.

Furthermore, according to Labour Law of the People's Republic of China (中华人民共和国劳动法), the child worker called as Juvenile Worker, and it is specifically stipulated on Chapter VII concerning Special Protection for Female and Juvenile Workers on the Law, Article 15 emphasized that "No employing units shall be allowed to recruit juveniles under the age of 16", but there is exceptional condition for certain activities and job, as stipulated at the Article 16, which stated that "Units of literature and art, physical culture and sport, and special arts and crafts that need to recruit juveniles under the age of 16 must go through the formalities of examination and approval according to the relevant provisions of the State and guarantee their right to compulsory education."

The Labour Law of the People's Republic of China also emphasized the limitation for who called as juvenile or child worker, stated that juvenile workers refer to labors at the age of 16 but not 18 yet (Article 58). Article 64 stated that, no juvenile workers shall be arranged to engage in work down the pit of mines, work that is poisonous or harmful, work with Grade IV physical labour intensity as stipulated by the State, or other work that they should avoid. Those provisions highlighted that in certain job, children are allowed to be recruited at certain job, but with very high limitation, the provisions do not prohibit full employment of children. However, the provisions strictly stated the rights for children especially concerning to compulsory education for children.

Concerning to the sanctions for illegal practices of child labours, the provision emphasized that, where an employing unit illegally recruits juveniles under the age of 16, the labour administrative department shall order it to make corrections, and impose a fine. If circumstances are serious, the administrative department for industry and commerce shall revoke its business license (Article 94). And also stated, where an employing unit encroaches upon the legitimate rights and interests of female and juvenile workers in violation of the stipulations of this Law on their protection, the labour administrative department shall order it to make corrections, and impose a fine. If harms to female and juvenile workers have been caused, the unit shall assume the responsibility for compensations (Article 95).

Beside the Labour Law of the People's Republic of China (中华人民共和国劳动法), there are also several laws that regulate concerning to Labour in China as well as Juvenile Worker or Child Labour, such as Social Insurance Law of the People's Republic of China (中华人民共和国社会保险法), Labor Contract Law of the People's Republic of China (中华人民共和国劳动合同法) Provisions on Prohibition of Child Labour (Adopted at the 63rd Executive Meeting of the State Council on September

18, 2002, promulgated by Decree No. 364 of the State Council of the People's Republic of China on October 1, 2002, and effective as of December 1, 2002).

CONCLUSION

This research shows that the regulation of child labor both in Indonesia and China is specifically regulated in various laws and regulations, not just labor legislation. The International Convention on the protection of children and also labor is the basis of reference in the arrangements in the two countries. However, child labor in these two countries is not completely prohibited. The effectiveness of the rules regarding legal protection for child labor is not to weak the rule of law but at the level of implementation. Both China and Indonesia, in practice, still find various obstacles, one of which is the lack of legal awareness, especially in suburban areas.

This research has a significant contribution to the efforts of legal protection of child labor in Indonesia. This research provides suggestions and input for policy makers in affirming legal protection for child labor in Indonesia. Through this research, it is recommended that the synchronization between statutory rules relating to child protection be important. The need to also formulate legal rules and strict sanctions relating to basic compulsory education for children, as stipulated in the compulsory education law for children in China. In addition, regular supervision of each company is very important to minimize abuse of child labor and exploitation of children.

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