



# The Role Of The Government In Enforcing Human Rights Against The Exploitation And Deficiency Of The Rights Of Children Employed To Be Street Beggars

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**Abstract.** Children are the generation that will carry on the spirit of the nation's struggle and become the human resources of the future, which will serve as the capital for the nation's sustainable development. However, in reality, child exploitation in Indonesia has developed into a complex problem and is part of a violation of human rights. The focus of this research is to explain how the law treats minors as beggars. This study uses normative legal research and legislation. The results of the research show that several causes of child exploitation are low parental income, the influence of the surrounding environment, poor education from parents, and family conflict, which causes children to lose their rights. Article 2 paragraph 1 of the Child Welfare Law Number 4 of 1979 stipulates the regulation of minors as beggars. This law states that the child's right to care, guidance, and guidance with love is a child's right, and this right is also related to nurturing the child's growth in a healthy and good family. In addition, as stated in Child Protection Law Number 35 of 2014 and Juncto Law Number 23 of 2002, adequate education and socio-economic health services can be part of legal protection for minors who are considered beggars.

**Keyword:** Exploitation, Human Right, Legal Protection

## 1 Introduction

Children are a gift and a trust from God Almighty, possessing dignity and the full qualities of humanity. Children are also the young generation that will carry on the nation, possessing a strategic role and unique characteristics and traits that ensure the continuity of the country and the nation in the future.[1] Children's rights are included in human rights as stated in the 1945 Constitution of the Republic of Indonesia and the United Nations Convention on the Rights of the Child. This is also in accordance with the provisions of the children's rights convention ratified by the Indonesian government through Presidential Decree Number 36 of 1990, which establishes general principles for the protection of children, such as the best interests of the child and protection from all forms of discrimination and violence against children. To support the implementation of children's rights in Indonesia, the Child Protection Law Number 35 of 2014 in conjunction with Law Number 23 of 2002 contains those principles. Every

country is responsible for ensuring the welfare of every citizen, including protecting children's rights. Based on the Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection, a child is a gift from God Almighty, regarded as a trust and a blessing, and is entitled to dignity rights and the rights of every individual.

As a rule of law country, Indonesia protects each of its citizens by providing an independent and neutral judicial institution. This is based on the fact that every human being is born with fundamental rights to freedom and obligations. The state and those in power must not diminish the meaning of freedom and human rights.[2] To safeguard children's rights, such as protection from violence and access to justice, legal protection for children is regulated under international and national law. Additionally, both national and international law also stipulate the protection of children as victims of violence to ensure they receive justice. In Chapter III, Section Ten, Law Number 39 of 1999 on Human Rights regulates the rights of children. Specifically in Indonesia, the phenomenon of child exploitation is becoming increasingly complex. Living as a victim of exploitation is unpleasant. According to Bellamy, several factors that contribute to child exploitation are a poor family background and inadequate or neglected education. Therefore, children will become accustomed to working in untrained ways and receiving very low and poor wages. Family is very important for children because it is the first and most significant place where they acquire knowledge, mental guidance, and personality development. The school environment and the social community where a child lives, grows, and develops will also contribute to and enhance this. Parents must be responsible for the lives and well-being of their children if they use them to beg. In addition, in relation to human rights, parents should protect and provide their children with the right to learn, play, and receive affection so that they can grow up well, healthy, safe, and comfortable. If these rights are not fulfilled, children will face difficulties in growing and developing properly. Here are the forms of exploitation against children, namely:[3]

1. Physical Exploitation

This exploitation is carried out by forcing children to work, often in jobs that are not typically performed by minors. In this situation, children are forced to work hard, sometimes to the point of threatening their lives. The perpetrator of exploitation does not hesitate to harm the child if they refuse.

2. Social exploitation

Social exploitation can lead to mental and emotional disturbances in children. For illustration, do not use inappropriate words towards a child until the child becomes traumatized and emotionally unstable. Emotions are very important during development, so disrupting them can cause a child to lose their rights.

3. Sexual exploitation

Here, sexual exploitation refers to involving minors in sexual activities that may lead to pornography and inappropriate or indecent treatment. This may happen because people take advantage of children's ignorance.

#### 4. Economic Exploitation

Parents often exploit underage children in the name of "economic needs." Here, economic exploitation means forcing children to work or do other things to meet their parents' needs, such as making them work excessively or even leading them into the world of prostitution.

## 2 Method

To produce this research material, normative legal research was used, using statutory and conceptual approaches. The legal materials used come from various sources, both primary and secondary, such as the Criminal Code to Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Apart from that, other legal sources come from scientific books, literary journals, and others. Data was collected through the literature review method, and the analysis was carried out qualitatively. After that, the data is presented descriptively.

## 3 Results and Discussion

### Child Protection in Safeguarding Children's Rights

Children are the generation that will carry on the spirit of the nation's struggle and become the human resources of the future, which will serve as the capital for the nation's sustainable development. Starting from this thought, the importance of children's growth and development must be prioritized. Unfortunately, some children do not have the same opportunity to realize their hopes and aspirations. Poor families, troubled parents, unfair treatment, or being abandoned by parents so that they cannot enjoy a decent life are all factors that increase the likelihood that many of them will not grow and develop well and receive the best education.[4] Children are one of the most vulnerable groups to experience violations of Human Rights. As stated in Article 5 paragraph (3) of Law Number 39 of 1999, which stipulates that every individual belonging to vulnerable groups is entitled to more specific treatment and protection according to their circumstances. However, the definition of vulnerable groups is not clear. According to the explanation of the article, the term "vulnerable groups" refers to the elderly, children, the poor, pregnant women, and persons with disabilities.

The essence of humanity is that individuals have rights from birth. However, it is not uncommon for the problems that occur in a person's life to escalate over time, one of which is issues related to children. The complexity of children's issues often clashes with the existing structures and systems that are already in place, functioning, and evolving within organizations and even at the national level. Because the meaning and role of children are different. "Every child has the right to survival, growth, and development, as well as protection from violence and discrimination," said Article 28 B, paragraph 2 of the 1945 Constitution.[5] This should be the foundation of the

government's commitment and the entire society to protect and fulfill children's human rights. Child protection is carried out to ensure children's rights, such as the right to live, grow, and participate optimally according to their natural circumstances and human dignity, as well as the right to be protected from violence, exploitation, and discrimination, so that children can grow up well and prosper.<sup>8</sup> However, child violence often occurs. For example, we often see underage children busking or begging; this shows that many people are still engaging in exploitation. Even the child's parents or close relatives, all of whom are family members, do that out of gratitude and financial gain.

Those who exploit children are those who allow and let children toil on the streets or outside their homes to earn money, while the exploiters benefit to meet their own living needs. Those who exploit children are usually people who live around the children, such as siblings or their parents. These people should be responsible for the safety and happiness of the children. However, what the perpetrator did to the child harmed them both physically and mentally, as well as in their growth and development, preventing them from leading a healthy life like other children who have financial stability and the affection that should be felt by their peers. Due to Law Number 35 of 2014 concerning Child Protection, as well as Article 425 of the Criminal Code regarding the Exploitation of Children for Begging, the government and legal experts must promptly address the ongoing issues affecting children.

Begging is generally defined as the behavior or activity of soliciting money in public places for any reason by influencing or relying on the sympathy of others. When used in the Great Dictionary of the Indonesian Language, the word "mengemis" or "pengemis" does not have a basic meaning but has two meanings: to ask while humiliating oneself or to beg for alms. Ways to elicit the compassion of others represent an increasingly dynamic pattern of begging to achieve its goals. Busking while begging, bringing children, pretending to be sick, disabled, or injured, and carrying a folder to ask for donations are all examples of actions that can be taken. This is clearly a deception and illegal as it aims to elicit sympathy from others to give him money.

Indonesia is a Pancasila country that prioritizes just and civilized humanity as its second principle. The desired justice must work in conjunction with fair law enforcement. The purpose of law enforcement is to create an atmosphere of justice that protects every Indonesian, which means all Indonesians, regardless of age, including justice for children. Everyone in this country is responsible for protecting children, not just certain groups. See Law Number 39 of 1999 concerning Human Rights Article 52 states that every child has the right to protection from parents, family, society, and the state. There are categories regarding children's rights, namely:[6]

1. The right to survival, the right to preserve and maintain life, and the right to obtain the highest standard of health and the best possible care.
2. The right to protection, protection from discrimination, exploitation, violence, and neglect.

3. The right to development, the right to receive education, and the right to achieve a decent standard of living for physical, mental, spiritual, moral, and social development.
4. The right to participation, the right to express opinions on all matters affecting children.

In addition, Article 26 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection regulates what parents and families should do. Parents have the responsibility to:[7]

1. Provide protection, nurture, and educate their children.
2. Pay attention to the child's growth and development according to their talents.
3. Prevent early marriage.
4. Provide character education and instill moral values.

### **Legal Protection for Children Who Are Made to Be Beggars**

Many opinions about the literal meaning of legal protection confuse the public. Therefore, an explanation of its meaning in legal science and related phenomena is necessary, which gives rise to this term, greatly assisting in determining the true meaning of legal protection. Legal protection can be defined as an effort to uphold the rights and obligations of every individual in accordance with or before the law itself, thereby avoiding deviant influences. Legal protection safeguards every legal subject through preventive measures and repressive enforcement. In addition, it has both written and unwritten forms. In other words, legal protection can be defined as the idea or function of law that is expected to ensure justice, benefit, and security.[8]

Exploitation is an action or activity carried out to gain profit and excessively utilize something without responsibility. Economic exploitation means doing something with or without the child's consent, such as working or receiving forced services, slavery or similar practices to slavery, oppression, extortion, physical exploitation, or illegally transferring or transplanting organs or body tissues, or exploiting a child's labor or abilities by others for material gain. Child exploitation can be defined as forcing children to do something without considering their physical and mental development. This can be done by families or communities. Children must be protected as soon as possible so that they can fully contribute to the development of the nation and the country in the future. In Article 2, paragraphs 3 and 4 of the 1945 Constitution and Law Number 4 of 1979 concerning child welfare, the aim is to realize the welfare of children through proper and fair treatment. "Children have the right to care and protection both during pregnancy and after birth. Children have the right to protection from environmental factors that may endanger or hinder their normal growth and development," the article states. Ensuring the well-being of children is the first step in addressing child cases.

Child exploitation still often occurs in Indonesia. This case can easily be found when someone exploits children to gain financial benefits, such as employing children

as beggars or scavengers. Exploited children can benefit the perpetrators, while the victims of exploitation will suffer. Children who are victims of exploitation should receive special attention from parents and the government because they still have a long future ahead of them to live and be children. Therefore, children's rights must be protected, but this protection varies depending on the suffering or harm experienced by the victims of child exploitation.

Perpetrators of child exploitation usually have a communicative and blood relationship with the individuals being exploited, and there is no evidence that the perpetrators forced the exploited children to become beggars when the children were questioned. As a result, the actions of the perpetrators are not tied to their actions because most of those who exploit are their parents or family members who are beggars.[9] Regarding the obstacles to law enforcement against individuals who exploit children, factors that can influence a person's decision to exploit children as laborers include the need for financial resources to meet economic and daily needs, the difficulty in obtaining good jobs, and a lack of education. Additionally, hereditary factors play a role, as parents raised in families without clear life strategies may develop a limited mindset and struggle to find employment that could improve their income. Ultimately, parents may use their children as a means to earn money for daily survival without considering the protection and fulfillment of children's rights.

According to the explanation of the various factors above that lead to child exploitation, there are also efforts to reduce the number of child exploitation perpetrators in order to prevent an increase in the number of such offenders. To mitigate the negative impact on children's welfare and the nation's progress, regulation and guidance are carried out in collaboration with social institutions and the government. By working together with the Social Service and local authorities, law enforcement (police) conducts regulation and guidance for individuals suspected of child exploitation to prevent them from repeating such actions and to serve as a lesson for others. Exploitation of children can have negative impacts, such as disturbances in children, both physically and mentally. Some effects of exploitation on children's growth are:[10]

1. Physical growth includes general health, strength, vision, and hearing.
2. Cognitive growth involves acquiring the knowledge necessary for normal life, such as literacy and numeracy.
3. Self-esteem, family bonds, feelings of being loved, and being adequately accepted are components of emotional growth.
4. A sense of group belonging, the desire to cooperate, and the wish to distinguish right from wrong are part of social and moral development.

Article 13 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection stipulates that everyone, including families through parents or other parties such as relatives, the community, guardians, care facilities, or orphanages, is obligated to provide every child with the right to receive healthy and

high-quality care. If social, educational, and health economic guarantors are not exploited by irresponsible parties. However, there are still many cases of child exploitation today. In Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 on Child Protection, Article 59 states that the government is responsible for protecting and preventing the exploitation of children.

The responsibilities of parents or families, as well as the role of the community, are very important and have a significant impact on how children are protected. In addition, to ensure adequate legal protection, the state, through the government, must do its job to protect everyone in this country, including children. Activities must be carried out continuously and purposefully with the aim of ensuring the physical and mental development and growth of children. By doing this, children can become resilient successors of the nation by upholding a sense of nationalism and embodying the noble morals contained in Pancasila to foster a sense of unity. Since the civilization of the country is used as a basis for implementing these protective measures, additional efforts are needed to carry out all these initiatives so that the results achieved are maximized. Without exception in matters of child exploitation and child protection issues, every legal violation will have legal consequences. By ensuring the rights and obligations of children, it is hoped that people will be more aware of protecting children as best as possible. There is nothing more difficult than realizing legal certainty as a manifestation of the very purpose of law itself. Therefore, to continue protecting children and prevent deviant behavior towards them as victims, legal certainty from the substance of the law is necessary.

Legal protection has two characteristics: preventive and repressive.

- a. Preventive protection
  1. Increasing awareness of the understanding of child protection laws as well as the criminal threats if violations are committed by parents against children.
  2. Providing guarantees for needs to avoid poverty.
  3. Providing adequate education.
- b. Repressive protection Repressive legal protection is the last resort, consisting of sanctions such as fines, imprisonment, and additional penalties imposed once a dispute or violation has occurred.

The enforcement of human rights in society is an additional effort that may be undertaken. Human rights are the rights granted to every person at birth and upon entering society. These rights are universal and apply to everyone without distinction of religion, race, ethnicity, culture, nationality, group, or gender. It is difficult to distinguish between humans and human rights because both complement each other. because a child has basic rights from the moment of conception. The right to life, social rights, political rights, etc. The case of child exploitation for begging is a violation of absolute rights that should be protected. The Child Protection Law Number 35 of 2014, amending Law Number 23 of 2002, provides criminal protection for parties involved in its abuse. With Article 88 of Law Number 35 of 2014, which refers to the amendment

of Law Number 23 of 2002, regulating sexual exploitation or non-exploitation of children, the government has established sanctions applicable to those who exploit children as beggars. For their own interests or those of others, they will be punished with imprisonment for a maximum of 10 (ten) years to 1 year and a fine of up to Rp. 200,000,000.00.

## 4 Conclusion

Based on the discussion in this article, it can be concluded that the exploitation of children for begging is a criminal act that violates human rights. Law Number 35 of 2014 on Child Protection and Article 425 of the Criminal Code regarding the Exploitation of Children for Begging are examples of such criminal acts. There is a need for strict and effective law enforcement to stop and eradicate child exploitation, protect children's human rights, and punish offenders to prevent similar cases in the future. The enforcement of the law is necessary due to this complex issue. Because human rights are universal rights, they must be protected without distinction of race, religion, class, or gender. Legal protection for minors who are beggars, as stated in the Child Protection Law No. 35 of 2014 in conjunction with Law No. 23 of 2002, can include adequate health services, socio-economic support, and education. There are forms of protection in the law that can be outlined in Article 44, paragraphs 1, 3, and 4, which contain protections for health. Protection in the form of education can be found in Articles 48, 50, and 53, paragraph 1, as well as social protection in Articles 55 and 56 that regulate it. In addition to the aforementioned protections, the imposition of sanctions against individuals who exploit children for the purpose of making them beg is also regulated by the government through the provisions in Article 88 of the same law, namely Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002, which states that any exploitation, whether sexual or otherwise, of children for personal gain or for the benefit of others may be subject to a maximum prison sentence of 10 (ten) years and a fine of up to Rp. 200,000,000. (two hundred million rupiah).

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