

# CHAPTER ONE

## INTRODUCTION

### A. Background of Research

Child labour has become a serious problem and challenge for every country in the world.<sup>1</sup> In many cases, child labour happens because of poverty and weak legal protection.<sup>2</sup> To protect children from child labour, the international community has taken serious attention to the child labour issue. This is proven by the realization of the international agreement on various conventions, including ILO Convention No.138 concerning the minimum age allowed to work and ILO Convention No. 182 concerning the Worst Forms of Child Labour.<sup>3</sup>

The International Labour Organization (ILO) had adopted the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 1999.<sup>4</sup> This convention was ratified by 174 countries. The contents of this convention are about prohibited hazardous work for children under 18 years old.<sup>5</sup> The prohibited work includes work with dangerous machinery or in dangerous locations, work that exposes children to physical,

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<sup>1</sup> Adegbenro A. C, Opasina F. O, Fehintola O.F, Olowookere A.S, “Predictors of Child Labour Among In-School Adolescents in a Rural Local Government Area in Oyo State, Nigeria”, *European Scientific Journal*, Vol. 13, No. 23 (2017), p. 193-205.

<sup>2</sup> Alexander Krauss, “Understanding Child Labour Beyond the Standard Economic Assumption of Monetary Poverty”, *Cambridge Journal of Economic*, Vol. 41, No. 2 (2017), p. 545-574.

<sup>3</sup> Bais Pratima, “Review on How Child Labour is Eradicate”, *Reports on Economic and Finance*, Vol. 5, No. 1 (2019), p. 55-59.

<sup>4</sup> ILO, “C182- Worst Forms of Child Labour Convention, 1999 (No. 182)”, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182), accessed on 6 November 2020 at 1:40 p.m.

<sup>5</sup> Edward Van Daalen and Karl Hanson, “The ILO’s Shifts in Child Labour Policy: Regulation and Abolition”, *International Development Policy*, Vol. 11, No. 5 (2019), p. 133-151.

psychological, or sexual abuse, and works with hazardous substances, agents, or processes.

In 2016, the International Labour Organization (ILO) has estimated that 152 million children are involved in child labour, and around 73 million children aged 5 –17 are engaged in hazardous work annually.<sup>6</sup> Approximately 5.3% in America, 19.8% in Africa, and 7.4% in Asia and the Pacific are engaged in child labour.<sup>7</sup> Child labour becomes a challenge for developed and developing countries, especially in Asia.<sup>8</sup>

With the highest population in the world, Indonesia and India have the same problems with child labour. Because the greater population will bring about a greater number of workforce. Indonesia with 265 million people resulting in difficulties in eradicating child labour cases. This is proven by a big number of child labours in Indonesia.

Based on the data from UNESCO the number of child labour in Indonesia is about 3.7%. This figure is still very far from the 0 (zero) from child labour. In order to combat the issue of child labour, the Indonesian government has made laws, policies, and regulations on the prohibition of child labour. It can be seen in Article 68 which stated that employers are prohibited from employing children.<sup>9</sup> However, based on Article 69 paragraph (1) of Law No.13 of 2003 concerning

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<sup>6</sup> ILO, 2018, *Ending Child Labour by 2025: A review of policies and programs*, Geneva: International Labour Office, p. 75.

<sup>7</sup> Ibid

<sup>8</sup> Ali Asghar S, Fatemeh Sadat F, Kiarash F, “Social Innovation Action Research for Lifestyle Improvement of Child Labour in Tehran”, <https://link.springer.com/article/10.1007%2Fs11213-021-09563-y/metrics>, accessed on 8 November 2020 at 1:50 p.m.

<sup>9</sup> Sulastrri, “Praktik Mempekerjakan Anak dalam Prespektif Hukum Islam dan Hukum Positif serta Pengaruh Perkembangan Emosi Anak”, *Psyche: Jurnal Psikologi*, Vol. 1, No. 2 (2019), p. 55-73.

Manpower, it can be excluded for children aged between 13-15 years to do light work as long as it does not interfere with physical, mental, and social development, and health. It can be concluded that child labour is allowed if the children do not perform hazardous work.

The problem of child labour is also happening in India. As the second highest population in the world after China, with 1.3 billion people, it is also difficult to eradicate child labour cases in India.<sup>10</sup> As per Census 2011, the total child population in India in the age group of 5-14 years is 259.6 million, and around 10.1 million (3.9%) of the child population are engaged in child labour.<sup>11</sup> India has made the regulation to prohibit child labour. It can be seen in Article 24 on the Indian constitution which stated that “no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.”

Pursuing this further, the factor that causes child labour is not only because of the weak legal protection. It also happens because of the education factor. Based on data from ILO, more than 42.7 million children in India are out of school. Therefore, on August 4, 2009 India passed The Right of Children to Free and Compulsory Education Act of 2009. It describes modalities of the importance of free and compulsory education for children aged 6-14 years in India.<sup>12</sup>

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<sup>10</sup> Sarkar Pratim, “An Overview on the Aspects and Magnitude of Hazardous Child Labour in the World”, *National Journal of Labour and Industrial Law*, Volume 2, No. 2 (2019), p. 40-55.

<sup>11</sup> ILO, “Fact Sheet: Child Labour in India”, <https://www.ilo.orh/newdelhi/whatwedo/publications/WCMS.557089/lang--en/.index.thm>, access on 7 November 2020 at 8:15 p.m.

<sup>12</sup> Muhammed Febrin, “Prevention of Child Labour in India: The Theory and Practice”, *International Journal of Research and Analytical Reviews*, Volume 5, No. 3 (2018), p. 763-766.

Indonesia has also takes attention in this part with the realization of policy, act, and regulation concerning education. The Minister of Education and Culture of the Republic of Indonesia has issued Regulation No.9 of 2016 concerning the Smart Indonesia Programs. This program aims to increase access for children aged 6-18 years to get educational services to support the implementation of universal middle education or 12-year compulsory education. This regulation is a continuation of the 9-year compulsory education policy in Indonesia with the hope of reducing the dropout rate among children and preventing cases of child labour.<sup>13</sup> However, the preventive and punitive measures in combating child labour in Indonesia and India are still not enough to make their countries 0(zero) from child labour.

In order to support the ILO's program to end child labour in all its forms by 2025. Indonesia and India still try to made improvements in policies, regulations, and laws to combat child labour.

From the explanations and data that have been explained, it is interesting to make a comparison on preventive and punitive measures in combating child labour between Indonesia and India.

Research on the comparative study on child labour had been conducted by Rizkita Bunga with the title "Legal Protection on Child Labour: A Comparative Study between Indonesia and France in Protecting Children from Exploitation." In her research, Rizkita Bunga discussed the protection of children from

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<sup>13</sup> Article 2 Paragraph (a) of The Regulation of the Minister of Education and Culture of the Republic of Indonesia No.9 of 2016 concerning the Smart Indonesia Programs.

exploitation and make a comparison between Indonesia and France. What distinguishes this research from Bunga's research is, it does not specifically talk about protecting children from exploitation, but furthermore it examines more broadly, namely researching on preventive and punitive measures in combating child labour in Indonesia and India.

#### **B. Statement of Problems**

Considering the research background above, the author formulated two questions to be answered, namely:

1. What are the preventive and punitive measures to combat child labour in Indonesia and India?
2. What are the similarities and the differences between the preventive and punitive measures to combat child labour in Indonesia and India?

#### **C. Objectives of Research**

1. To identify preventive and punitive measures in combating child labour in Indonesia and India.
2. To analyze the similarities and differences of preventive and punitive measures in combating child labour in Indonesia and India.
3. To propose a suggestion for a better policy regarding the issue of child labour.

#### **D. Benefits of Research**

There are some benefits of this research, namely:

1. Theoretical Aspect

This comparative study is expected to give the improvement of law and regulation in combating child labour.

## 2. Practical Aspect

This comparative study will give a benefit to the government and the related organizations, in order to give a solution to combat the issue of child labour.