

## Analysis of Legal Liability for Parents for the Actions of Children Who Work on Their Own Accord

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### Abstract

*The legal arrangements in Indonesian that address the issue of child labor protection are very clear, Law No. 35 of 2014 concerning child protection, it is emphasized that the organizers of child protection fall on parents, families, communities, governments and the state. The first burden in implementing the protection of children lies with the parents. The legal responsibility of parents, family, community, government, state to children is to provide legal protection, one from of legal protection it self is to provide legal certainly, to prevent discrimination, especially in the world of child labor, where some employers employ children. Parents and guardians must play an active role in protecting their children , who are forcec to work for the needs of the family, their rights as children must be fulfilled, namely the right to grow and develop in accordance with human rights, both physically, mentally and socially. Children as the nation's off spring must be protected from all forms of inhumane treatment, which can damage theiar physical, mental and moral values. The purpose of writing scientific journals is to better understand the extent to which parents are legally responsible for the actions of children who work on their own accord in the scientific journals research using a normative method with a conceptual approach. And using legal sources, legal materials in the form of primary, secondary and tertiary legal materials.*

### Keywords

legal analysis; criminal liability; parental responsibility; child labor



## I. Introduction

Parents are fully responsible for providing protection to their children, children can develop both physically and mentally and socially. Law of the Republic of Indonesia No.35 of 2014 on changes to the Law of the Republic of Indonesia No.23 of 2002 on child protection, Article 9 paragraph 1, every child is entitled to education and teaching in the framework of his personal development and level of intelligence in accordance with his interests and talents. This right must be fulfilled by parents as the leading organizers in the fulfillment of this right, therefore it is a legal liability for parents to their children. Furthermore, parents are obliged and responsible for:

- a. Caring, nurturing, educating and protecting their children.
- b. Develop children according to their abilities, talents and interests.
- c. Prevent marriage at the age of the child.
- d. Providing character education and planting ethical values in children.

According to Astuti et al (2019) Education is an obligation of every human being that must be pursued to hold responsibilities and try to produce progress in knowledge and experience for the lives of every individual. Education is one of the efforts to improve the ability of human intelligence, thus he is able to improve the quality of his life (Saleh and

Mujahiddin, 2020). Education is expected to be able to answer all the challenges of the times and be able to foster national generations, so that people become reliable and of high quality, with strong characteristics, clear identities and able to deal with current and future problems (Azhar, 2018).

Parents are the first and primary educators for their children, said to be the first educators because in place of parents children get education for the first time, before he gets another education. Therefore, education in the family has a great influence on the life of children in the future. Parents have a great responsibility for the implementation of education, parents cannot simply release this burden to others, in the hands of parents that education can be carried out. The educational responsibilities that must be borne by parents are as follows:

1. Nurturing and raising children is a natural drive to maintain human survival.
2. Protect and ensure the safety of both physical and spiritual from various disorders of disease and from the abuse of life and the purpose of religious life.
3. Teaching in a broad sense so that children get the opportunity to have the widest and highest possible knowledge and proficiency.
4. Happy children, both in the world and in the hereafter. In accordance with the views and purpose of human life.

According to the Law of the Republic of Indonesia No.35 of 2014 on changes to Law No.23 of 2002 on child protection Article 26 paragraph 1, letter d affirms that parents are obliged and responsible to provide character education and the cultivation of ethical values, this is in accordance with the purpose of education itself or in accordance with the formation of children's morals. The formation of morals or the formation of ethics in fact in the field of efforts to form or build ethical morals is carried out through various educational institutions through various methods that continue to be developed. This shows that morals or ethics really need to be built. Coaching turns out to bring results in the form of the formation of human persons who obey the prevailing laws and regulations. And love god's creatures. Nature, plants and all sorts of animals.

On the contrary, children who are not built morally or ethically, or left without guidance will grow up to be naughty children, disturb the peace of society, commit despicable acts, and so on. This shows that morals or ethics must be built continuously. This state of coaching is increasingly needed especially at a time when more and more challenges and temptations as a result of the advancement of science and technology for example, nowadays people easily communicate with anyone, good and bad. Because this communication tool has reached its peak. Good and bad events can easily be seen through television, internet, faximile and so on. Movies, books, entertainment venues that present a lot of maximum scenes. Likewise, illegal drugs, liquor, materialistic and hedonistic lifestyles are on the rise and all of that requires moral coaching.

With the description above we can say that coaching, moral formation is the maximum effort. Earnest in educating, practicing the various spiritual potentials contained in man. If the educational program can be implemented systematically, really measured by proven methods and systems it will produce children and people who are good morals. Here lies the function and role of parents and educational institutions with good and consistent programs and methods and systems. In other words, the formation of morals and ethics. Good character is a serious effort with tested methods and systems that parents can do and cooperate with educational institutions. Of course, at a considerable cost. That is what is meant by the Law of the Republic of Indonesia No.35 of 2014.

One of the misconceptiond views of parents in the world of education today is the assumption that only schools are responsible for their children's education, so parents give up their children's education completely to teachers in school, although it is realized that there is not much time available in each day for children in school. This assumption is of course wrong, because the education that takes place in the family is azasi, therefore, parents are the first and main educators and nature. Parents have a lot of influence and color personality of a child. Experts agree on the importance of parental or family education. Anything that happens in education will have an influence on the next life, as well as on the education he pursues in school and society.

Parents who consciously educate their children will always be required by the purpose of education, namely in the direction referred to by Article 26 of the Law of the Republic of Indonesia No.35 of 2014, namely children will grow independently and have values of life will grow independent and have aesthetic life values, values of truth, moral values and religious values, and act in accordance with these values are The embodiment of the role of parents, family as education. That children as buds, potential and the next generation of young people's ideals have a strategic role of special characteristics and traits so that parents, families, communities, governments, countries, are obliged to protect from all forms of inhumane treatment that damages the physical, moral, and social of the younger generation. That the child is the next generation of the nation and also the successor to development, namely the next generation that is prepared as the subject of implementing sustainable development, and also becomes the holder of control of the future of a nation, as well as the indonesian nation.

Children are not to be employed, or exploited in such a way, but must receive special guidance and coaching from parents, so that children can grow and develop like other normal children, growing up intelligent, fully healthy. The Child is a gift of Almighty God, so it is seen as a trust that must be accounted for in such a way, for the future of a nation. Therefore, the development of children both physical and mental must be maintained growth in accordance with the expectations of all parties. Legal liability for parents for the actions of children who work on their own accord is not as simple as parents in general imagine. The drinking age limit is about ten years of work. Without a maximum age limit. For residents who are already ten years old automatically, the working age group. If the child has been ten years old and works of his own vol will, then the person has been released from the legal responsibility of child protection.

Furthermore, the protection of children becomes so important, because the child is the successor to the life of the nation of state, and religion. So if the children who grow and develop have matured both physically and mentally then the time has come for them to replace the previous generation. In order to realize human resources in Indonesia that are quality, competitive and able as a substitute for their parents as leaders based on applicable laws and regulations, there needs to be education from early to adulthood continuously without stopping, unbroken for the survival of children based on human rights. In Law No.13 of 2003 on employment, hereinafter referred to as the Employment Act, article 1 states that the child is all persons under the age of eighteen. If this is seen as the boundary between child and adult then child labor is a working person but still between ten to eighteen years of age Other words if you are eighteen years old and above are no longer seen as child labor.

The development of the times as it is today the physical growth of the child becomes so fast, sometimes his mental growth is not balanced with his physical growth, so in the opinion of the author the limit between child labor and adult workers is more precisely twenty-one years. One of the human rights that must be fulfilled and protected by the

state is the right to the field of employment. Based on Pancasila and the Constitution of the Unitary State of the Republic of Indonesia in 1945. Article 27 paragraphs 2 and Article 28 state that accepting employment is a human right.

Based on the Law of the Republic of Indonesia No.13 of 2003 on Employment (UUTK) Article 1 number 2, which is meant by work energy is "Everyone who is able to do work to form good goods and services to meet their own needs also for the community". Guarantees of child protection have been regulated in various laws and regulations. Children must be protected according to all forms of transparency, violence, abuse. He should not work before a certain age, he should not be involved in work that can harm his health or education can also inhibit the development of his body, soul and morals, but the phenomenon that occurs is still a lot. Children's rights are ignored, for example, the number of workers among children. The term child labor can have connotations of exploiting children for their energy using a mini honor or consideration for their personality development, safety, health, and future prospects. The exploitation of children working in this study consists of three conditions, namely children who work beyond the normal hours allowed, children who earn wages below the Provincial Minimum Wage (UMP) that have been adjusted to the child's working hours and productivity, and children who do not attend school (late access to education).

Children are said to be exploited according to working hours if they are in the category, first, children who are under 15 years old use more working hours according to normal working hours then it is not allowed according to Employment Law No.13 of 2003, the limit of working hours for children who are under 15 years old is three hours per day using the estimated working day of the week. It's five days. Thus the limit of working hours allowed is an aporisma of 15 hours per week. Both children aged 15-17 working exceeded the normal hours allowed.

According to Labor Law No. 13, 2003, children aged 15 years and above have been allowed to work and have a normal working hours limit of 40 hours per week, using working hours per day 8 hours worked and weekdays are 5 days. The existence of working children is inseparable based on the presence of poor people in Indonesia and some of it is also caused by the economic environmental impact. People who are classified as poor, both who live in villages and urban areas. They are forced to work hard to improve their biological needs or improve their fate. In the citizens work long hours to receive higher in order to be able to survive. Some parents tell their children to work extra or parents harness their child's energy even if they are immature or not ready for work.

Furthermore, children have limited knowledge to protect themselves, according to various effects of existing systems, as a result so that later children can be responsible for the life of the nation and state. Every child needs to accept the opportunity to grow and develop optimally, both physical, mental and social. It is necessary to make protection efforts to realize the welfare of children, using the state's defense budget against the fulfillment of its rights without the need for discrimination.

## **II. Review of Literature**

### **2.1 Legal Liability**

Parental legal responsibility to children is any activity to guarantee and protect children from their rights in order to live, grow and develop. And participate optimally in accordance with the dignity and dignity of humanity, and get protection from violence and discrimination. The right of parental responsibility to their children lies not only in legal instruments but also lies in other instruments such as society, environment, culture and the

guarantee of a bright future. In its simplest form, a parent's legal liability to their child is to provide legal protection to the child to seek that the child's rights not be harmed complement other rights, and guarantee that children will receive what they need, in order for them to survive, develop and grow. The nature of child protection can be differentiated into two parts , namely:

a. The protection of juridical children is:

Protection in the field of public law and protection in the field of civil.

b. Child protection in non juridical fields is:

Protection in the social field, protection in the field of health and protection in the field of education.

The guarantee of implementation, accountability must be reasonable and can achieve maximum results, measurable, can be felt, can be seen by the parties involved in the protection.

## **2.2 Parents**

According to Article 1 of Law No.35 of 2014, parents are fathers and biological mothers or fathers and adoptive mothers, and According to Article 26 of Law No.35 of 2014, parents are responsible for:

a. Nurture, nurturing, educating, and protecting children

b. Develop children in accordance with their talents and interests

c. Prevent marriage at the age of the child

d. Providing character education and instilling ethical values in children.

In the event that the parent does not exist or is not known to exist, or for some reason cannot carry out his obligations and responsibilities, the obligations and responsibilities referred to in paragraph 1 may be transferred to the family carried out in accordance with the laws and regulations. Law of the Republic of Indonesia No.35 of 2014, on child protection rotating the obligations and responsibilities of child protection is parents, families, communities, local governments, central government and state. The most important obligations and responsibilities fall to the elderly .

## **2.3 Child**

According to the Law of the Republic of Indonesia No.35 of 2014, Article 1 referred to as a child is someone who is not yet eighteen years old, including a child who is still in the womb and furthermore according to Article 9 paragraph 1, every child is entitled to education and teaching in the framework of his personal development and intelligence level in accordance with his interests and talents. That children are entitled to survival, growth and development and are entitled to protection from violence and discrimination as intended by the 1945 Constitution. That children as the shoots of the nation, the potential and the next generation of the nation's struggle ideals have a strategic role, characteristics and special traits so that it must be protected from various forms of non-human treatment that results in the violation of human rights.

## **2.4 Child Labor**

In 2003 it was enacted regarding the right of a person to obtain a job, the enactment of the Act in order to realize the fulfillment of human rights to obtain work, so that humans can maintain their lives and can also grow and develop. One of the basic prinsip is that every Indonesian citizen is entitled to a job and a decent wage, getting fair treatment in employment relations. In the Employment Act Chapter X Article 68 specifies that employers should not employ children, philosophically this prohibition intends to protect

the child, in order to grow and develop in accordance with the Honor and dignity as a human being, and protection from violence and discrimination. Law of the Republic of Indonesia No.13 of 2003 on employment, Article 1 states that children are all people under the age of 18 years old then child workers are all people who work for themselves, work with others, incorporated companies whose age is under 18 years and above then no longer viewed as child labor.

### **III. Research Methods**

The research method used by the author in this legal study is Yudiris Normatif research, which is a literature study on secondary data. Normative Yudiris research methods, conducted by researching library materials or secondary data. The nature of this study is descriptive, i.e. a method used to describe or analyze a study result but not used to make broader conclusions.

### **IV. Results and Discussion**

#### **Legal Liability for Parents for the Actions of Children Who Work Based on Their Own Will**

Children are the next generation of the nation and also the successor of development, which is a generation that is prepared in such a way as the subject of sustainable development, in other words the generation of controllers of the nation's front eye. The child does not have to be employed, expogitated, but the child must be guided, so that he grows up to be an adult, independent and able to shoulder the burden of leadership in the future. The legal responsibility of parents to their children is to ensure the fulfillment of the basic rights of children, by providing facilities and infrastructure and the availability of funds and other resources so that the implementation of child protection can be realized. Every child deserves education and teaching in the framework of personal development, and the level of intelligence. In accordance with his interests and talents and has the right of protection in his educational environment. Furthermore, according to Article 15 of Law No.35 of 2014, every child is entitled to protection from:

- a. Abuse in political activities
- b. Involvement in armed disputes
- c. Involvement in social damage
- d. Involvement in events that contain elements of violence
- e. Involved in war and
- f. Sexual crimes

Republic Law No.35 of 2014 on changes to Law No.23 of 2002 on child protection has so widely guaranteed the universality of each citizen in terms of protection of the right of his child who works for the

The will itself is how the implementation of protection theoretically, intregatively integrated, still implemented and children's rights are still fulfilled both in the field of social educators and working hours only three hours per day, and only implemented during the day can be implemented, in a way parents must be proactive in making work agreements with the public . employers so that the rights of both parties can be fulfilled fairly. Parental legal responsibility to their children is the extent to which the rights of children based on human rights that can be fulfilled by the parents, both through education, historical development and so on. So that the child is sufficient and able to develop his



potential. Grow and develop according to the struggle of the nation. The child is ready to replace his parents.

As a generation of surrogates who have enough potential, of course, children are able to develop the potential of the community led by him. In Indonesia, the regulation of mastering child protection has been issued in accordance with the needs of the community. The role of the international world in overseeing the fulfillment of children's rights under the United Nations Convention on the Rights of the Child (UN) also has a positive effect on the development of children's legal protection in Indonesia. The Law of the Republic of Indonesia No.35 of 2014 on child protection affirms that child protection organizers are parents, families, governments and countries. That first, in the implementation of child protection fell for parents, but in the modern era as it is today most parents are busy with their work and start ignoring their children. Various regulations both in the Law on religious teachings, culture has been discussed a lot about child protection, but still from year to year there is an increase in violations of the law against child protection. This is exacerbated by the development of an age that is not visionary towards the protection of children themselves. Mental, spiritual and social growth and development must develop in such a way. Protected from any possibility that will harm every child. One form of child protection by realizing legal certainty for children, legal certainty for as a means to mediate discrimination against children, so that with legal certainty will have a positive effect on Indonesian children.

Protection is the provision of security, tranquility, universality, and peace in the present and in the future. The nature of child protection lies not only in its instruments but its actions also determine where parents, families, communities, governments, work together to realize legal certainty, this is a guarantee of a bright future. The author concludes from several notions of child protection is a protection that frees children from all forms of violence such as physical violence, mental, abuse of responsibility, exploitation of child labor and so on.

According to the Law of the Republic of Indonesia No. 13 of 2003 on employment, Chapter X article 68, companies are prohibited from employing children. Article 68 paragraph 1 states which provisions are referred to in Article 68 may be excluded for children aged thirteen to fifteen years. To do light work as long as it does not interfere with physical, mental and social development and health.

Then paragraph 2 states that employers who employ children in light paragraphs as referred to in paragraph 1 must meet the requirements:

1. Written permission from a parent or guardian
2. Employment agreement between employer and guardian parent
3. Maximum working time of 3 hours. Done during the day and does not interfere with school time
4. Occupational health and safety
5. There is a clear working relationship and
6. Receive wages in accordance with what is written and applicable.

When viewed from the provisions of the Law of the Republic of Indonesia No. 13 of 2003 concerning employment article 68-69, the child cannot work of his own accord. In a company without the inclusion of a parent or guardian, to obtain written permission and employment agreement between the employer and the parent or guardian. All employment agreements that have been made, must be in accordance with applicable laws and regulations. Employment law provides an understanding of an employment agreement is

an agreement between the employer or employer with the worker or worker, which contains the terms of employment, rights and obligations of the parties.

In fact, many workers who are under the age of thirteen years who have done more than three hours of work a day. As permitted by law, the consequences will disrupt school time, disrupting physical, mental and social development. Basically a minor if he is forced to work, it must be under the supervision of his master or guardian so that all his rights can be fulfilled as stipulated by the Law. Basically employers who employ children, it is prohibited according to article 68 of the labor law but there are exceptions in the provisions of article 69 paragraph 2 mentioning the use of children can be done as long as the fulfillment of the conditions that have been arranged, if the occurrence of violations is not solely caused by the fault of the employer.

Therefore, the role of a parent or guardian is needed to meet the requirements or employment agreements referred to by Article 69 of the Employment Act. In the event of a breach of the work requirements in employing a child may be subject to sanctions, as stipulated by Article 185 of the Employment Act. That can be subject to imprisonment of at least 1 year or a maximum of 4 years and or at least a fine of Rp. 100,000,000 (one hundred million rupiah) and at most Rp. 400,000,000 (four hundred million rupiah). Therefore, things that are not desirable such as work accidents, then employers cannot be blamed. If the basis of the parents or can not meet the requirements contained in the provisions of Article 68 paragraph 2 hope it with words and no attempt at coercion.

The position of parents towards their children is very strategic and or very decisive because parents are at the forefront of ensuring the realization of their child's welfare. It is the parents who provide protection to the rights of the child, which is the human right. Child protection that must be realized by parents is an activity to guarantee and protect the child and his rights, so that the child can live, Grow and develop, so that children can later participate in such a way against their nation, state and religion, according to the dignity and dignity of humanity and protected from all forms of violence and discrimination. Parents are fathers and/or biological mothers, or fathers and/or stepmothers, or fathers and/or adoptive mothers have a very strategic obligation and determine the future of their child and take full responsibility for making it happen:

- a) Nurture, nurturing, educating and protecting children.
- b) Develop children according to their interests and talents.
- c) Prevent marriage at the age of the child.
- d) Providing character education and instilling ethical values in children.

In the event that the parent, the child's family and/or guardian cannot carry out the obligations and responsibilities mentioned above the child the next responsibilities are the community, local government, central government and state. Child rights are part of human rights that must be guaranteed, protected and fulfilled by parents, families, communities, local governments, central governments, and the state. The child is the trust of Almighty God that we must maintain, educate and protect, in order to grow and develop in such a way, become adults and independent and responsible for himself, the family, the people of the nation and the state, so it is necessary for the government to provide legal protection. Children under Law No.13 of 2003 on employment are all persons under the age of eighteen. If this is seen as a boundary between children and adults, then child labor is a worker who is between the age of 10 years and under 18 years old so if the worker is already 18 years old and above then it is no longer seen as child labor.



In the current era, the growth of science and technology is very fast. Especially in communication technology, everything is easily accessible and fulfilled. So many also occur on the ground that children seem to have been skilled at getting things done. But it is actually limited by anything exemplified by these means of communication. Children must also increase their knowledge, so that the results obtained can restore the transition period from children to adults. This should be the concern of parents, although the interests and talents in children have been in such a way developed, but if their interests and talents are encouraged to develop, while others are not considered, there will be inequalities in the growth of children, with other words development in other fields need to also be considered in addition to the development of interests and talents. In the Labor Law does not pay attention to things like this, as we know what happens among child artists with a busy work schedule that must be carried out as an artist so that education, playing time is compacted in such a way on the schedule of meaning. So that his basic rights as a child become unfulfilled, if this continues until he grows up, things can happen that deviate without him knowing. Parents should not be able to see their children like that, on the one hand the child becomes a famous artist with a glittering life, abundant wealth, on the other hand his child Life is not as normal as the lives of children in general. Thus parents, families, communities should pay attention to these things, children are actually not worth employing as adults.

#### **IV. Conclusion**

The legal responsibility of parents, families, communities, governments, countries to children is to provide legal protection. One form of legal protection itself is to provide legal certainty, to prevent discrimination, especially in the world of work where some employers there are employing children. Parents or guardians should play an active role in protecting their children. Who is forced to work but his rights as a child must still be fulfilled. It is the right to grow and develop in accordance with human rights. Both physical, mental and social. Children as the buds of the nation, the successor of the nation's ideals must be protected from all sorts of inhumane forms that can damage its physical, mental and moral.

Children are entitled to protection from violence and discrimination, have the right to continue their lives and livelihoods, grow and develop reasonably, fitrah, humanely in accordance with the mandate of the Constitution of the Republic of Indonesia 1945.

Child labor is reviewed from the Labor Act contained in Chapter X on the protection of wages and the historicity of Article 68 to Article 75, where a child worker is protected in this Chapter, violations of the law, sanctions of employment agreements, are all stipulated in this article.

The nature of child protection can be divided into two parts:

- a. Child protection is juridical, consisting of the field of protection of public law and the field of civil law.
- b. Child protection is Non Juridical, divided into three parts, namely social protection, health protection and education protection.

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