



1st WIDYA KARYA INTERNATIONAL SEMINAR PROCEEDINGS

PHILOSOPHY AND SPIRITUALITY OF HIGHER EDUCATION

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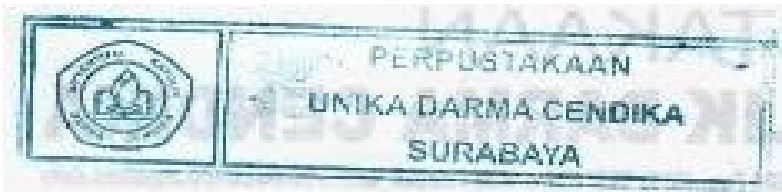


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Universitas Katolik Widya Karya

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Foreword

We offer praise to God Almighty for all the graces and gifts He has bestowed to us all so that this proceedings can be completed. These proceedings are a collection of academic papers presented during the first international seminar at Widya Karya Catholic University, on Saturday, November 5, 2016, with the theme “**Philosophy and Spirituality of Higher Education**”. The proceedings are divided into two parts: the first part contains the keynote speaker materials presented as the main papers during the plenary session, and the second part contains the papers presented during the parallel session which are the results of research and community services conducted by presenters from various professional backgrounds such as the clergy, professors from local and international universities, and practitioners. The proceedings are published after the following steps have been taken: submission and collection of abstracts and full papers, presentations, submission and collection of revisions, review and editing by a team in the seminar committee, ISBN processing, and printing. We therefore would like to thank the following for their contributions in the whole publishing process :

1. The Rector of Widya Karya Catholic University, Fr. Albertus Herwanta, MA, O.Carm, who facilitated the first international seminar with the theme “Philosophy and Spirituality in Higher Education”.
2. All participants who submitted their papers, which were the results of their ideas, research efforts and service to the community in accordance with their fields, and which were tailored to the seminar theme “Philosophy and Spirituality of Higher Education.”
3. All members of the seminar committee who gave their time, effort and thoughts for the success of the seminar.
4. The sponsors, in particular PT Seger Agro Nusantara as the key sponsor of the event.

We hope that these proceedings can benefit us all, for the development of science, technology, arts and culture. Furthermore, we hope these proceedings may become a reference for future development efforts of the country and its people.

We apologize beforehand for any inconveniences and we gladly welcome any constructive suggestions and criticisms for the perfection of these proceedings.

Malang, January 2017

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4.5. Protecting the Rights of Children Labor

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Abstract

Indonesia is a developing country that having millions of people who need jobs. The factories also need workers. There are many large-scale or household scale factories. The need for workers is also diverse, ranging from workers who work in the formal or informal fields. With varied job opportunities, children were tucked among adult workers. The ability of child workers are inadequate because they do not have the same expertise as adults who have formal school background. Formal school as the prerequisite in getting job is not being met because school hours are usually conducted during working hours. The children who work are also unable to stay in schools to improve their education level. Although education bureau prepared many programs like *Packet A, B, and C*, they are still often unattractive to child workers. The reasons are: the locations are often too far from home and the workplace so transportation costs are quite large and children usually work because of economic factors. The second reason is because the days and hours of final exams are often held during working hours. They cannot leave their jobs just because they will not be able to earn money for a few days during the exams. Child labor is unskilled worker and usually placed in a position that does not require specific skills. But the position which does not require a lot of skills is often in hazardous places. Underage workers cannot be included in workers list in the company because it would break the rules of law. When the name of the child labor is not in the list of names of the workers, the rights of workers who should be accepted will not be obtained. The elimination of those rights includes occupational safety and health. The child's future, therefore, is threatened.

Keywords: *Children, Labour, Protect, Rights*

1. Introduction

This paper is based on a small study of children who work in informal sectors. The protection of rights of child workers have been regulated in law, the implementation was different. We could find child labor in our neighborhood. This paper discussed the rights of child labor that must be protected in accordance to their specific needs as a child.

Indonesia is a developing country where people also growing with this country. Similarly, the rule of law prevailing in society. The fact, in such a country there are many sides of life untouched by the law. Although the government has become a part of the international community by doing its ratification of the United Nation convention, there are some part of them cannot be run effectively. In the ideal level, a child is the family hopes. Their expectations for the future of their family. Because there comes a time where the old people have to be replaced by younger people. The young people will be replaced by the children so that the process of growth and development of children should be the concern of the parents.

In order to children to be fully human, there are standards of security and well-being required during the growth process. If in the process of growth, there are problems

that interfere with their future, they may also be disrupted. However if all the parents and the environment can understand the need of the child's protect. So the State should exist to provide protection by issuing laws and regulations that have stood for children.

Child welfare system is a child's life to ensure growth and development with a reasonable, well spiritually, physically and socially. Based on Law number 4 of 1979 on The Child Welfare, its preamble refers to the Article 34 of Constitution 1945 says: the poor and neglected children in maintained by the state. Thus, if the provisions of Article 34 Constitution 1945 enforced consequently, the lives of the poor and neglected children will be assured. On the basis of this law, the government must provide protection. Welfare should be pursued jointly by the parents and surroundings.

The children have special needs to get protection because of the ability of children which not like an adult. The Adults psychically can consider the good or bad based on the complexity of the problem. The Adults physically can withstand with heavy occupational exposure and harm. Meanwhile the children would get many problems if the growth process frequent disturbances in physical and emotional health. Principles of Child Rights under the Convention rights of the child are:

- a. Non-discrimination
- b. Best interests of the child
- c. The right to live, survival and development

In the ordinary life could be found families who are forced or let their children work for the economic needs of the family. The inability of parents to fulfill the needs that lead the children who should be in a formal school became the children who become a worker and leave the formal school. The children's need for education and play as part of the development process is no longer preferred. The Economic needs takes preferred, so the children drop out of their school. The need for a job who could support of the family's financial will make poor families was no longer see the age of their children. Necessarily, the entire family should fulfill their need.

Some areas in Indonesia which become the industry areas often becomes the place of violation of the implementation of government rules. The financial needs are the reason for everything can be negotiate to be. The government rules only became the text that we can read but could not be applied

A worker works to earn money for a living. When the parents lack the earning, their children were deployed to looking for an additional earnings. The conditions of the children who are forced to do their job should get the same rights because it has the same liability as well as with other workers. According to Law number 13 of 2003 about

employment states that the definition of worker is someone who works for a wage or other forms of remuneration. Someone who works to produce goods and / services both for themselves and for society. Although the children's ability to do their jobs have different perform with the ability of adult workers, but they remain employed. Children do not have the experience of working so they does not give the best perform. Plus kids do not have sufficient skills because they have not completed their formal education.

But because they do not have special skills that can be obtained from the formal school child labor have no bargaining power. Child labor is considered a job that does not require skill. The absence of these skills it makes child labor can finally be placed anywhere. Ultimately what happens is a lot of children placed in the wrong place. Due to the important position always need job specific skills.

Definition of a child under the Act No. 13 of 2003 on employment is any person who is under 18 (eighteen) years. Age restrictions on children because children have special needs than adults. The special needs for the children that must be given in the form of the need for education, play and rest. Non-fulfillment of children's rights will affect the growth and developments of children optimally. Based on the handouts to tackle child labor issued by the directorate of labor divide the concept of child labor into 2 (two) sides. The division is in the form of child work and child labor.

a. Children who work doing the work because it helps parents, practice skills and learn responsibility. The indicators are:

1. Children help parents to do light work
2. There is an element of education / training
3. Children in school
4. Do at leisure time
5. Awake safety and health

b. Child labor

Kids do all kinds of work that has an intensity that can interfere with education, endanger the safety, health and growth. Indicator child labor are as follows:

- a. Kids work every day
- b. Child exploitation
- c. Children who work on a long time
- d. Disrupted school time / no school

Children who work relatively more secure because there is an element of learning from their parents. Kids began to be introduced to the work of parents and housework. The learning process is required as the process of assigning responsibility and introduce

the types of work. As the process of learning responsibility, the children still got responsibility to learn in school and do his duties. Work is only done at leisure time only.

However, the time to work is a time when the child labor should be in school. Work must produce, because if the result is not expected by the business owners, they do not get the wages. The process of working is no longer a process to learn about responsibility but have to be able to proof their responsibility. Things like that can undermine the growth process because their burden is to be placed by the parents on his shoulders. The child's right to be protected, especially as a child needs for their work is no longer considered. The existence of child labor is more likely to be exploited because they have to work every day. By working every day then they will earn revenue that can be given to the family. Child labor can be encountered in all sectors of employment.

Child labor can work both in the formal and informal employment. But the existence of child labor is more prevalent in the field of informal employment. That is because employers do not dare to enter the name of child labor in the list of workers listed in the company. If from employment bureau knew the existence of child labor, the company will receive sanctions from the government. So although their presence in the workplace, but their name are not listed. By not being listed in the list of workers, the company did not provide what the rights of these children even if they are working.

The Rights of young workers at all, protected although there has been a legally regulations that protect the rights of children or child workers' rights. The following cases may be a story not protected the rights of workers causing devastating effects. Besides child labor, there are also young workers, such as Usnan Siregar and two of them were killed, namely: Maswan and Juman when a work accident at 24.00. Ironically there are totally ignored labor conditions, such as wages, working hours, working time, workers' normative rights, social security / Astek, occupational health, safety and others. Though the place was very dangerous to the health and safety of their souls

The Child labor needs protection for their rights either as a child or children's rights as workers. According to article 74 paragraph (2) of Law No. 13 of 2003 governing the types of jobs worst for children, a job arranged a job that is part of the formal employment in a company. In order not sanctioned but still be able to employ the child, then the company does not report. On the one hand humanly, the company employs the children for helping families and the other side the children working to earn money for a living. But on the other hand, they also benefit because child labor need not obtain other rights as adult workers. Child labor have no equal pay with adult workers.

As for the other adult workers, rights of workers demanded full compliance. Child labor is not going to demand their rights as workers. There are different way as adult workers. Wages should be given to adult workers must meet wage set by the government. Adult workers often strike if their rights are not being met. With these case, employing child labor will be profitable for the company. However, not all positions can be occupied by child labor.

On one side of the labor law governing child labor restrictions but cannot completely prohibit the existence of child labor. Act No. 20 of 1999 on the ratification of ILO 138 on the minimum age for admission to employment is enforced in the territory of the Republic of Indonesia is 15 years old. In this convention states that there are some exceptions and the reasons for not following the rules of minimum age

In the United Nation Child Rights Convention which was ratified by Presidential Decree No. 26 of 1990 which states that every child is entitled to protection. One form of state protection of children, child rights international convention requires states to protect children from work that threatens the health, education and development of children. By ratifying the Convention on the Rights of children is expected that all Indonesian citizens enough to understand and carry out the role as a parent and a child's environment that supports the growth of children by protecting the interests of the child.

We need time and a very long process if we want to eliminate child labor. Because people cannot simply eliminate the idea that children do have to start to learn to work early ages in order not to be surprised while working. Until now the Indonesian people still support the assumption.

In urban communities are still many people who employ children in the household. The presumption when hiring household assistant were still young is that it can be a playmate for their children. While school time for the children, maid to clean the house and do homework other stairs. Urban people do not see that their workers also need a formal education, as well as their children. Utilization of child labor would work for the amount of money that will be sent to parents in the village. Pride for the parents in the village if their children have been able to work, earning his own and independently, even had to help their financial parents. At the time of child laborers who return to the village will attract other children to go to work in the city so that they are willing to leave their schools. They do not think that formal education very important thing. Playtime replaced the games with gadgets, similar to children in urban schools and gadget for everyday life.

But if we see the daily reality turned out to be a lot of minors working in the informal sector, such as shoeshine, newspaper seller, in fact many of them as a guide

beggar by the roadside. So much informal work that can be done by a child who needs the income to sustain the economic needs of the family.

Based on Law No. 23 of 2002 on Child Protection, namely:

- a. The right to a decent life
- b. The right to development
- c. Right to protection
- d. Right to participate
- e. The right to education

In informal employment, child labor should be easier to do the coaching. Because of the informal work that exists around us will make it easier to supervise than they work was carried out in a formal job. The person who could know the existence of child labor is the worker union. The existence of worker unions can actually be a partner for employment bureau in fostering

Elimination of child labor in the formal sector is easier to do than in the informal sector deletion. In addition to the elimination of child labor, which can be done again is if the child has bonded with his job is to make the protection of children. Legislation has arranged protection against child labor. But with there is a need for the child to them, this is also a rights for children to work. However we needed special protection for children. For example, children still need education though informally. This is necessary in order to meet the needs of children in the future. One way is to keep providing opportunities for education although it should be taken on an informal basis. However it is also not easy to do because of the absence of definitive data regarding child labor in the formal sector. It takes a shared commitment to the protection of the rights of child workers.

Based on article 1 paragraph 1 letter a of Law No. 4 of 1979 on child welfare, the well-being of the child is an order of life and livelihood of children to ensure growth and reasonable their growth with good spiritually, physically and socially. So we cannot just stop delivering the protection needs with their rules of law, but it takes more than that. Commitments for areas that have a desire to change the future of the region through improvement of upbringing and education of children it is necessary to make the technical rules of law governing so it can be more workable.

2. Conclusion

We could not only use the law as a basis to protect the rights of child labor. We also have to provide more concrete protection. Act in force should be prepared also their implementing rules so that it can be easily applied. Starting from the protection of

children's rights made the rights of child labor will also be given. If we concern for the child labor then we should also concern with their future. Their opportunities for a formal education should be back in the hands of the person who hired them by empowering them.

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