

PORTRAIT OF STREET CHILDREN EXPLOITATION AND CHILD PROTECTION IN INTERNATIONAL AND INDONESIAN LEGAL INSTRUMENTS

Haifa Annisa*

UIN Sunan Ampel, Surabaya, Indonesia

Email: hannisa604@gmail.com

Shofwan Al Jauhari

Institut Agama Islam Negeri Ponorogo, Ponorogo, Indonesia

Email: Shofwan_Jauhari@iainponorogo.ac.id

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Abstract

This article aims to analyze the exploitation practices of street children carried out by their families. Children who receive human rights protection under international legal instruments and Indonesian national law, do not have the power to exercise control and pressure from their families to carry out activities as street children. This study uses an empirical approach with data collection through interviews and observations. The results of the study showed that they became street children due to poverty, social influences of the environment, and parental divorce or domestic violence. In the next stage, they experience physical, psychological, emotional, and social disorders, while society stigmatizes and discriminates against them as delinquents which in turn can interfere with their mentality to grow up as a child. These children have been deprived of their rights and marginalized as a child, so it is necessary to innovate in serious service and handling from state actors and non-state actors. Any practice of child exploitation that may consist of criminal, sexual, financial, spiritual, criminal, sexual, financial, spiritual, or forced labor must be minimized and abolished while still paying attention to ethical, humane, and professional rules.

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* Corresponding Author.

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Introduction

International legal instruments and Indonesian national law regulate the protection of children and respect for their dignity. Universal Declaration of Human Rights (UDHR); The United Nations Convention on the Rights of the Child (UNCRC); The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);

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International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic Social and Cultural Rights (ICESCR); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2003); Recommendation 190: Recommendation on the Worst Forms of Child Labour, 1999, International Labour Organization; Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, International Convention for the Protection of All Persons from Enforced Disappearance; Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, and others.

In Indonesia, national law regulates the protection of children through the 1945 Constitution; Law No. 39 of 1999 on Human Rights; Law of the Republic of Indonesia No. 5 of 1998 on the Ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Law No. 4 of 1979 concerning Child Welfare; Law of the Republic of Indonesia No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection; Presidential Decree (Keppres) No. 36 of 1990 concerning the Ratification of the Convention on the Rights Of the Child, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, and so on.

These various legal instruments are established to protect children from violence, discrimination, harassment, and exploitation and ultimately explain these rights to prevent others from depriving children of their rights. Children are considered the next generation and have received attention from The United Nations Children's Fund (UNICEF) which has accommodated the Sustainable Development Goals (SDGs) for children, with an invitation for everyone to place, recognize, and reward children as the most marginalized and marginalized group. Children should have ample opportunities to develop optimally physically, mentally, and socially during their early developmental stages (Pringle, 2013). Children should be protected from all kinds of violence both in the real world and online cyber (Nazrul Islam et al., 2023).

Ironically, Indonesia still has poor conditions in the protection of children's human rights, 2024 data from the Online Information System for the Protection of Women and Children (SIMFONI-PPA) managed by the Ministry of Women's Empowerment and Child Protection (KemenPPPA) shows a figure of 16,333 cases (*Sistem Informasi Online Perlindungan Perempuan Dan Anak (SIMFONI-PPA) Yang Dikelola Oleh Kementerian Pemberdayaan Perempuan Dan Perlindungan Anak (KemenPPPA)*, 2024). In Indonesia, in 2018 the number of street children was 232.894 (<https://kemensos.go.id>, 2022), while in 2018, data from the Central Statistics Agency of East Java Province showed 1,911 street children (Badan Pusat Statistik Provinsi Jawa Timur, 2019). The Indonesian Child Protection Commission (KPAI) named 2,656 cases of child exploitation during 2023 (*KPAI Berikan Data Eksplorasi Anak Selama 2023*, 2024). Child exploitation cases are an important problem in protecting children's human rights (*Kemenpppa Gandeng LPA Jatim Dan DP3AP2KB Jatim Perkuat Pelaksanaan Kebijakan Pencegahan Perlakuan Salah, Eksplorasi, Dan Kode Etik Bagi Petugas Layanan UPTD PPA Dan Lembaga Layanan Mitra PPA Se-Jawa Timur*, 2024).

One form of child exploitation is street children, they work as newspaper sellers, beggars, scavengers, buskers, and so on (Ginting & Shofwan, 2021) One of the causes is urbanization which gives birth to poverty (Andi, 2022). Poverty is one of the doors for the emergence of street children that can be observed on the streets, terminals, markets, and so on. Parents bring children to the street to beg, bus, sell newspapers, clean glass, and so on, so that road users feel sorry for them and give them money (White & Tjandraningsih, 1998). It is not uncommon for street children to receive wrong treatment which results in them experiencing

violence, harassment, exploitation, infectious diseases, narcotics, drugs, sexual and so on (Stacki & Baily, 2015), in the end, they are marginalized and have no legal protection.

Street children are vulnerable to exploitation, where child exploitation is arbitrary treatment or exploitation carried out by the family or others for certain interests, such as the use of labor or physicality, sex or prostitution, or forced work to earn money, which can certainly cause suffering, and adverse effects on children (Murphy & Rasmussen, 2020). The location of street children is in the area of Traffic Lights, Bus Stops, Station Railways, Market Kiosks, City Park, Beach and so on (Hindman, 2009). The existence of street children in Indonesia can be found in big cities, one of which is the city of Surabaya, such as at the Purbaya Surabaya terminal, city parks, train stations, markets, and so on (Afrita & Wahyudi, 2024).

Previous studies on the protection of children's rights in the practice of exploitation of street children by families have been many, such as Andi Aysha Zalika Ardita Putri who found Factors Causing the Existence of Street Children Who Are Vulnerable to Exploitation (Andi, 2022). Maemunah stated that The concept of human rights of the 1945 Constitution of the Republic of Indonesia post-reform, the protection of children's laws in the world protects the rights of children in the world as valuable and protected individuals. With a street-based model, which shows how street children are handled in their place of origin. The center-based model shows how street children are handled in institutions or orphanages. And a community-based model, which shows how street children are handled by considering the full potential of the community (Maemunah, 2019). Auriel Karina S. Z and Nunung Nurwati provide an overview of the applicable regulations related to the protection of children's human rights with social conditions or the real situation of street children. He concluded that because Indonesia is less effective in handling child protection, then it can be said that the Australian system emphasizes the principle that Protecting Children is Everyone's Responsibility (Zutema & Nurwati, 2021). Finally, research conducted by Syamsul Haling et al. shows that inadequate legal protection is caused by the fact that the provisions of regulations in the field of education do not contain the necessary legal norms. Therefore, a paradigm change is needed in the concept of human rights in the field of education (Haling et al., 2018).

Research Method

Field research methods are used in describing the exploitation of street children by families in empirical research (Soejono & Abdurrahman, 1999), where the main focus is to observe what factors support the exploitation of street children by families. In this study, a sociological approach was used by conducting interviews and observations of 5 (five) street child informants at the Bus Stops in Sidoarjo which borders the city of Surabaya. The data obtained is then analyzed through data reduction, data display, conclusion-making making, and verification (Miles & Huberman, 1994).

Results and Discussions

Exploitation of Street Children by Families

Exploitation is unnatural extortion, exploitation, exploitation, and withdrawal for one's profit. The use for one's gain, exploitation, and extortion of others is an act that is not commendable. Law No. 35 of 2014 amending Law No. 23 of 2002, article 1, a child is a person who is not yet 18 (eighteen) years old, including a child who is still in the womb. Child exploitation means showing discriminatory attitudes, and arbitrary and discriminatory treatment of children carried out by society or families to force children to do things without considering

children's rights such as physical and mental growth (Putri & Nurwati, 2021). Exploiting minors means taking advantage of the child to carry out beneficial actions from an economic, social, and political point of view, regardless of the general status of the child still alive in his or her childhood (Pratama, 2020).

The purpose of child exploitation carried out by parents or other parties is to place, allow, do, order to do, or participate in labor-related or sexual exploitation of children (Article 76I of Law No. 35 of 2014 concerning child protection). Thus, it is clear that child exploitation is an act that is not commendable. This is because child exploitation has deprived children of their rights, such as getting affection and attention from parents, proper education, and age-appropriate play facilities (Nurmiati Muhiddin, 2022). Child exploitation occurs when a person uses a child for financial gain, sexual satisfaction, employment, or personal gain (Gerbaka et al., 2021). Child exploitation consists of criminal, sexual, financial, spiritual, criminal, sexual, financial, spiritual, or forced labor (Lambert et al., 2024).

The form of exploitation in research is the exploitation of labor-related activities. Where children are employed unethically to take economic benefits either in the form of money or the equivalent of money. This research is located at one of the bus terminals in Sidoarjo which borders the city of Surabaya. This study observes street children who are in the crowd of bus terminals by busking, begging, and selling. The first characteristic of the exploitation of labor-related activities can be seen from the beginning of children's involvement in activities on the streets. Where, in this study, the author conducted interviews with 5 (five) street children. Some examples include ABN who started working (begging) on the streets at the age of 2 (two) and is currently 11 (twelve) years old; 9 (nine) year old AG was involved in the sale of crackers; and MF who, at the age of 14 (fourteen), was forced to busk. In addition, various reasons underlie children's participation in street work. Their motivation to work varies greatly and is generally triggered by parental pressure, poverty conditions, and lack of income of parents/family members, as experienced by 16 (sixteen) year old RSNs (RSN, personal communication, October 24, 2023), ABN is 11 (twelve) years old (ABN, personal communication, October 24, 2023), AG is 9 (nine) years old (AG, personal communication, October 12, 2023), and MF is 14 (fourteen) years old (MF, personal communication, October 12, 2023). These children feel they are doing activities at the Bus Stops because they are forced by their parents, as seen in the case of 10 (ten) year old PRWs (PRW, personal communication, October 24, 2023), whose parents waited for an interview to accompany him on the bus to beg by giving envelopes to bus passengers. There have also been cases where a street boy, such as RSN, stated that he was involved in street work because he was invited by his uncle since childhood.

Furthermore, signs of labor-related activities exploitation can be seen through variations in the form of child utilization in the world of work, which is reflected in the type of activities they do. At the bus terminal, there are various types of activities carried out by street children. They are not limited to one type of work but rather carry out activities such as busking, begging, and selling. The density of activities at the Bus Stops is an opportunity for street children to earn income by busking and begging on various buses at the terminal, both those that are stopping and those on their way to a city.

Another characteristic of labor-related activities exploitation is related to the use of time at work, which can be seen from how often the child is involved in these activities. The results of interviews and observations show that some children work every day, spending 6-8 hours per day, as seen in the case of MF and RSN because they do not go to school. Meanwhile, in the case of ABN and PRW, they use the time to work after completing their learning activities at school, spending 4 (four) – 6 (six) hours per day, starting from 2 (two) - 7 (seven) pm, while PRW starts from 1 (one) pm - 5 (five) pm. Some cases also recorded time limits for working on

the streets. This means that there are time restrictions for children working on the streets, as experienced by ABN and PRW, who have to go home early to be able to continue learning at home.

Furthermore, the signs of labor-related activities exploitation can be reflected in the variation in income received by street children, where each case has a different amount of income. The unfavorable street economic situation can make children's daily income uncertain. In the case of ABN and PRW, they receive an income of around Rp 100,000 – Rp 200,000/day, while MF earns around Rp 50,000 – Rp 70,000/day. On the other hand, AG earns around IDR 30,000 - IDR 60,000/day, and RWN earns around IDR 70,000 - IDR 100,000/day. Some street children at the Bus Stops stated that they were never given an income target by anyone, and no sanctions were applied if the income obtained did not meet expectations.

By looking at the amount of income earned, it can be understood that the use of the income involves street children and other people. Information from street children at the Bus Stops shows that most of the income earned by the informants is channeled to their parents to meet their daily food needs and some is used to pay for their father's hospital expenses as experienced by PRW. Then ABN, MF, and RSN gave the money from their busking to their family members (Mother and Uncle). And AG who deposited the money to his grandmother. Thus, about 80% of the child's total income is given to his or her family members. Meanwhile, around 20% of the child's income is used to buy snacks.

Furthermore, physical exploitation refers to any act or attempt to abuse child labor to be employed for the personal benefit of parents or other individuals (Tumangger & Riasih, 2020). This reflects how children's energy can be used by others for personal gain. Forms of physical exploitation experienced by street children involve tasks such as lifting merchandise, as experienced by AG. Furthermore, ABN was busking while carrying his sister on the streets of the terminal, while PRW, MF, and RSN tried to chase the bus to bust and begin, so they were exhausted. These activities include forms of physical exploitation experienced by street children. Physical exploitation in this context is related to the use of children's physical exertion, which is often utilized by individuals around them. The results of the study showed that there was a tendency for these children to experience exploitation of labor-related activities.

There are several causes of exploitation of street children by their families, such as:

a. Poverty

Poverty seems to be the main driving factor for child work. Many children are forced to work to help their families survive. Paradoxically, children's work can also be a trigger for poverty. Their duties often hinder their opportunities to enjoy education and acquire skills, and in some cases, can lead to physical disabilities that limit future earning potential. Most of the street children at the Bus Stops come from underprivileged families, they make a living on the streets to meet their needs ranging from food to daily clothes.

The economic life of the families of street children around the Bus Stops can be classified as low economic life. Their parents or families are only able to generate an income of around 200,000 to 300,000 rupiah per month, which is not enough to meet the needs of the family, especially with the relatively high number of family dependents. This was confirmed by ABN, who stated that:

"I am busking at this terminal because I only live with my mother's parents, where my mother's income is insufficient and cannot meet our needs (me and my 3 siblings), my mother is only a laundry maid."

Likewise with the presentation of the AG informant who said:

"I sell crackers told by my grandmother because my grandfather is sick and cannot work, so I sell crackers at this terminal to help meet our daily needs, even though the income from

selling crackers is only in the range of Rp 30,000 – Rp 60,000 per day, but it can help grandmothers and grandfathers."

Thus, the impact of the low income, some informants have rented houses or residences far from the word decent, which tend to be slums that are not maintained. As happened to informant MF who only lives with his mother:

"I don't have my own house, I live in the Kedungsolo area, the rent is bad, and the mess is unpleasant when it rains, it must always leak. Because of this, I was also told by my mother to busker at this Bus Stops to help pay the rent and be able to repair it, calculating to help my mother's income. Even though in a day I often only get Rp 50,000 – Rp 70,000 from busking on the bus."

It can be concluded that children's involvement in the world of work is influenced by poverty factors. For underprivileged families, every economic contribution made by working children is the main support for family survival. Implicitly, the economic contribution made by the child is considered very vital to the parent's income, and if the child stops working, then the parent's income may decrease. However, without realizing it, children's work can also be a trigger for poverty itself. The reason is that a child's work, which takes up a lot of time and opportunity, can hinder children from experiencing education and developing their skills, and can hinder the child's earning potential in the future.

b. Children's communities and the influence of the social environment

The environment around the family's residence and interactions with the child's friends can be factors that encourage a child to get involved on the streets. Friends have great potential to influence children's thinking, development, and behavior. Therefore, children need to be wise in choosing their friends to hang out with. If the child is in a positive social environment, the child will likely grow and develop into a positive individual. As for the statement of ABN which said:

"In addition to my mother who ordered me to busking, many of my friends also asked for busking. My place of residence is also close to the gathering place of street children who are told to be with their family members. My friends and I lived in Joyoboyo together and took the bus to the terminal. So I want to participate in busking too, besides that, my mother has never forbidden it."

Then MF who said that:

"I have a lot of themes, from various regions there are also many, at first I was invited by my friends who are fellows from the Kedungsolo area then I talked to my mother, my mother was even happy if I wanted to busker and often told/reminded me to busking. Over time, my mother even scolded me when I was on vacation with her."

ABN and MF, in addition to working as buskers due to encouragement from their parents, have many friends around the neighborhood who are also street children. ABN lives not far from the location where street children gather, and this makes him interested in joining and becoming a street boy. ABN's participation in the lives of street children is also influenced by their friends around their environment. In the same case, MF also experienced a similar influence from his friends in the neighborhood where he lived, where some of them became street children who begged and became buskers. Initially, MF was involved in busking activities with his friends at the Bus Stops and then shared his experience with them about the busking atmosphere in the terminal area. Finally, MF decided to become a street boy busker around the Bus Stops and MF's decision received support from his mother.

c. Divorce and domestic violence

Social issues involve the relationship between a person, especially street children of beggars and buskers, with society, especially in the context of the family because the family plays a key role in the child's life. Parental attitudes and the dynamics of relationships between parents can influence a child's decision to take to the streets. Often, quarrels between parents, separations caused by the departure of one parent and a new marriage, or even divorce between parents can be triggers for a child to become a street child. The child may not feel comfortable or happy at home and choose to leave it without a clear purpose. Children often experience deep sadness and worry regarding their future when both parents divorce. RSN and PRW are examples of children who are involved in street life as a result of their parent's divorce. PRW, even though the child was also affected by his parent's divorce, was still lucky to be able to live with his mother and younger siblings, even though he was no longer supported by his sick father in the hospital. Meanwhile, RSN faced a more difficult situation after her parents' divorce, where she was left without clear information about her parents' whereabouts. As a result, RSN lives with his uncle. In addition to divorce, parental quarrels can also trigger children to leave home.

As affirmed by PRW:

"Since my father and mother divorced, I have been forced to beg for help, besides being told by my mother to also want to help my mother. Because after the divorce, I was never given money. And I also heard that because now my father is sick in the hospital, so he can't give money to me, my mother, and my younger siblings."

Then RSN also stated:

"Previously, my father and mother often fought at home, so for a long time I was too lazy to stay at home. However, because of frequent fights, my mother finally left her house until she divorced my father. Then my father remarried and somehow got along. So I now live with my uncle."

Therefore, it can be concluded that in the event of parental divorce, children are sometimes forced to take to the streets to meet their living needs. This situation occurs due to divorce resulting in the exploitation of street children, where parents no longer provide the necessary attention and financial support for their children.

Street Children Dealing with Danger

These street children have to deal with various risks that can be dangerous physical, psychological, emotional, and social. Those who try to survive in a bad environment are vulnerable to infectious diseases, psychiatric diseases, reproductive health, and so on (Woan et al., 2013). The informants in this study admitted to being physically healthy, psychologically, emotionally, and socially, but they also admitted that they were easily dizzy, tired easily, and sometimes had a fever, especially if the weather was hot or rainy. As stated by the ABN informant:

"I often feel dizzy and tired, because I go home from school directly to this Bus stop and start busking, sometimes after a few hours of busking, I take a break and sit like now so that I don't get too tired because I have been on the street for too long so I often take shelter for a while relieving the dizziness."

RSN informant stated:

"I started busking from 09.00 am to 19.00 because I dropped out of school. But I didn't fully busk in 11 hours, I took a break between them. Like when I was resting first. Because I felt tired because of the heat and also chasing the bus, so I felt tired. Sometimes when I feel overheated and I'm so tired, I feel dizzy."

PRW informant stated:

"I came home from school at 12.00 pm, then I departed from my house on Adityawarman Street, Wonokromo District at 13.00. And, I immediately begged my mother until 16.00. I was fully employed because I was immediately accompanied by my mother. Then go home to take a shower and immediately recite. So I feel tired when I'm at home and immediately rest."

A number of these impacts show that the health of children living in the terminal is very worrying. Children in these environments are very vulnerable to various risks that can endanger their health. One of them is the impact on children's physical condition, where every day they are exposed to heat at the terminals, causing their skin to darken and their hair to look dull (Ferdous & Nila, 2020). Children who engage in busking and begging activities around the bus also face a high risk, especially if they fall or run to the busker and board the bus, which can lead to injury and illness. Another physical impact involves the aspect of children's food needs, as they tend to eat carelessly at the terminal and their nutritional needs are not met. This has an impact on the physical growth of children, making them thin and unhealthy (Hernawati, 2022), even experiencing health problems such as mag sickness and malnutrition.

The impact of exploitation of labor-related activities can also hinder children's psychosocial development. For example, there is a case of a child (RSN) who experienced exploitation in the form of physical violence from his parents, which is likely to have an impact on the child's psychosocial development stage. Concerns have arisen regarding the potential for disruption to children's psychosocial development due to the violent experiences they experience at their current age (Mulyana et al., 2023). Street children are often considered to be a nuisance to society, cause discomfort in the environment, and are considered naughty children (Supriyanti et al., 2020). The stigma and discrimination they experience are caused by the community's perception of the behavior of street children, so these children are often isolated from the community (Stoecklin et al., 2023). The presence of the state by following international human rights legal instruments and laws in Indonesia should be able to protect street children to maintain their dignity and dignity as human beings.

Conclusion

The factors that cause the exploitation of street children by families at the Purabaya Terminal are poverty, environmental social influences, and parental divorce or domestic violence, in the next stage they experience children's health and psychosocial disorders. The exploitation of street children carried out by families is considered a violation of human rights, families have deprived children of their rights whether intentionally or not, knowing or not, understanding or not. State actors and non-state actors are certainly present in providing recognition and recognition of children's human rights so that they can show themselves that they are children who are still in the stage of physical, psychological, social, and emotional growth.

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