

## Corporate Liability In Child Rights Violations

Ahmad Sofian<sup>1✉</sup>, Batara Mulia Hasibuan<sup>2</sup>, Anisa Oktavia Perwita Sari<sup>3</sup>, Mark P Capaldi<sup>4</sup>

<sup>1,2,3</sup> Law Department, Faculty of Humanities, Bina Nusantara University, Jakarta, Indonesia

<sup>4</sup> Institute of Human Rights and Peace Studies, Mahidol University, Thailand

Corresponding: asofian@binus.ac.id

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### Abstract

This paper aims to explore the liability of the business sector in violations of children's rights that occur in Indonesia. In exploring the issue of liability, the author integrates the case with the principle of rights in business that applies globally known as Children's Rights and Business Principles (CRBP). Then the problem raised in this research is how the attribution of responsibility of the business sector when running its business violates children's rights, how the business sector integrates CRBP in its business to prevent violations of children's rights. This research is a normative research and the legal materials used are Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection and Law No. 13 of 2003 concerning Labor. The findings of the research are that national laws do not specifically regulate the liability of the business sector when it violates children's rights. The business sector can only be held accountable in criminal or civil cases that cause harm to children. Therefore, this study recommends that CRBPs be integrated in the revision of the Child Protection Law and apply liability in the form of criminal or civil or administrative witnesses when violations of children's rights by the business sector occur.

**Keywords:** child rights, accountability, business, CRBP

## I. Introduction

Children's human rights are rights that must be considered and protected. It is important to protect children's human rights in the business sector to ensure the survival of a child. It cannot be denied that children are an inseparable part of the running of a business. In order to implement child rights protection, the business sector needs a guideline to regulate, suppress and minimize cases of child rights violations. A concrete regulation is needed to regulate and protect children. Nowadays, there are often issues regarding violations of children's rights in the business sector. One of the highlights is the discovery of cases of exploitation of child labor that occurred in several plantations. One of them is the PT Wilmar Palm Oil plantation<sup>1</sup> The Palm Oil plantations

<sup>1</sup> S. Saju, "Kebun Sawit Wilmar Eksploitasi Buruh Anak Terutama di Indonesia," *Kompas.com*, Desember 1, 2016, diakses September 20, 2023, <http://internasional.kompas.com/read/2016/12/01/07524301/kebun.sawit.wilmar.eksploitasi.buruh.anak.terutama.di.indonesia>.

are spread across Kalimantan and Sumatera, Indonesia. PT Wilmar is a supplier of palm oil to giant manufacturers such as Colgate, Nestle and Unilever, which have been recognized as companies that apply standardized *Sustainable Palm Oil (SPO)*<sup>2</sup>. In November 2016, it was found that PT Wilmar exploited child laborers with an average age of 8 years to perform heavy and dangerous work<sup>3</sup>. Almost all of them chose to leave school and decided to work to support their families.

Based on surveys, it has been found that as many as 215 million children in the world are underage workers<sup>4</sup>. Children are often exploited in various business sectors especially in developing countries<sup>5</sup>. Timbulnya permasalahan pekerja anak ini secara otomatis masuk ke dalam kasus pelanggaran Hak Asasi Manusia (HAM). The emergence of child labor problems is automatically included in cases of human rights violations. This is regulated in the International Labor Organization Convention No. 138 concerning the Minimum Age for Admission to Employment and International Labor Organization Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor. Child exploitation is also found in the realm of entertainment. Such is the case of the exploitation of child artists that was hotly circulated a few years ago. Children who are child artists are indeed a form of means to develop their talents. However, this has a negative impact when children are overworked. It means taking away the time they have to enjoy their childhood. For example, child artist Baim is a victim of exploitation because he often shoots until night.<sup>6</sup> Parents should play an important role in the development of children's talents. However, what must also be highlighted in this case is that the production house cannot fully respect children's human rights.

In addition to the rampant cases of child exploitation, there are also practices of child rights abuse that can interfere with the proper growth and development of children. Children are part of consumers who also need products and services. In some cases, it is found that there are products and services that are harmful to children. Such as children's formula milk products contaminated with *Enterobacter sakazakii* (*E. sakazakii*) bacteria. The discovery was based on the results of research by the Bogor Agricultural University which stated that as many as 13.5 percent of 74 samples of formula milk were contaminated by the bacteria<sup>7</sup>. Milk producers should be held responsible for such cases. Therefore, if the milk is already consumed by children, it will interfere with the child's right to get good growth and development. A product is not only limited to food, but also includes objects such as children's toys. In some cases, enlarged livers have been found in children due to lead in plastic toys<sup>8</sup>. Young children are always curious about colorful plastic containers and things they have never seen before. They use their sense of taste to explore the object<sup>9</sup>. This is why lead poisoning in children's toys is common. The dangers of lead-containing toys are significant for children. Lead that accumulates in the bones can cause damage to the child's nervous system and cannot return to normal<sup>10</sup>.

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<sup>2</sup> SPOTT, "Sourcing Certified Sustainable Palm Oil," Sustainable Palm Oil, n.d., diakses September 20, 2023, <https://www.sustainablepalmoil.org/sourcing/#support>.

<sup>3</sup> Amnesty International, "Palm Oil: Global Brands Profiting From Child And Forced Labour," *Amnesty International*, November 2016, diakses April 20, 2017, <https://www.amnesty.org/en/latest/news/2016/11/palm-oil-global-brands-profiting-from-child-and-forced-labour/>.

<sup>4</sup> UNICEF, "Children in Fact," diakses 20, September 2023, <http://mics.unicef.org>.

<sup>5</sup> T. I. Pilley, "The Child Labour Problem And The Need For International Labour Standards," *Journal of Economic Issues* 46, no. 3 (September 2002): 1

<sup>6</sup> S. Rahmatullah, "Komnas Anak Juga Soroti Eksploitasi terhadap Baim," diakses 20 September 2023.

<sup>7</sup> Kompas.com, "Apa Sih Enterobacter Sakazakii Itu?," *Kompas.com*, Februari 10, 2011, diakses September 20, 2023, <http://lifestyle.kompas.com/read/2011/02/10/08414748/Apa.Sih.Enterobacter.Sakazakii.Itu..>

<sup>8</sup> W. Fajri, "Waspada! Zat Berbahaya pada Mainan Anak," *Kompas.com*, n.d., diakses September 20, 2023, <http://lifestyle.kompas.com/read/2013/11/27/1733547/Waspada.Zat.Berbahaya.pada.Mainan.Anak>.

<sup>9</sup> National Safety Council, *Pertolongan Pertama dan RJP Pada Anak*, ed. ke-4, diterjemahkan oleh S. Purwoko (Jakarta: Arcan, 2001).

<sup>10</sup> BPOM, "POM, Bahaya Timbal pada Produk Mainan Anak-Anak," *BPOM Indonesia*, n.d., diakses September 20, 2023, [http://ik.pom.go.id/v2016/artikel/artikel-timbal\\_koran-terbit.pdf](http://ik.pom.go.id/v2016/artikel/artikel-timbal_koran-terbit.pdf).

In addition, if children are contaminated with too much lead in high doses, it can cause vertigo, seizures, and death<sup>11</sup>. A marketing strategy is needed to make an advertisement or product marketing known to the public. There are many advertisements for products whose main target is children. Ads are made in such an attractive way that it is undeniable that the marketing team has to rack their brains to make ads that sell. Children who see attractive advertisements can be easily convinced that what they see is what they want<sup>12</sup>. But sometimes advertisements that are marketed indirectly also have a negative impact. For example, an advertisement for a candy product contains a scene of 4 children cycling and then stopping in front of a cliff. When the child eats the advertised candy, the child will have the courage to jump over the cliff<sup>13</sup>. This kind of ad is considered bad by the Indonesian Broadcasting Commission because the scenes in the ad can be imitated by children and are dangerous for their safety.

Another perspective on the issue of respecting children's human rights in the business sector emerges. The business sector is not only the sole perpetrator of child rights violations. In practice, the business sector is often used to violate children's human rights. There are a number of hotels that are used as places of covert child prostitution. The DKI Government also found illegal practices in a number of hotels so they revoked the hotel's business license<sup>14</sup>. However, when actual violations of children's human rights are committed by the business sector, they do not automatically implicate the business sector in liability. Most victims of such violations are unaware and do not report them, so they are not considered violations of children's rights. Law enforcement certainly cannot act on unreported events. Thus, violations of children's rights by the business sector are still difficult to be prosecuted and held accountable. Based on the description of several cases above, it is clear that violations of children's rights by corporations in the business sector have the potential to violate and neglect children's human rights. The business sector also has the potential to be used by third parties to commit violations of children's human rights. There are many other cases involving the business world where they have not been able to respect children's human rights. The complexity of the issue of children's rights in the business sector clearly requires more attention in efforts to protect and handle it.

Violations of children's human rights in the business sector by corporations are often found due to the absence of integrated policies related to children's basic rights in business. Business affects children both directly and indirectly. Children are stakeholders in business as consumers, part of the family members of employees, young workers and furthermore as future leaders<sup>15</sup>. To realize this protection, rules or guidelines are needed to protect children's human rights in the business sector from acts committed by corporations. Child protection in the business sector has been introduced by the United Nation Children's Fund (UNICEF), *Save The Children* and *United Nation (UN) Global Compact*. They declared a new principle in the business world that is closely related to children's human rights, the Children's Rights and Business Principles (CRBP). Public-private partnership and engagement with the private sector UNICEF intervenes to help the private sector promote the rights of the child and develop activities necessary for an investment environment conducive to the rights of the child. The tools proposed in the Children's Rights and Business Principles (CRBP) invite all economic operators to implement a set of actions aimed at respecting, supporting and promoting the rights of the child.<sup>16</sup>

<sup>11</sup> Elok Fidiani, *Pengujian Kuantitatif Kandungan Logam Dalam Cat dengan Teknik Radiografi Sinar X* (Bandung: Universitas Katolik Parahyangan, 2015).

<sup>12</sup> A. Priyandana, "Iklan Berbahaya bagi Masyarakat," *Marketing.co.id*, n.d., diakses September 20, 2023, <http://www.marketing.co.id/iklan-berbahaya-bagi-masyarakat/>.

<sup>13</sup> bisnis.com, "Iklan Televisi: KPI Tegur Iklan Jagoan Neon," *Bisnis.com*, n.d., diakses September 20, 2023, <http://kabar24.bisnis.com/read/20120602/79/79557/iklan-televisi-kpi-tegur-iklan-jagoan-neon>.

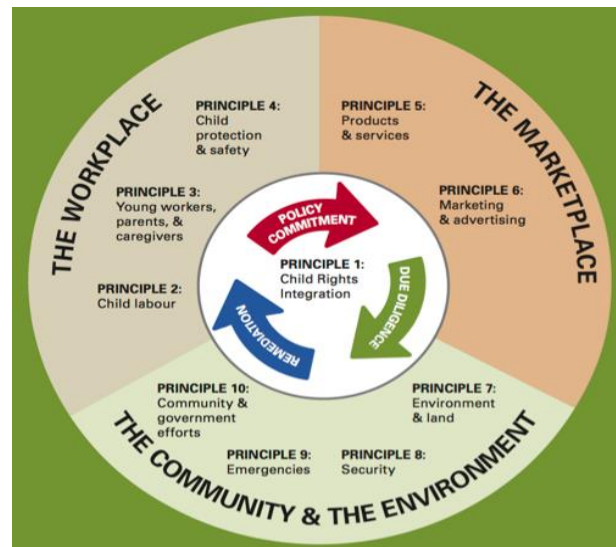
<sup>14</sup> F. Wuryasti, "Terbukti Jadi Tempat Prostitusi, Izin Hotel Dicabut," *Metro TV News*, n.d., diakses September 20, 2023, <http://m.metrotvnews.com/news/metro/GNI0zQ5K-terbukti-jadi-tempat-prostitusi-izin-hotel-dicabut>.

<sup>15</sup> CRBP, "CRBP, Introduction," *Children and Business*, n.d., diakses September 20, 2013, <http://childrenandbusiness.org/the-principles/introduction/>.

<sup>16</sup> Unicef.org, "Public-Private Partnership and Engagement with the Private Sector," *UNICEF Madagascar*, n.d., diakses September 20, 2023, <https://www.unicef.org/madagascar/en/node/10120>.

The global rules underlying the birth of the CRBP are the Convention on the Rights of the Child (CRC), ILO Convention No. 138 concerning the Minimum Age for Admission to Employment, ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of BPTA and the United Nation Guiding Principles. The CRBP contain 10 basic aspects of business and children's rights, which are then divided into 4 families. The CRBPs have been developed through consultations with children, businesses, investors, labor unions, national human rights organizations, civil society, governments, academia, UN agencies, child rights experts and business experts.<sup>17</sup> The presence of the CRBP can provide signposts to business actors on what they can and cannot do in relation to children's human rights.

**Figure 1.** Children's Rights and Business Principles framework



Source: UNICEF, the United Nations Global Compact, and Save the Children

The interests of children's rights must be recognized and protected by law. However, factually, violations of children's human rights are increasing and it is known from the records of the Indonesian Child Protection Commission (KPAI) that there are 3,581 cases related to violations of children's human rights<sup>18</sup>. Some of these child rights violations occur in the business sector, including companies.

In the context of national law, the principles of children's human rights in the business sector have not been concretely regulated. Only some general and basic protections are mentioned, namely in Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection (Child Protection Law) and Law No. 13 of 2003 concerning Manpower (Manpower Law). This situation can be seen as a legal vacuum in Indonesian legislation. In addition to the CRBP, more recently, the WeProtect Framework has become a vehicle for business owners to pursue comprehensive measures for their businesses to respect and support children's rights. WeProtect is a global alliance that can be joined by all private sectors that have programs related to child protection. In its application, the WeProtect framework can encourage the private sector to become a case referral, if the assisted community of the company experiences indications of online-based violence.<sup>19</sup> The business sector needs a guideline to create a policy with a child perspective. The guideline is the establishment of a

<sup>17</sup> UNICEF, "Prinsip Dunia Usaha dan Hak Anak," *UNICEF Indonesia*, n.d., diakses September 20, 2023, [https://www.unicef.org/indonesia/id/Prinsip\\_Dunia\\_Usaha\\_dan\\_Hak\\_Anak.pdf](https://www.unicef.org/indonesia/id/Prinsip_Dunia_Usaha_dan_Hak_Anak.pdf).

<sup>18</sup> S. Wahyunik, "Perhatikan, Ini Jumlah Kasus Pelanggaran HAM Anak yang Terjadi," *Surya Malang*, Maret 24, 2017, diakses September 20, 2023, <http://suryamalang.tribunnews.com/2017/03/24/perhatikan-ini-jumlah-kasus-pelanggaran-ham-anak-yang-terjadi..>

<sup>19</sup> analisadaily.com, "PKPA Gelar Seminar Perlindungan Anak Online," *Analisa Daily*, Oktober 13, 2022, diakses September 20, 2023, <https://analisadaily.com/berita/baca/2022/10/13/1035167/pkpa-gelar-seminar-perlindungan-anak-online/>.

concrete rule regarding children's human rights issues in the business sector. In the course of a business, a policy will be formed which the basis for the formation of these rules is derived from existing national law. This research will examine company policies in the hospitality business sector, because the business sector has two interesting perspectives on violations of children's human rights to be analyzed, as previously described.

Children's human rights have received a lot of attention and have been developed by various groups in society. Attention to the sustainability of children's human rights has become an important part of today's society. One that continues to develop is research on the protection of children's rights in the business sector. Three studies were found that contain CRBP principles, including research on children's rights in the realm of products and services, children as workers, and children's rights in the hospitality sector. An explanation of the research is as follows Research in Master Thesis of Management Study Program, Trisakti University by Ramida HF. Siringoringo. The research in the thesis focuses on terminology related to the market. The research focused on 4 companies, namely Unilever and Mead Johnson for the product perspective, then Pacific Place and fX. Plaza in the service perspective. In the research results, products and services that will be consumed by children are ensured to have been tested and researched in accordance with relevant national or international standards. More specifically, PT Pasific Place has company regulations related to children's human rights. Some of these companies have references that go beyond national law. For example, the Mead Johnson company has created products according to World Health Organization (WHO) standards.<sup>20</sup>

Research by the Faculty of Humanities, Binus University, Jakarta. The research conducted by a team from the faculty of humanities, Binus University is limited to a social perspective on the retail and hospitality sectors in the Jakarta and Bandung areas. The retail sector is a series of business activities that provide products and services to consumers, including children. Mapping in the retail sector is needed because the products sold are certainly related to children. Another part is the supply chain of retail companies, namely the agricultural and manufacturing sectors, which are the sectors that absorb the most child labor in Indonesia. Meanwhile, the hospitality sector is a company engaged in providing services. They offer facilities, food, drinks that are also related to children. Research conducted by Binus states that the aspects contained in the CRBP have not been well understood by companies in the Jakarta and Bandung areas. The principles are also not yet fully integrated into ongoing business processes. There is a lack of identification, monitoring and research related to children's physical and mental health and safety. This is because it is in line with the thinking of business people who are only oriented towards short-term profits, coupled with the lack of support from the government and local communities for the existence of these principles.<sup>21</sup>

The research by the Center for Child Protection Studies supported by the Inter-Church Organization for Development Cooperation (ICCO) also involved UNICEF, Binus University, the University of North Sumatra, and the Langkat District Government. The research focused on the oil palm plantation sector in Langkat District, North Sumatra. Oil palm plantation companies are seen as making an economic contribution to regional and national development as one of the keys to the Indonesian economy. Research conducted by Center for Child Protection Studies found that the industry has a negative impact on children. There are two types of child groups, namely garden children and village children. Garden children are a group of children as workers. Generally, they help their parents' work as casual laborers. Meanwhile, village children are children who are affected by the existence of oil palm plantations. The presence of the industry takes away children's playgrounds, minimizes the infrastructure of roads, bridges and the environment that is affected by industrial waste. From the results of the Center for Child

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<sup>20</sup> Ramida HF. Siringoringo, Op. Cit.

<sup>21</sup> A. Sofian, "Prinsip (Asas) Hak Asasi Anak dalam Dunia Bisnis," *Business Law Binus*, November 30, 2016, diakses September 20, 2023, <https://business-law.binus.ac.id/2016/11/30/prinsip-asas-hak-asasi-anak-dalam-dunia-bisnis/>..

Protection study, it is concluded that oil palm companies in Langkat, North Sumatra, which have the status of a business sector, have not fully respected children's human rights.<sup>22</sup>

## II. Research Problems

This research raises two main issues, namely how the business sector is responsible for violating children's rights and how the business sector integrates Children's Rights and Business Principles (CRBP). In this study, the research concentrates on legal regulations in the form of laws. Then the business sector in question is a legal entity, namely a Limited Liability Company<sup>23</sup>. Limited Liability Company hereinafter referred to as the company. But regardless, the substance of the discussion regarding this research can be used by all business sectors.

## III. Research Methods

Making a research in science requires a method or methodology, which is a type of thinking used in research and a certain way to carry out a procedure.<sup>24</sup> A legal research must fulfill procedures based on methods, systematics and thoughts that aim to study one or several specific legal symptoms.<sup>25</sup> The results of a study can be used as a tool for developing science. The results of a study can be used as a tool for developing science.<sup>26</sup> With the development of science, the truth will be found based on the results of testing people's findings. In this research, where the law acts as the main object of research, normative legal research methods will be used. Normative legal research will be conducted on the level of synchronization of laws and regulations.<sup>27</sup> Furthermore, legal history research will also be carried out by analyzing the law chronologically and seeing its relationship with existing social symptoms.<sup>28</sup>

## IV. Result And Discussion

To integrate the CRBPs into the national legal framework, the procedure that must be followed is to look at laws that have links to the principles of children's human rights set out in the CRBPs. In the context of describing the CRBPs integrated into the law, the general indicators contained in the CRBPs will be described. Then after that link directly to the relevant legislation.

### 1. Cluster 1: Integration of Children's Human Rights

The context of child rights protection as part of human rights needs to be interpreted as one of the pillars of law in a country. Indonesia, as a state of law, is obliged to have specific rules or guidelines as a basis for the protection of children's human rights. Previously, Indonesia has ratified the KHA, which means that the Indonesian state has recognized the existence of children's human rights including all forms of violations that occur therein. The protection of children needs to be interpreted broadly so that it can include issues regarding children in the business sector. Respect can take the form of recognizing the basic principles that underlie children's human rights. The KHA sets out four basic principles for the protection of children's human rights, namely the principle of non-discrimination; the best interests of the child; the right to life and development; and child participation.

Based on these principles, practices that violate children's human rights should be minimized. But in fact, violations of children's human rights are often found, especially in various business sectors in Indonesia. Highlighting this issue is important because children are valuable assets owned by a country. The protection of children's human rights must basically grow from

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<sup>22</sup> Sofian, Ahmad et al., "Draft Tool-Kit Prinsip-Prinsip Bisnis dan Hak Anak Disektor Perkebunan Kelapa Sawit," makalah yang dibawakan pada *Focus Group Discussion* PKPA, Jakarta, Maret 2017.

<sup>23</sup> Undang-Undang Nomor 40 Tahun tentang Perseroan Terbatas.

<sup>24</sup> F. A. Wanengpati, *Perlindungan Hukum dan Upaya Pemerintah dalam Mengatasi Pekerja Anak Menurut Peraturan Perundang-Undangan* (Jakarta: Jurusan Hukum Bisnis, Departemen Hukum Bisnis Universitas Bina Nusantara, 2015).

<sup>25</sup> S. Soekanto, *Pengantar Penelitian Hukum*, Cet. 3 (Jakarta: UI-Press, 2007)

<sup>26</sup> *Ibid.*

<sup>27</sup> Sri Mamudji, *Metode Penelitian dan Penulisan Hukum* (Depok: Badan Penerbit Fakultas Hukum Universitas Indonesia, 2005).

<sup>28</sup> Soerjono Soekanto, *Op. Cit.*, 51.

the awareness of everyone involved with children. In business, all processes and products must be related to children. As described in the previous chapter, children are stakeholders of a business. Children are consumers; members of a family; and part of a community as well as owners of the environment. Therefore, the awareness of children's involvement in the business process needs to be underlined and carefully considered. This protective role must be played by all parties involved in the business process. Reflecting on this global trend, CRBP as a principle that promotes the protection and respect of children puts forward the integrity family of children's human rights as the basis for a regulation. The family is a basic rule that must be owned by a country that applies protection to children's human rights.

Indonesia already has a basis in the form of national law in the form of a law that speaks out about the protection of children's human rights. The national law is Law No. 35 of 2014 on Child Protection on the Amendment of Law No. 23 of 2002, which is one form of Indonesia's seriousness to regulate and protect the existence of children. The regulation is the highest hierarchy of guidelines to oversee the protection of children. The first family, child rights integrity, contains one aspect of the CRBP. This aspect states that every company must fulfill its responsibility to respect children's rights and commit to supporting children's human rights. It is found in Article 72 paragraph (2) where the terminology reads<sup>29</sup> The business world, which is part of society, has a role to play in child protection. The role in child protection itself is written in Article 72 paragraph (1). Companies are defined as part of the business world. This means that the terminology of the business world contained in Article 72 paragraph (2) includes companies. However, the definition of the business world can also be interpreted broadly to all business activities that are profit-oriented.

Furthermore, to find out whether the article has the criteria as intended by the CRBP, the indicators in this aspect must be seen. In this aspect, there are four indicators. As described in the previous chapter, the first indicator states that businesses must participate in recognizing the basic principles that underlie children's human rights. What is meant are the four basic principles in the KHA which have also been explained previously. Article 72 paragraph (6) letter a of the Child Protection Law reads that the role of the business world referred to in Article 72 paragraph (2) is carried out through making a company policy with a child perspective. The article is in line with the third indicator of the first aspect of the CRBP, which states that companies are required to make a commitment to support children's human rights. The company commitment in question can refer to the formulation of a company policy. The Child Protection Law then does not further explain how companies should make such policies. There is no explanation intended to make the policy formulation truly child-perspective. There are also no implementing provisions for the existence of Article 72 paragraphs (2) and (6) letter a. The Child Protection Law also does not include sanctions if there are companies that do not carry out these provisions.

The unavailability of implementing provisions to implement and formulate company policies is a shortcoming of the article. This lacuna has resulted in multiple interpretations, especially regarding the indicators of company policy formulation. Thus, each company that will formulate policies has various standards. There is still a possibility that the policies formed later are not fully intended to respect and protect children's human rights. If these various interpretations continue to be allowed, then the biggest possibility that can occur is that the company's goal to be at the forefront in guarding children's human rights cannot be achieved. The Child Protection Law in formulating articles can be said to be voluntary. This means that what is sounded in the two articles is still an option for companies. So there is still a gap for companies to ignore these rules. Thus, the regulation is more of a moral obligation for companies.

## **2. Cluster 2: Children in the Workplace.**

Children are assets for the future of a country. They have the right to a decent life, survival and development. To realize this, a child must have enough time in their childhood to get time

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<sup>29</sup> Shidarta, *Etika Bisnis*, dalam A. R. Shidarta, ed., *Aspek Hukum Ekonomi & Bisnis* (Jakarta: Bina Nusantara Media & Publishing, 2015)

to play and learn<sup>30</sup>. However, children's time can be taken away if they have become child laborers during their childhood. This family addresses aspects of children in the workplace that relate to child labor. In its establishment, the CRBP is based on ILO Convention No. 138 on the Minimum Age for Admission to Employment and ILO Convention No. 182 Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor. Both conventions address the protection of child labor, which falls under the discussion of cluster two in the CRBP. Indonesia already has a Labor Law that contains regulations on child labor. The law is a harmonization of ILO Convention No. 138 passed by Law No. 20 of 1999 and ILO Convention No. 182 by Law No. 1 of 2000.<sup>31</sup> There are three aspects in clump two of the CRBP, the first of which speaks to the company's contribution to eliminating child labor including in all business activities and business relationships. Eliminating child labor is regulated in Article 68 of the Manpower Law which states that employers are prohibited from employing children. The meaning of the term employers can be interpreted as business actors in the context of this research. In the practice of eliminating child labor, attention must be paid to the age limit of the child concerned. ILO Convention 138 states that the minimum age limit for work is 15 years old; the minimum age for light work is 13 years old; and the minimum age for hazardous work is 18 years old.<sup>32</sup> The age limit will then be mapped again based on CRBP indicators.

The CRBP indicator states that companies should prevent; identify; and alleviate violence or harm to young workers and protect children under 18 years of age from work that is prohibited or beyond their physical and psychological capabilities. The indicator is the substance contained in ILO Convention No. 182 on the worst forms of child labor. The indicator refers to Article 74 paragraph (1) of the Labor Law which prohibits anyone from employing and involving children in the worst forms of work. The criteria of the worst work are then described in paragraph (2). Articles 2; 3; and 7 of ILO Convention No. 138 state that the minimum age for child labor is 15 years old; the minimum age for hazardous work is 18 years old; and the minimum age for light work is 13 years old. The implementation of the article is found in Article 69 of Law No. 13 Year 2003 on Manpower which stipulates that children aged 13-15 years can do light work as long as it does not interfere with physical; mental; and social development and health. The article also states the conditions that limit child labor, which is in accordance with the implementation of Article 7 of Convention 138.

Article 8 of ILO Convention 138 regulates the prohibition of allowing exceptions to the prohibition of children under 15 years of age to participate in artistic activities. The implementation of the article is found in Articles 70 and 71 of the Labor Law. Article 70 contains the minimum age of 14 years old children to do work, where the work is part of the education or training curriculum. Meanwhile, Article 71 contains about allowing children to do work that develops their talents and interests. Children have the right to enjoy their childhood by getting an education<sup>33</sup> and sufficient play time. In addition, playing in the right environment can encourage children to develop sportsmanship and cooperation.<sup>34</sup> However, the conditions that should be obtained by children will be taken away if these rights are accidentally ignored by business actors in the business sector. Therefore, the Labor Law should have been able to become a direction for business people in running their business so as not to violate children's human rights.

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<sup>30</sup> Republik Indonesia, *Undang-Undang Nomor 20 Tahun 2003 tentang Sistem Pendidikan Nasional*.

<sup>31</sup> F. A. Wanengpati, *Perlindungan Hukum dan Upaya Pemerintah dalam Mengatasi Pekerja Anak Menurut Peraturan Perundang-Undangan* (Jakarta: Jurusan Hukum Bisnis, Departemen Hukum Bisnis Universitas Bina Nusantara, 2015)

<sup>32</sup> *Undang-Undang Nomor 20 Tahun 1999 tentang Pengesahan Konvensi ILO Nomor 138*.

<sup>33</sup> Republik Indonesia, *Undang-Undang Nomor 20 Tahun 2003 tentang Sistem Pendidikan Nasional*.

<sup>34</sup> E. Ikhsan, *Beberapa Catatan Tentang Konvensi Hak Anak* (Makalah, Fakultas Hukum Universitas Sumatera Utara, 2002)



### 3. Cluster 3: Children in the Market

In another point of view, children are also used as the target market of various types of products.<sup>35</sup> Children are part of the family, and they are regular consumers who have direct contact with businesses. As consumers, children are placed as important actors who influence the decision-making process. So that they began to involve themselves and began to be trained in the process of making purchasing decisions.<sup>36</sup> The CRBP family of three provides two aspects related to respecting and protecting children's human rights in markets. The first aspect talks about companies ensuring that products and services are safe for children and working to support children's human rights through products and services. This aspect is in line with Article 72 paragraph (6) letter b of the Child Protection Law, which reads that products intended for children must be safe for children. The meaning of the word product in the Big Indonesian Dictionary (KBBI) is goods and services. Thus, the core product terminology referred to in the CRBP and the Child Protection Law has the same purpose. Furthermore, in relation to children's products, there is no longer any terminology of the word 'child' in the Child Protection Law.

Then to determine how effective Article 72 paragraph (6) letter b is, the indicators contained in this aspect of the CRBP must be described. Since the Child Protection Law does not provide further explanation on children's products, this section will elaborate on the indicators based on Law No. 8/1999 on Consumer Protection. However, the Law is not a primary legal material but only helps researchers to analyze the problem. The Consumer Protection Law defines a consumer as every person who uses goods and/or services available in the community, both for the benefit of themselves; family; other people and other living beings and not for trade. The definition of 'everyone' can be interpreted as children. This means that although the definition of the term 'consumer' does not directly mention the word 'child', they are included in it. As explained earlier, children are part of the consumers in society. In the context of respecting and protecting children, a distinction must be made between children as consumers and adults as consumers. Because children are part of a vulnerable group, the regulation of products related to children must also be distinguished from adults. Children have special needs in products, namely any goods and services related to children. Therefore, the safety criteria for products that will be consumed by children should have different criteria from adults. The safety of products and services used by children should be ensured through testing and research in accordance with relevant national or international standards.<sup>37</sup> This needs to be considered by a company, especially by a company whose product concentration is for children. However, if the company has bad intentions not to apply these principles, they will be at a disadvantage. This is because public trust to use safe products for children will arise against companies that have good testing and research standards.

Respect for children's human rights is fundamental when a business sector has products and services for children.<sup>38</sup> Child-friendly products and services will not pose risks that affect children's health and safety. These issues can be supported by the availability of product labels and instructions that ensure the safety of children. This is also regulated in the Consumer Protection Law which states that business actors are obliged to meet production standards in accordance with the provisions in the laws and regulations. The second aspect of children in the marketplace states that companies should implement marketing and advertising that respects and supports children's human rights. As explained in the previous chapter, children have a great sense of curiosity. This means that the marketing of children's products, especially in the form of advertisements, can influence children who see these advertisements to behave according to what is conveyed in the advertisement. The company's concern in making a good advertisement is closely related to ethics. The Consumer Protection Law has also regulated the prohibition for business actors to make an advertisement that violates ethics in its application. The existence of

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<sup>35</sup> A. Sofian, "Prinsip (Asas) Hak Asasi Anak dalam Dunia Bisnis," *Business Law Binus*, November 30, 2016, diakses dari <https://business-law.binus.ac.id/2016/11/30/prinsip-asas-hak-asasi-anak-dalam-dunia-bisnis/>.

<sup>36</sup> *Ibid.*

<sup>37</sup> Ramida HF. Siringoringo, Op.Cit.

<sup>38</sup> *Ibid.*

this third family in the CRBP has been implicitly regulated in the Child Protection Law. In its application, where the CRBP has also provided indicators of this third group, it is more commonly found in the Consumer Protection Act. However, the Act does not explicitly mention that the consumer protection in question is for children. It is important to make rules that are directly child-perspective, as they have special needs that are different from adults as explained earlier.

#### 4. Cluster 4: Children in Community and Environment

Along with the development of the times, the business sector penetrates into various areas in the society. This situation makes an impact both directly and indirectly on the environment around the business sector. On the other hand, children live life and grow and develop in society. As a human being, children also have the right to live their lives well, safe and protected. As businesses are part of the environment where children live, they also have a responsibility to respect and protect children's human rights. Once again, children are vulnerable members of society who must be protected, including from the impacts of business processes. The fourth clump in the CRBP speaks of respecting and protecting children in society and the environment. It mentions four aspects that carry the clump. These include respecting and supporting children's human rights in relation to the control and use of land and the environment; respecting and supporting children's human rights in security arrangements or designs; helping to protect children affected by emergencies or disasters; and the last aspect is strengthening community and government efforts to protect and fulfill children's human rights. In this section, the focus of research will be on children's human rights in aspects related to corporate social responsibility, because this phenomenon is now an important highlight in the business arena, especially companies. However, the substance of the discussion in this subchapter will not eliminate the value of all aspects of CRBP in the fourth family mentioned above.

Corporate social responsibility can be defined as a company's commitment to contribute to sustainable economic development; working with the company's employees; employees' families; local communities; and the community as a whole in its aim to improve the quality of life. There is terminology related to corporate social responsibility in Article 72 paragraph (6) letter c of the Child Protection Law, which states that the business world plays a role in contributing to the fulfillment of children's human rights through corporate social responsibility. Looking at this article, it means that the Child Protection Law has provided rules for companies related to children's human rights in the community and environment. Corporate social responsibility should be broadly interpreted as an activity that is truly child-centered. Corporate social responsibility is a form of business sector participation in sustainable development, which is developed in social, economic and environmental aspects.<sup>39</sup> To realize the company's concern for this aspect, corporate social responsibility is based on the 3P principle, namely profit (profit); people (society); and planet (environment).

Profit means that the company as a business entity has a profit-oriented goal. This means that the company remains on the path of making a profit in every product produced so that the company continues to run and develop. The people principle means that the company must also ensure the survival and welfare of employees. And the last is the planet principle which is the company's concern for the environment, where the business is run. A corporate social responsibility does not have to be interpreted as a real activity that carries the theme of children, where the community knows about the implementation of these activities. The most basic corporate social responsibility is about how a company produces safe and environmentally friendly products; makes infiltration wells; distributes waste properly; and limits the use of Air Conditioner and electricity.<sup>40</sup> In reality, it cannot be denied that the role of the business sector in implementing social responsibility is limited to voluntary and philanthropy. So that the activities

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<sup>39</sup> L. Anatan, *Corporate Social Responsibility (CSR): Tinjauan Teoritis dan Praktik di Indonesia* (Fakultas Ekonomi Universitas Kristen Maranata, n.d.).

<sup>40</sup> *Ibid.*

carried out do not provide real benefits to society. Corporate social responsibility is a must or obligation for a company. Its implementation must be part of the business process and included in the company's policy.

Based on the description above, the meaning of a corporate social responsibility must be interpreted broadly. So that the benefits that will be generated will be felt in real terms for children as part of a community. Where in a company in the form of a PT is also required to carry out corporate social responsibility. Companies that carry out this social responsibility should be carried out based on a system regulated by the government. The aspect that needs to be considered is how stakeholders can receive and benefit from corporate social responsibility. Based on this description, a regulation is needed that regulates corporate social responsibility at a macro level. How are the related standards, objectives and scope, as well as coordination relationships with other parties in the implementation of corporate social responsibility.

**Table 1.** Laws Related to CRBP

| Law   | Article, paragraph, letter                       | Cluster CRBP |   |   |   |
|---|--|--------------|---|---|---|
|   |  | 1            | 2 | 3 | 4 |
| Law No. 20/1999 on Ratification of ILO Convention 182 on the Minimum Age for Employment   | Article 2  |              | x |   |   |
|   | Article 3  |              |   |   |   |
|   | Article 7  |              |   |   |   |
| Law No. 1/2000 on the Ratification of ILO Convention No. 182 concerning the prohibition and immediate action of the worst forms of child labor. | Article 1  |              | x |   |   |
|   | Article 2  |              |   |   |   |
| Law No. 13/2003 on the Principles of Labor.   | Article 1  |              | x |   |   |
|   | Article 2  |              |   |   |   |
|   | Article 68                                       |              |   |   |   |
|   | Article 69                                       |              |   |   |   |
|   | paragraphs (1) and (2)                           |              |   |   |   |
|   | letters a, b, c, d, e, f, g.                     |              |   |   |   |
|   | Article 70                                       |              |   |   |   |
|   | Article 71                                       |              |   |   |   |
|   | Article 74                                       |              |   |   |   |
|   |  |              |   |   |   |
| Law No. 35/2014 on the Amendment to Law No. 23 of 2002 on Child Protection  | Article 72 paragraphs (2) & (6) letters a, b, c. | x            |   | x | x |

*Source: Author's Analysis*

## V. Conclusion

The national laws reviewed in this study do not yet regulate the liability of the business sector when it violates children's rights. Therefore, companies cannot be sanctioned for violating children's rights. Liability can only be placed on companies that violate criminal or civil provisions or administrative provisions in national laws as long as these provisions are expressly regulated as illegal acts. At a macro level, national laws have embraced the principles in the CRBP, including Law No. 35 of 2014 on the Amendment to Law No. 23 of 2002 on Child Protection. There are 3 clusters regulated in the Law, namely the protection of children's human rights in the business sector related to the integration of children's human rights; child-perspective products; and corporate social responsibility. However, the law is still considered voluntary, so the application in the business sector is still subject to multiple interpretations for a

company. Law No. 13 Year 2003 on Manpower. The law is considered to have been able to provide limits and guidelines for children in the workplace.

ILO Convention No. 138 and ILO Convention No. 182, which are the cornerstones of CRBP, have also been implemented into the Labor Law. In addition, there are other laws that also regulate children's human rights in CRBPs that are mentioned implicitly, namely the Consumer Protection Law which regulates children in the market; and the Limited Liability Company Law which regulates children in the community and environment. In order to provide direction to the business sector to implement CRBPs, the researcher suggests that the government create a nomenclature related to this principle. The government should also consider a national policy in the form of an implementing regulation of the Child Protection Law to provide direction for the implementation of CRBP. In addition, a national policy will also need to consider rewarding the business sector that has implemented CRBP.

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