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## Legal protection of street children as a result of economic exploitation based on the child rights convention 1989

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### ABSTRACT

Child Protection is all activities to guarantee and protect the children and their rights in order to be able to live, grow, and develop, and participate optimally, in accordance with human dignity, and be protected from violence and discrimination. This research was conducted with the normative juridical interpretation of the legislation relating to the legal protection of children as child labor in the informal sector. The approach used in this research used the approach of legislation and case approach. The purpose of this paper is to find out the synchronization between Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection and the 1989 Convention on the Rights of the Child. The result of this writing is Presidential Decree No. 36/1990 on Ratification of the Convention on the Rights of the Child, not in accordance with Law No. 24/2000 on International Covenants. In this case, the 1989 Convention on the Rights of the Child concerning the Rights of the Child, where the object of the Convention is a "child" which should be an important part of state affairs and ratified in the form of a law



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## Introduction

The State of Indonesia is a state of law (*rechtstaat*) where the law basically aims to achieve peaceful living together, which is harmony between order and peace. This is implied in the preamble of the 1945 Constitution, paragraph IV, where it is stated that the purpose of the Indonesian state is to protect the entire Indonesian nation and the entire homeland of Indonesia, promote public welfare, educate the nation's life, and participate in carrying out world order. (Salam, 2020) In the case of Indonesia as a state of law, it is reflected in Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia which affirms that "the State of Indonesia is a state of law" and Article 28 G of the 1945 Constitution emphasizes the protection of human rights. (Suryani, 2021) The 1945 Constitution of the Republic of Indonesia Article 28 letter (i), which stipulates that the protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government. Article 28 clearly states that every child gets their human rights as a young generation who has the opportunity to live, grow into adulthood, and develop their physical and mental abilities. To support the acquisition of all children's rights, education is the most important right for a child to develop all the potential abilities he has. Given that children are physically younger and weaker than adults, they have the right to protection from threats, violence and discrimination. (Supriyadi, 2019) This means that

the state must guarantee the rights and obligations of the state and its people in the state constitution, as a consequence of the welfare state law adopted by Indonesia.

This is done by including the rights and obligations of citizens in the constitution, so it has consequences for the state to recognize, respect and respect the rights of citizens and their people, including the fulfillment of these rights in real life. Children are included in the subjects and colors of the state who are entitled to the protection of their constitutional rights, including guaranteeing laws and regulations such as laws that are pro-child rights or juridical products that protect and bridge the needs of children's physical and psychological development. The phenomenon of violations of human rights (human rights) in children is one of the social problems that is quite complex for big cities in Indonesia. If you look closely, for example, street children are very easy to find in big cities. Starting from red light intersections, train stations, terminals, markets, shops, and even malls, there are places for street children to carry out their activities. Abandoned children who beg or sell newspapers at a red light, when they should be able to enjoy the love of a family and be able to enjoy education (Prema, Anak Agung Sagung Laksmi Dewi, & Widyantara, 2022) Evidence of the state's responsibility in protecting children can be seen in Article 28B paragraph 2 of the 1945 Constitution of the Republic of Indonesia which reads: "Every child has the right to survive, grow and develop and has the right to protection from violence and discrimination".

In Article 1 paragraph 1 of Law Number 23 of 2002 concerning Child Protection, it is emphasized that a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. This means that children's rights need to be protected even since they are still in the womb. (Melira, 2018). Children as part of the younger generation are the successors to the ideals of the nation's struggle and human resources for national development. In order to realize quality Indonesian human resources who are able to lead and maintain national unity and integrity within the unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution. (Djusfi, 2019) Street children are one of the social phenomena that also need to be addressed. completed. Street children are children who spend most of their time on the streets to make money. Children are the buds of the nation and state that must be nurtured and protected in order to grow and develop properly. (Siregar, 2018) UNICEF defines street children as children under the age of 16 who have separated themselves from their families, schools and the immediate community, immersed in life moving around on the highway. (Husnul & Marilang, 2021) The regulation of street children working is regulated specifically in Law Number 13 of 2003 concerning Manpower. (Bahter, 2020) Street children are children who are excluded, marginal, and alienated from affection because most of them at a relatively early age have to deal with a harsh and even very unfriendly city environment. According to Surbakti as quoted by Bagong Suyanto, broadly speaking, street children are divided into 3 (three) groups):

First, Children on the street, namely children who still have economic activities as child labor on the street, but still have a strong relationship with their parents. Part of their income on the road is given to their parents. The function of street children in this category is to help strengthen their family's economic support because of the burden or pressure of poverty that must be borne and cannot be resolved by their parents alone. Second, Children of the street, namely children who fully participate in the streets, both socially and economically. Some of them still have a relationship with their parents, but the frequency of their meeting is uncertain. Many of them are children who for some reason (usually violence) run or run away from home. Various studies show that children in this category are very vulnerable to abuse, both emotionally, physically and sexually. Third, children from families of the street, namely children from families who live on the streets. Although these children have a fairly strong family relationship, their lives are swayed from one place to another with all the risks. One of the important characteristics of this category is the elaboration of the lives of street children since they are babies, even from the time they are in the womb.

Tata Sudrajat quoted by Herlina Astri in his journal entitled "Life of Street Children in Indonesia: Causal Factors, Life Order and Vulnerability of Deviant Behavior", divides street children into 3 (three) groups based on their relationship with their parents, namely: First, children who break up with their parents, don't go to school, and live on the streets (Children the Street); Second, children who have irregular relationships with their parents, do not go to school, return to their parents once a week, every two months or 3 (three) months, commonly called children who work on the streets (Children on The Street); Third, children who are still in school or have dropped out of school, this group is included in the category of children who are vulnerable to being street children.

The table above shows that children living on the streets are a group at high risk of various hazards compared to other groups. In contrast to the group of children who are only on the streets to work, they are relatively safer because they generally live in groups, or with their parents and residents of their village. Even though they live in a slum area, they still control each other. However, this togetherness is actually one of the causes of the emergence of behavioral deviations in street children, such as theft, gambling, sex, and others.

Efforts to realize the fulfillment and legal protection of a person's right to obtain a job and work were carried out in 2003, namely with the issuance of Law Number 13 of 2003 concerning Manpower.

**Table 1.** Differences in the Characteristics of Street Children

Differentiating factor	Living on the streets	Working on the streets	Vulnerable to being street children
<b>The period in the street</b>	24 hours	7-12 hours	4-6 hours
<b>The Relationship with parents</b>	Break up family	Not regulary coming home	Still living with parents
<b>Place to stay</b>	On the street	Rent together with parents	With parents
<b>Education</b>	No education	No Education	Still in Education

According to Law Number 13 of 2013 concerning Manpower, Article 68 states that: "entrepreneurs are prohibited from employing children under the age of 18 years" and Article 69 states that the provisions in Article 69 states that: "the provisions referred to in Article 68 can be excluded for children aged between 13 (thirteen) years to 15 (fifteen) years to do light work as long as it does not interfere with physical, mental and social development and health. The state upholds human rights, including guarantees of children's rights by providing protection and fulfillment of children's rights written in the 1945 Constitution of the Republic of Indonesia and several other provisions of laws and regulations both national and international. Theoretically, the grouping of human rights (Human Rights) regarding minimal basic rights (non-derogable human rights) and basic rights should not be violated (derogable rights). (Sadjali, 2021).

Through the United Nations (UN) which ratified the Convention on the Rights of the Child ( UN'S Convention on The Rights of the Child ) in November 1989, which until now has bound 191 participating countries, efforts to promote, disseminate, and enforce children's rights are moved to around the world, especially in countries that have ratified the 1989 Convention on the Rights of the Child. (Joni, n.d.), (1) With regard to the Convention on the Rights of the Child, the Government of the Republic of Indonesia has participated in ratifying the convention which is stated in Presidential Decree Number 36 of 1999 (KEPPRES Number 36 of 1999) concerning Ratification of *the Convention on The Right of the Child 1989*. As an international Right to survival: namely in the form of children's rights to preserve and maintain life. Such as the right of children to get a name and citizenship from birth (Article 7) but in reality it is difficult for street children to obtain an identity in the form of a Birth Certificate, because their parents who are married are not registered and also because street children are born in outside of marriage). (2) The right to protection: namely the protection of children from discrimination, acts of violence, and neglect for children who do not have families and for refugee children. (3) The right to grow and develop: includes all forms of formal and non-formal education and the right to achieve an adequate standard of living for the physical, mental, spiritual, moral and social development of children. In Article 28 of the Convention on the Rights of the Child, which regulates the right to education for children, in practice, many street children drop out of school due to unfavorable economic conditions. (4) The right to participate: the right to express opinions in all matters affecting children. For example, the right of children to obtain proper information and to be protected from unhealthy information. In this case, street children spend a full day on the street looking for money and receive very little attention in terms of health and love from their parents). agreement, the Convention on the Rights of the Child has ratified by 190 countries.

All children have the right to protection. Based on Law Number 23 of 2002 concerning Child Protection *jo* . Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.. However, over time, it is felt that the law has not been able to run effectively because there are still overlaps between sectoral laws and regulations related to the definition of children and the legal protection for children with disabilities has not been accommodated. In addition, children who live on the streets are not only vulnerable to the threat of being hit by a vehicle, but are often also vulnerable to disease attacks due to unfriendly weather or bad environmental conditions such as landfills. The behavior of street children is uncontrollable (anarchic) because there is no one to teach them. Parents do not give proper attention. (Miftahulkhair, 2018) This situation arises along with the changing times and the culture that has shifted and is increasingly degraded. Shifts in values and attitudes of adolescents have occurred and seem difficult to stem. This happens because of the unlimited flow of information and also the problems in the family's internal environment and the external community whose commitment has decreased to norms and values. (Syaputra & Apriana, 2020)

Based on this paradigm, Law Number 23 of 2002 was finally amended by Law Number 35 of 2014. This new law emphasizes the need for heavier criminal sanctions and fines for perpetrators of crimes against children, especially sexual crimes that aim to provide a deterrent effect. , and encourage concrete steps to restore children's physical, psychic, and social. Thus, the author wants to analyze whether Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection is in accordance with the principles contained in the Convention on the Rights of the Child 198 9.

## Method

The research use the normative legal research which use some approached analysis such as : Regulation approach, case approach and conceptual approach. The source data taken by primary data are primary data and secondary data. This type of research is normative research (applied law researched). Empirical legal research is legal research regarding the application of normative legal provisions (codification, laws or contracts) in action on certain legal events that occur in society). Normative (applied) legal research starts from written positive legal provisions that are applied to legal events in concerto in society, so that in its research there is always a combination of two stages of study, namely: (a) the first stage is a study of the applicable normative law, (b) the second stage is the application of events in concerto in order to achieve the predetermined goals. The application can be realized through concrete actions and legal documents. The results of the implementation will create an understanding of the realization of the implementation of the normative legal provisions that have been studied properly or not.

This research is normative, the data used are primary data and secondary data. Primary Data is data obtained directly in the form of information and opinions from the respondents and the facts that exist in the field through interviews and observations. Secondary data is data that is already available, including official documents, books, research results in the form of reports, diaries, and so on. Therefore, this research was conducted at the Library of the Faculty of Law, Airlangga University, Surabaya). This type of research is normative research, namely research based on library research. Library data obtained through library research sourced from laws and regulations, books, official documents, publications, and research results.

## Results and Discussions

### Regulation of Children's Rights according to Legislation

Law Number 23 of 2002 in conjunction with Law No. 35 of 2014 Article 1 paragraph 1 concerning the age referred to as a child, namely under 18 years of age. This is in line with the intent of Law Number 23 of 2002 itself that the age at which a person must be protected. At this age, although the child has been able to determine the steps for his own actions based on his thoughts, feelings, and will, the surrounding circumstances can influence his behavior. Meanwhile, if a child has reached the age of 18 years, he or she has mental and mental readiness in dealing with environmental influences and he has been able to be responsible for his choices so that the law does not make this age a benchmark for the age of children who must be protected. And at the age of 18, a child has been recognized as having committed a legal act and he has also been subject to the law if he violates the law (Risandi & Maidin, 2021)

A good implementation of child protection can be carried out if it meets various requirements, such as a good understanding of the participants, cooperation and coordination of all parties, careful policies and work planning, legal certainty, protection covering various fields, providing the ability and opportunity for children to protect themselves. , protection must be preventive in nature, based on human rights and obligations, and have philosophical, ethical, and juridical foundations taken from Pancasila, the Constitution, religious teachings, social values, and so on. (Karmawan, 2020) Legal protection for child labor cannot be separated from children's human rights. In Indonesia, there are currently many laws and regulations that specifically provide legal protection for child workers, especially child workers who are still underage. Protection against the worst forms of child labor is also regulated in Presidential Decree Number 59 of 2002 which categorizes the worst types of child labor. Some of the regulations used to provide protection for child labor are the ratification of International Conventions, some regulations are also made on the basis of the Indonesian government's initiative. (Ornella Angelia, 2022) Law No. 20/1999 on the ratification of the ILO Convention No.138/1973 regulates the Minimum Age for Employment. The content of this Convention in the fourth paragraph of its preamble aims to establish a general text on age limits which will gradually replace existing texts that apply to a limited economic sector. This is because previously there was already a minimum age limit for childbearing, it's just that there are differences for each type of work and work sector. In the fourth

paragraph it is stated that the purpose of this convention is to eliminate child labor in economic activities as a whole.

Children's rights are an integral part of human rights principles, which are closely related to the role of the state, namely to protect, to fulfill, and to respect children's rights. (Hanum, 2019) The rights of children can be broadly categorized as follows: (a) the right to life which includes the right to obtain adequate health services (survival rights), (b) the right to growth and development which includes all types of education, both formal and informal education as well as the right to enjoy a decent life for spiritual, spiritual, mental, spiritual, social, moral and non-moral growth and development (development rights), (c) protection rights which include protection from discrimination, neglect, abuse, protection for refugee children and for children without families (protection rights), (d) participation rights which include the right of children to give their views/opinions in all areas of life concerning the fate of the child (participation rights).

The Convention on the Rights of the Child was ratified by the UN General Assembly on November 20, 1989, then Indonesia ratified the Convention on the Rights of the Child through Presidential Decree No. 36/1990 on August 25, 1990. Legally, there has been an obligation to respect and guarantee the rights stipulated in the convention. In the Convention on the Rights of the Child (CRC) in 1989 it was stated that children's rights are inherent in children and are human rights guaranteed by the convention. According to this convention, those who are considered as children are all humans aged 18 years and under (Article 1), including those who suffer from mental or mental illnesses, as well as those who are physically disabled. They should receive equal treatment in order to get encouragement in using the facilities provided for the wider community (Article 23 paragraph 1). This convention also stipulates that parties who are considered to have a relationship in providing rights to children should not override the provisions contained in this convention, so that the state is considered not to be able to escape from responsibility for the issue of providing rights to the child. (Haling, Halim, Badruddin, & Djanggih, 2018)

In the Convention on the Rights of the Child, there are 4 (four) general principles as the basis for protecting children's rights, namely: (a) Non-discrimination (Article 2). States Parties shall respect and guarantee the rights set forth in the present Convention of every child within their jurisdiction without discrimination of any kind regardless of race, colour, sex, language, religion, political belief or other opinion, national, ethnic or social origin, property, disability, birth or other position of the child or his or her parents or legal guardians. This means that this Article contains the value of "Equal Opportunity", for example, girls must be given the same opportunities as boys, child refugees or children who come from other countries and children of minority groups must have the same opportunities to enjoy an adequate standard of living. (b) The best interests of the child (Article 3). In all actions concerning children, whether carried out by public or private social welfare institutions, courts, governmental authorities or legislative bodies, the best interests of the children must be the primary consideration. This means, when the authorities of a country make decisions that affect children, the first consideration must be based on the best interests of the child. This principle relates to decisions of courts, administrative officials, legislative bodies as well as public and private social welfare institutions. (c) Right to life, survival and self-development (Article 6). States Parties shall recognize that every child has an inherent right to life and shall ensure to the maximum extent the child's survival and development. (d) Child's view (Article 12). States Parties shall guarantee the right of the child who is able to express freely his own views on all matters concerning the child, giving due weight to the views of the child which have value appropriate to the age and maturity of the child concerned. This means that children have the right to be heard and the right to have their opinions taken seriously, including legal or administrative procedures that concern them.

In this case, the 1989 Convention on the Rights of the Child concerning the Rights of the Child, where the object of the Convention is a "child" which should be an important part of state affairs and ratified in the form of a law, not in the form of a presidential decree which will affect the legal basis for the formation of the law. - Child Protection Act. And the issue of children is also part of the issue of Human Rights which must be the main concern of the State. To be able to carry out guidance and provide protection for children, support is needed, both regarding institutions and legal instruments that are more stable and adequate. (Junaidi, 2021). Law Number 24 of 2000 concerning International Agreements is essentially a crystallization of state administration practices, so that regarding ratification, especially the criteria for agreements that need to be approved by the DPR, are more likely to be approved by the DPR, and are more adopted from existing administrative practices.

Article 10 of Law Number 24 of 2000 concerning International Agreements stipulates that the "ratification" of international agreements is carried out through law when it relates to: (a) Political issues, peace, defense and security of the State, (b) Change of territory or determination of the territorial boundaries of the Republic of Indonesia, (c) Sovereignty and sovereign rights of the State, (d) Human rights and the environment, (e) Establishment of new legal rules, (f) Foreign loans and/or grants. Furthermore, Article 11 of Law Number 24

Year 2000 concerning International Agreements regulates as follows; (a) Ratification of international agreements whose material does not include the material referred to in Article 10, is carried out by Presidential Decree (now Presidential Regulation). (b) The Government of the Republic of Indonesia submits a copy of every presidential decree ratifying an international agreement to the DPR for evaluation. Types of international agreements ratified by Presidential Decree are master agreements concerning cooperation in the fields of science and technology, economy, trade, shipping, commerce, avoidance of double taxation, cooperation in the protection of investment, culture and education, as well as agreements of a technical nature (Agusman, n.d.)

### **Implementation of the Convention on the Rights of the Child in Indonesia**

The laws and regulations governing child protection in Indonesia are quite complete, starting from the Child Protection Act, the Child Welfare Act, and the Child Criminal Justice System Act. However, from time to time the crime continues to grow and develop, the severity of the crime against decency is carried out by officials in a child protection institution who should be trusted to help, protect, and protect child victims who are deposited in the institution. (Princess, 2022). Based on the provisions in Article 10 and Article 11 of Law Number 20 of 2004 concerning International Agreements where the Convention on the Rights of the Child should be ratified by law, not through a Presidential Decree. This is because issues related to child protection are part of the scope of Human Rights and include important State affairs.

However, in the "remembering" section, both in Law Number 23 of 2002 concerning Child Protection and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, it does not include one of the legal grounds for the formation of the Law. -The Child Protection Act itself, namely Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child. The laws and regulations listed in the remembering section in Law Number 23 of 2002 concerning Child Protection are as follows : (a) Article 20, Article 20A paragraph (1), Article 21, Article 28b paragraph (2), and Article 34 of the 1945 Constitution of the Republic of Indonesia, (b) Law Number 4 of 1979 concerning Child Welfare (State Gazette of 1979 Number 32, Supplement to State Gazette Number 3143), (c) Law Number 7 of 1984 concerning the Elimination of All Forms of Discrimination Against Women (Convention on the Elimination of all Forms of Discrimination Against Women), (State Gazette of 1984 Number 29, Supplement to the State Gazette Number 3277), (d) Law Number 3 of 1997 concerning Juvenile Court (State Gazette of 1997 Number 3, Supplement to the State Gazette Number 3668), (e) Law Number 4 of 1997 concerning Persons with Disabilities (State Gazette of 1997 Number 9, Supplement to the State Gazette Number 3670), (f) Law No. 20/1999 concerning Ratification of ILO Convention No. 138 Concerning Minimum Age for Admission to Employment (ILO Convention concerning the Minimum Age to be allowed to work), (State Gazette of 1999 Number 56, Supplement to State Gazette Number 3835), (g) Law Number 39 of 1999 concerning Human Rights, (State Gazette of 1999 Number 165, Supplement to the State Gazette Number 3886), (h) Law No. 1 of 2000 concerning Ratification of ILO Convention No. 182 Concerning The Prohibition and Immediate Action for The Elimination of The Worst Forms of Child Labor (ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor) , (State Gazette Year 2000 Number 30, Supplement to State Gazette Number 3941).

The legal consequences that arise are that it can result in legal inconsistencies from the position of the Child Protection Act itself, whether the Child Protection Act is a derivative law of the Convention on the Rights of the Child or not. This is because the legal basis for the ratification of the Convention on the Rights of the Child, namely Presidential Decree No. 36/1990, was not included in the "remembering" section of Law No. 23/2002 on Child Protection. According to Dahlan Thaib in Eddy Pratomo in his book entitled International Covenant Law, he said that in the context of building national legislation products, it is necessary to understand the principles of establishing legislation. (Pratomo, n.d.)

Principles that must be considered in the formation of laws and regulations, among others (Pratomo, 2016) : (a) The principle of clarity of purpose is that the laws and regulations made have a purpose such as forming new, replacing or changing laws and regulations. (b) The principle of benefit is that every type of legislation made must have the purpose of benefiting the life of the community, nation and state. (c) The principle of authority is that every type of statutory regulation that is made must be made by an authorized statutory regulation-forming organ, so that the statutory regulation can be canceled or null and void if it is made by an institution or organ that is not authorized. (d) The principle of conformity, type and material of content is that in forming every statutory regulation, it must really pay attention to the compatibility between the types of laws and regulations and the material to be regulated in the relevant statutory regulations. (e) The principle that can be implemented is that every formulation of laws and regulations must be based on the calculation that these laws and regulations will be able to apply philosophically, juridically and sociologically. (f) The principle of clarity of formulation is that in forming every statutory regulation, the technical requirements for

the preparation of laws and regulations must be met, so that the systematics as well as the terminology and legal language are clear, so as not to cause double interpretation. (g) The principle of openness (transparency), is that in the formation of laws and regulations, the public is given the widest opportunity to provide input. (h) The principle of efficiency is that the formation of laws and regulations is carried out with minimal resources to obtain maximum results.

If it is observed from the theoretical and practical level in Indonesia regarding the status and application of international agreements into national law, it appears that there is an indecision in placing international agreements that have bound Indonesia in its status as an international agreement norm (incorporation) or binding Indonesia in its status as a legal norm. or Indonesian Regulations (transformation). Regarding the problems above, law and practice in Indonesia tend to be unclear and lead to inconsistencies in their implementation and depend on the material of each international treaty and sometimes depend on considerations and political atmosphere and executive power rather than on considerations and interests of developing national law. (Pratomo, n.d.). So, in this case, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection is not in accordance with the 1989 Convention on the Rights of the Child.

However. Several provisions in Indonesia's positive law which regulates the legal protection of children, such as: (a) Law No. 39/1999 on Human Rights, (b) 1945 Constitution of the Republic of Indonesia, (c) Law Number 1 of 1974 concerning Marriage, (d) Law Number 4 of 1979 concerning Child Welfare, (e) Law Number 13 of 2013 concerning Manpower. The five laws and regulations above are in accordance with the basic provisions of child protection, namely the 1989 Convention on the Rights of the Child. In this case, the relation of these laws and regulations is related to their effectiveness in protecting children's rights. Various forms of exploitation of street children both in the formal and informal sectors have caused children not to obtain their rights in the fields of education, services, health, enjoying childhood to learn and play. Normatively, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, clearly and unequivocally recognizes children's rights, including in particular preventing the budgeting of children's rights from the risks of the worst work either formal and informal sector. (Reneouw, nd).

On the other hand, in practice, eliminating street children does require time, effort, funds and the awareness of the entire community. UUPA is a solution for the Government of Indonesia in dealing with problems concerning children in Indonesia. (Fitri, 2019) Child protection is a government effort with the aim of providing protection and guaranteeing children's rights.<sup>15</sup> Child protection must be carried out rationally, responsibly and as well as possible so that the efforts made can be effective and efficient. (Fitri, 2019) In this effort, it must be able to increase creativity, initiative, and not cause children to be dependent on others, so that children do not have the ability and willingness to use their rights and carry out their obligations. All of these efforts can be realized if many parties support. As regulated in the Child Protection Law, "The state, government, local government, community, family and parents or guardians are obliged and responsible for the implementation of child protection. (Laksmiana & Irawan, 2021).

Forms of legal protection through the LoGA provided for street children include: (a) Establishment of an independent Child Protection Commission (KPAI) (Article 74 of the LoGA), (b) The government and society are responsible for protecting Indonesian children, (c) The LoGA also provides strict sanctions for those who employ children informally. According to Balinda Brassil in her book *Dian Mega Erianti Reneouw*, if a law (law and legislation) can be effective, if it fulfills 7 (seven) main elements, namely (Reneouw, nd) : (a) There is an element of equality ( equality ), (b) The law must be accessible to every citizen in a transparent and equitable manner ( accessibility ), (c) The legal provisions are enforced by law enforcement organs ( enforceability ), (d) Availability of supply of funds, materials, staff, and other assets ( resource of efficiency ), (e) There is recognition and protection of individual rights, (f) There is an alignment of individual rights and values with community rights and values ( balance of individual rights and values and community rights and values ), (g) There are opportunities to file lawsuits and review laws or regulations against the constitution ( opportunity for appeals and review ).

The seven factors above are the basis for being able to see whether the legislation in force in a country has been running effectively or not. However, according to the author, in order to simplify the legal regulations regarding the protection of children's rights, it is necessary to refer to 1 (one) legislation, namely the Law on the Protection of Children, with a note, the legislation ratifying the 1989 Convention on the Rights of the Child in updated in accordance with the arrangements contained in International Treaty Law and Indonesian Constitutional Law so that it can run effectively and in accordance with the basic rules of protecting children's rights, namely the 1989 Convention on the Rights of the Child. The Convention on the Rights of the Child was ratified by the UN General Assembly on November 20, 1989, then Indonesia ratified the Convention on

the Rights of the Child through Presidential Decree No. 36/1990 on August 25, 1990. Legally, there has been an obligation to respect and guarantee the rights stipulated in the convention.

In the Convention on the Rights of the Child, there are 4 (four) general principles as the basis for protecting children's rights, namely: (a) Non discrimination (Article 2). States Parties shall respect and guarantee the rights set forth in the present Convention of every child within their jurisdiction without discrimination of any kind regardless of race, colour, sex, language, religion, political belief or other opinion, national, ethnic or social origin, property, disability, birth or other position of the child or his or her parents or legal guardians. This means that this Article contains the value of "Equal Opportunity", for example, girls must be given the same opportunities as boys, child refugees or children who come from other countries and children of minority groups must have the same opportunities to enjoy an adequate standard of living. (b) Best interests of Child (Article 3). In all actions concerning children, whether carried out by public or private social welfare institutions, courts, governmental authorities or legislative bodies, the best interests of the children must be the primary consideration. This means, when the authorities of a country make decisions that affect children, the first consideration must be based on the best interests of the child. This principle relates to decisions of courts, administrative officials, legislative bodies as well as public and private social welfare institutions. (c) Right to life, survival and self-development (Article 6). States Parties shall recognize that every child has an inherent right to life and shall ensure to the maximum extent the child's survival and development. (d) Child's View (Article 12). States Parties shall guarantee the right of the child who is able to express freely his own views on all matters concerning the child, with due weight given to the views of the child which have value appropriate to the age and maturity of the child concerned. This means that children have the right to be heard and the right to have their opinions taken seriously, including any legal or administrative procedures that concern them.

The Convention on the Rights of the Child is a reference in all child welfare efforts based on several considerations of justification, including: (a) Children's rights are an integral part of Human Rights (HAM) which must be used as a medium for the Indonesian people in international forums in discussing human rights. (b) Fulfillment of children's rights is an expression of national morality in viewing children as fellow human beings whose emancipation needs to be developed so that they actively participate in determining their future as human beings with dignity. (c) In entering the era of globalization, it is necessary to prepare a generation of nations that are strong to compete with other nations by fulfilling the right to life, the right to health, education, social and economy, and the right to protection. (d) By referring to the Convention on the Rights of the Child, reforms, improvements, and harmonization of laws and regulations that support the fulfillment of children's rights can be carried out.

According to the Convention on the Rights of the Child which was adopted from the United Nations General Assembly in 1989, that every child regardless of race, gender, origin of descent, religion, or language, has rights that cover 4 (four) areas: (a) The right to survival concerns the right to a decent standard of living and health services. (b) The right to development includes the right to education, information, leisure, artistic and cultural activities, freedom of thought, belief and religion, as well as the right of children with disabilities (special needs) to special services, treatment and protection. (c) Protection rights, including protection against all forms of exploitation, cruel treatment, and arbitrary treatment in the criminal justice process. (d) The right to participate, including the freedom to express opinions, assemble and associate, as well as the right to take part in making decisions concerning himself.

Based on the Convention on the Rights of the Child through 54 (fifty four) articles, there can be 6 (six) categories of children who need special protection. The categories are: (a) Children who are employed or children who are forced to work. There are 1.6 (one point six) million children aged 10-14 (ten to fourteen) years who work 35 (thirty five) hours every week. (b) Street children, from year to year the number of children who take to the streets is increasing, even though in 12 (twelve) big cities in Indonesia there are many shelter houses established by Non-Governmental Organizations (NGOs) but they still have insufficient capacity. Special attention is given to female street children who are particularly vulnerable to sexual violence. (c) Sexually exploited children. Approximately 30% (thirty percent) of commercial sex workers (PSM) are minors. Shipping abroad (trafficking) is increasingly rampant but there has been no adequate action. They are very vulnerable to HIV/AIDS and physical violence. (d) Mistreatment of children. Violence and mistreatment of something that is disguised because like violence against women (wife) is considered a taboo domestic problem to be disclosed. Physical, sexual, emotional, and psychological violence by parents against their children is considered a parental right. (e) Children who are in conflict with the law. The Juvenile Justice Act is still not strong enough to protect children because of the socialization and implementation that meets the requirements for children so that children who have to serve sentences are placed with adult inmates. (f) Children in armed conflict. Political and military turmoil in various regions in Indonesia resulted in tens of



thousands of children losing their parents, family, and future. They are forced to live in refugee camps without certainty to return to normal life as children.

In the Convention on the Rights of the Child, street children are not explicitly mentioned. However, you can refer to the provisions contained in the Convention on the Rights of the Child, besides that the Convention on the Rights of the Child can also be used to refer to various sources of policy issues that are directly or indirectly related to the problem of street children. The state, government, local government, community, family and parents are obliged to provide protection and guarantee the fulfillment of children's human rights, in accordance with their duties and responsibilities. their needs in various fields of life, so that in carrying out efforts to protect children's rights by the Government must be based on the principles of human rights, namely respect, fulfillment, and protection of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Protection Child.

## Conclusions

In this case, the 1989 Convention on the Rights of the Child concerning the Rights of the Child, where the object of the Convention is a "child" which should be an important part of state affairs and ratified in the form of a law, not in the form of a presidential decree which will affect the legal basis for the formation of the law. - Child Protection Law. Children's issues are also part of human rights issues which must be the main concern of the State. So, in this case Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection is not in accordance with the 1989 Convention on the Rights of the Child. Regulations (policies) must be made in detail and clearly. This means that a regional regulation is needed in each region, in order to regulate technical matters in the context of legal protection of street children as a manifestation of the protection of children's rights based on the 1989 Convention on the Rights of the Child and Law Number 23 of 2002 concerning Amendments to the Law. Law Number 35 of 2014 concerning Child Protection. There needs to be even stricter supervision from all parties, so that children's rights can be implemented to the maximum in accordance with Article 20 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

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