

CHAPTER FOUR

FINDING AND ANALYSIS

A. Laws and the Regulation on Underage Worker Protection in Indonesia

1. Legal Product related Underage Worker Protection

Indonesia is a developing country with a very large population, even in the ranks of countries that have the most population in the world¹. With the condition of the country where the population is very large, it is certain that the problems faced are not small. One of the main causes of child labor in Indonesia is the fact that many of the underage workers are closely linked with poverty and other economic problems². Indonesian government's effort in protecting child labor includes building legal products on child labor in the forms of legislation, government regulation and other regulations.

a. Laws

Legal protection for child labor in Indonesia has been realized in the form of Labor Law No. 13 of 2003 in Chapter X and described in Articles 68, 69, 70, 71, 72, 73, 74, and 75. Based on Article 68 sub-article 2 of Law Number 13 of 2003 explains that an entrepreneur is prohibited from employing children.

¹Omar Widodo, *Penerapan Perlindungan Hukum Terhadap Pekerja Anak yang Bekerja di Bidang Kontruksi*, Fakultas Hukum Universitas Indonesia, 2016.

²Faten Mohammad Saad Mohammad Radwan, Amal M. EL-Dakhakhny, Shadia F. Mahmoud, *Relation between Child Labour and Aggressive Behavior among School Age Children*, Egypt: Egyptian Journal and Health Care, 2018, Page 38.

Article 69 of the Law of the Republic of Indonesia Number 13 of 2003 explains in the first point that: Provisions as referred to in Article 68 can be excluded for children aged 13 (thirteen) years up to 15 (fifteen) years to do light work as long as they are not disrupt development and physical, mental and social health. While in paragraph 2, it is explained that the employer who employs a child in light work who relies on the first point must fulfil the following requirements:

- 1) Written permission from parents or guardian.
- 2) Work agreement between parent and guardian.
- 3) The maximum working time is 3 (three) hours.
- 4) Performed during the day and does not interfere with school time.
- 5) Occupational Health and Safety
- 6) The existence of a clear working relationship, and
- 7) Receive wages in accordance with applicable regulations.

Besides Law No. 13 of 2003, based on Law Number 23 of 2002 concerning Child Protection also created to strengthen Indonesian law in protecting children from exploitation crimes in any form. Then in 2014 the Government of Indonesia replaced and strengthened Law Number 23 of 2002 with the Law Number 35 of 2014 concerning the changes of Child Protection, This law also provides a new perspective in the criminal justice system where children who commit criminal acts will be treated as "victims" who are entitled to protection and

confidentiality³. While in 2000, Indonesia had ratified the ILO Convention that discussed child labor in the form of a Law, stated in Law No. 1 of 2000 concerns the ratification of the ILO Convention for the Elimination of the Forms of Child Labor⁴.

From several laws that have been created by Indonesia as mentioned, Indonesia also plays an active role in the international world in combating these child protection cases in collaboration with UNICEF and the ILO.

b. Other Legislation

When reviewing regulations relating to the protection of underage workers in Indonesia or understanding the contents of the labour law, basically every underage child is prohibited from working⁵. However, gradually, underage children are allowed to work with a minimum age and strict protection⁶. Regulations governing the protection of children and child labor are listed in as follows:

³ Evan Andrew Thomas, 2016, "Kajian Yuridis Terhadap Pekerja Anak Dibawah Umur menurut Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Undang-Undang Nomor 23 Tahun 2002", *Jurnal Elektronik Bagian Hukum Keperdataan Fakultas Hukum UNSRAT*, Vol. 4, No. 6, Page 5.

⁴ Lucia Charlotta Octovina Tahamata, 2018, "Perlindungan Hukum Terhadap Pekerja Anak, Kajian Ketentuan United Nations Convention on the Right of the Child", *Jurnal SASI*, Vol. 24, No.1, page 6.

⁵ Derry Angling Kesuma, 2015, "Pekerja Anak, Upaya Implementasi Konvensi Hak Anak di Indonesia, Faktor penyebab dan Metode Pencegahannya", *Lex Librum: Jurnal Ilmu Hukum*, Vol.2, No.1, Page 6.

⁶ Azzahra Soraya Bilhaq, 2018, "Pengaruh Sertifikasi Kakao terhadap Penurunan Praktik Perbudakan Anak oleh Petani Kakao di Pantai Gading", *Journal of International Relations*, Vol.4, No.1, page 3.

- 1) The Presidential Decree No. 59/2002 of 2002 concerning the National Action Plan for the Elimination of the Worst Forms of Work that aims to protect every child in Indonesia from all forms of the worst forms of labor and underage workers in Indonesia. This Presidential Decree was issued concurrently with Law No.23 / 2002 concerning Child Protection.
- 2) The Presidential Decree No.12 of 2001 which established the National Action Committee (KAN) for the Elimination of Child Labor in Indonesia.
- 3) The Republic of Indonesia Ministerial Decree Number 77 of 2003 concerning the Indonesian Child Protection Commission which regulates the procurement policy of the Indonesian Child Protection Commission (KPAI) which aims to protect the rights of children in Indonesia.
- 4) The Presidential Regulation of the Republic of Indonesia Number 61 of 2016 concerning the Indonesian Child Protection Commission.
- 5) Presidential Regulation of the Republic of Indonesia Number 33 of 2018 concerning Amendment to Presidential Regulation Number 75 of 2015 concerning the National Action Plan for Human Rights 2015-2019.
- 6) The Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number: KEP.253 / MEN / 2003 concerning

Types of Work that Endanger the Health, Safety or Moral of Children.

The Law as well as regulations from the government it is hoped to strengthen the protection of children in Indonesia to be able to avoid all forms of exploitation, including being underage workers.

c. The Established Institution

In addition to the existence of laws and regulations from the Government, Indonesia also issued other regulations issued by the Indonesian Child Protection Commission (KPAI) and the National Human Rights Commission (KOMNAS HAM) with the aim of protecting children in Indonesia and ensuring all children in Indonesia gets its rights. The regulation as follows:

- 1) The Republic of Indonesia National Human Rights Commission Regulation Number 001 of 2017 concerning Ratification of the National Action Plan on Business and Human Rights. This regulation aims to protect children in Indonesia, especially underage workers who are involved in business and ensure the rights that they should have.
- 2) The Law of the Republic of Indonesia Number 10 of 2012 concerning Ratification of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography). This law aims to protect Indonesian

children from economic exploitation and are required to work in conditions that avoid work that is harmful or damaging to the physical, mental, spiritual, moral, and social development of children.

2. The Requirement for Underage Worker

There are still many children who are in the worst sector of work where their safety and health are threatened in Indonesia⁷, as evidenced by data from UNICEF published in November 2017. Not only based on the results of data from UNICEF, the International Labour Organization (ILO) has also estimated that there are at least 120 million forced labour victims of around US \$ 150 billion per year in illegal profits.⁸

Countries	Child labour (%) [*]									
	Sex		Place of residence				Wealth quintile			
	Total	Male	Female	Urban	Rural	Poorest	Second	Middle	Fourth	Richest
Finland	-	-	-	-	-	-	-	-	-	-
France	-	-	-	-	-	-	-	-	-	-
Indonesia	7 x,y	-	8 x,y	6 x,y	-	-	-	-	-	-
Japan	-	-	-	-	-	-	-	-	-	-
Myanmar	9 y	10 y	9 y	7 y	10 y	-	-	-	-	-

Notes: - Data not available
 x Data refer to years or periods other than those specified in the column heading. Such data are not included in the calculation of regional and global averages.
 y Data differ from the standard definition or refer to only part of a country. If they fall within the noted reference period, such data are included in the calculation of regional and global averages.
 * Data from the fourth round of MICS (MICS4, 2009–2012) included in the table have been recalculated according to the indicator definition used in MICS3 surveys, to ensure cross-country comparability. In this definition, the activities of fetching water or collecting firewood are classified as household chores rather than as an economic activity. Under this approach, a child would have to be engaged in fetching water or collecting firewood for at least 28 hours per week to be considered as a child labourer.
 * Data refer to the most recent year available during the period specified in the column heading.
 KFR: Key Findings Report

⁷ Sherly Ayuna Putri, Agus Takariawan, 2017, “Pemahaman Mengenai Perlindungan Korban Perdagangan Anak (Trafficking) Dan Pekerja Anak dibawah Umur di Jawa Barat”, *Dharmakarya: Jurnal Aplikasi Ipteks untuk Masyarakat*, Vol.6, No.3, Page 4.

⁸International Labor Organization (ILO), June 14th 2016, France Joins the Global Movement against Forced Labor, See further at https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/WCMS_490780/lang--en/index.htm , accessed on April 19th 2019 at 22:20 PM.

⁹ X Data refer to years or periods other than those specified in the column heading. Such data are not included in the calculation of regional and global averages. Y Data differ from the standard

What is strong evidence that underage workers still do not have the right to protect their health and safety? Based on an investigation from the Human Rights Watch which has investigated underage workers in Indonesia, it has been found that many underage workers have stopped attending school and working in the tobacco farming sector¹⁰. In order to solve poverty in their families, children with the status of underage workers stop going to school and working to help the economy of their family¹¹. This has clearly violated the Employment Act No. 13 of 2003 in Article 2 which states that underage workers are allowed to work if they only work during the day and do not interfere with school time. Underage workers based on an investigation from Human Rights Watch found that some of these underage workers had even worked from the age of 8, some workers were 8 years old and they dropped out of school to help their parents.¹²

Even though a child is not permitted to work, the Government of Indonesia provides assistance by allowing a child if he wants to do work on the terms and conditions stipulated so that the child's rights can be protected

definition or refer to only part of a country. If they fall within the noted reference period, such data are included in the calculation of regional and global averages. Global Database on Child Labour, UNICEF, from <https://data.unicef.org/topic/child-protection/child-labour/>, accessed on April 6th 2019 at 21:26 PM.

¹⁰ Human Rights Watch, *Hazardous Child Labour on Indonesian Tobacco Farms*, See further at <https://www.hrw.org/video-photos/video/2016/05/24/hazardous-child-labor-indonesian-tobacco-farms> accessed on April 19th 2019 at 22:42 PM

¹¹ Maulana Mukhlis, 2015, "Prioritas Strategis Penghapusan Bentuk-Bentuk Pekerjaan Terburuk Untuk Anak di Provinsi Lampung Dalam Perspective Time Matrix Management", *Wedana: Jurnal Kajian Politik dan Birokrasi*, Vol.1, No.2, page 230.

¹²Permasalahan Pekerja Anak: Perspektif Maqashid Syari'ah, Indar Wahyuni, Indonesia: Fakultas Syariah dan Ekonomi Islam IAIN , 2015, Page 4

and ensured a strong legal protection¹³. Based on the provisions applicable to Law No. 13 of 2003 regulates the requirements if an entrepreneur and a minor who wishes to employ or work are required to follow the provisions in articles 69, 70, 71. Explanation of these requirements is as follows:

a. Article 69 of Law No.13 of 2003:

- (1) Provisions as referred to in Article 68 may be excluded for children aged between 13 (thirteen) to 15 (fifteen) years to do light work as long as it does not interfere with physical and mental health and development.
- (2) Entrepreneurs who employ children in light work as referred to in paragraph (1) must meet the following requirements:
 - a. Written permission from parents or guardians;
 - b. Employment agreement between the employer and parents or guardians;
 - c. Maximum working time of 3 (three) hours;
 - d. Carried out during the day and does not interfere with school time;
 - e. Occupational Health and Safety;
 - f. A clear working relationship; and
 - g. Receive wages in accordance with applicable regulations.

¹³ Abdul Rahman Kanang, 2017, "Implementasi Undang-Undang Ketenagakerjaan Dalam Memberikan Perlindungan Hukum Terhadap Eksploitasi Pekerja Anak di Kawasan Industri Makassar", *Al-Fiqr: Jurnal Pemikiran Islam*, Vol.21, No.2, Page 48.

h. The provisions referred to in paragraph (2) letters a, b, f, and g are excluded for children who work in the family business.

b. Article 70 of Law No.13 of 2003:

(1) Children can do work in the workplace that is part of the education or training curriculum that is authorized by the authorized official.

(2) The child referred to in paragraph (1) is at least 14 (fourteen) years old.

(3) The work referred to in paragraph (1) can be carried out with the following conditions:

a. How to carry out the work as well as guidance and supervision in carrying out the work; and

b. Given occupational safety and health protection.

c. Article 71 of Law No.13 of 2003:

(1) Children can do work to develop their talents and interests.

(2) Entrepreneurs who employ children as referred to in paragraph (1) must meet the following requirements:

a. Under the direct supervision of a parent or guardian;

b. Maximum working time is 3 (three) hours a day; and

c. Working conditions and environment do not interfere with physical, mental, social, and school time development.

(3) Provisions regarding children who work to develop talents and interests as referred to in paragraph (1) and paragraph (2) are regulated by Ministerial Decree.

3. The Provisions on Prohibition of Child Labor

When employing a minor, an employer who provides work is required to fulfill and guarantee her/her safety and protection in the workplace. Therefore, the Government of Indonesia regulates the provisions concerning the prohibition of work carried out by underage workers.

These provisions and prohibitions are regulated in Article 72 and Article 74 of Law No.13 of 2003. In Article 71 it is explained that underage workers are prohibited from working in one place together with adults. Article 72 as follows:

In the case of children being employed together with adult workers / laborers, the workplaces of children must be separated from the workplaces of adult workers / laborers.

Article 74 of Law No. 13 of 2003 explains the prohibition of the worst forms of child labor. Article 74 as follows:

- (1) Anyone is prohibited from employing and involving children in the worst jobs.
- (2) The worst jobs referred to in paragraph (1) include:
 - a. All work in the form of slavery or the like;
 - b. All work that uses, provides, or offers children for prostitution, the production of pornography, pornographic performances, or gambling;

- c. All work that utilizes, provides, or involves children for the production and trade of alcoholic beverages, narcotics, psychotropic substances, and other addictive substances; and
/ or
- d. All work that endangers the health, safety or morals of children.

(3) The types of work that endanger the health, safety or morals of the child as meant in paragraph (2) letter d, are stipulated by a Ministerial Decree.

4. The Applicable Sanctions

With the prohibition that has been regulated, the sanctions that will be obtained if it violates the rules and regulations that have been applied have also been arranged for violators. Sanctions that will be obtained for employers who are known to violate the law and employ a child under the age of 18 years will receive sanctions in the form of a minimum prison sentence of 1 year and a maximum of 4 years, and a fine of at least Rp 100,000,000 (one hundred million rupiah) and a maximum Rp. 400,000,000 (four hundred million rupiah).

B. Laws and Regulation on Underage worker Protection in France

1. Legal Product related Underage Worker

France strongly oppose all forms of child labour and fights cases of exploitation of economic children in children. This is evidenced by the

ratification of the International Labour Organisation (ILO) Convention No. 182 concerning the worst forms of child labour. This Convention prohibits children of the age of 18 years old to works which, by their nature or circumstances, are likely to endanger their health, safety or morals. The Convention also prohibits the worst forms of child labour and, in particular, slavery, child trafficking, prostitution, the recruitment of children for use in armed conflict and others.

The history of child labour in France began in 1572 when many children worked at the mining site Vosges Saônoises. From there, children started doing a lot of work in France. Starting from doing work sweeping the Savoyard chimney in the 17th century. Moreover, in 1790, 3,000 of the 8,000 workers in the spinning mills in the Tourcoing region had worked there. Until the 1840s it was reported that there were 143,000 children working in large industries, while 93,000 of them were only in the textile sector¹⁴.

In the beginning, for many years the French Supreme Court refused to consider the International Convention on the rights of children for underage children. But all changed when the first State Council ruled in the opposite direction by issuing a decision on June 27th 2008 in which the State

¹⁴ Le Travail des Enfants, Histoire du travail des enfants en France, See further at https://www.droitsenfant.fr/travail_histoire.htm , accessed on May 15th 2019 at 00:04 AM.

Council recognized the direct application of provisions that did not require adjusting French law¹⁵.

France is a unitary republic with a semi-presidential government system with a civil law system. A system similar to Indonesia, these two countries are countries of Civil Law inspired by the Roman Law system by writing in a collection, codified and not made by a judge. France also has several other similarities with Indonesia, namely the state system. Both of these countries have regional demand and recognize de-concentration and decentralization. This system is the same as Indonesia, although there are administrative regions but there are also autonomous regions.

But even though France has similarities with Indonesia, including the legal system as well as the Law governing employment in its country, the performance of the French government is considered better than Indonesia in tackling underage child labourers exploited in their countries, this is evidenced by the UNICEF Global Database on November 2017 which shows that France has no issues or cases of underage workers who are still exposed to exploitation in their country¹⁶.

a. Legislation

Nationally, France enforces the protection of children's rights and prohibits a minor from working because a child should be able to play,

¹⁵ Le Travail des Enfants, La Convention internationale des droits de l'enfant et son interprétation en France, Decision of June 27th 2008, See further at https://www.droitsenfant.fr/cide_interpretation.htm , accessed on May 15th 2019 01:23 AM.

¹⁶ UNICEF, Global Database on Child Labour, See further at <https://data.unicef.org/topic/child-protection/child-labour/> , Accessed at April 6th 2019 on 21:26 PM.

study and do activities they like with the aim of growing up like normal children should, but in some cases a minor is allowed to do a job. In French law, for the prohibition of minors from working, the provisions of underage workers and their rights and protections are stipulated in the French Labor Code (Code du Travail) in Article L3161-1, L3162 to L3162-3, L3163-1 up to L3163-3, L3164-6 to L3164-8 and L3164-3. Under French labour law (*Code du Travail*) Article L3161-1 codified in 2007 defines a young worker as someone who works under the age of 18.

b. Government Regulation

With the Law that has been regulated by France, the Government has also created a government regulation that regulates the provisions of workers under age in France. Government regulation that has been regulated as follows:

- 1) Decree No. 2013-914 of 11 October 2013 on the derogation procedure provided for in Article L. 4153-9 of the Labor Code for young people under the age of eighteen. (*Décret n° 2013-914 du 11 octobre 2013 relatif à la procédure de dérogation prévue à l'article L. 4153-9 du code du travail pour les jeunes âgés de moins de dix-huit ans*).
- 2) **Decree No. 2015-443 of 17 April 2015 on the derogation procedure provided for in Article L. 4153-9 of the Labor Code**

for young people under the age of eighteen. (*Décret n° 2015-443 du 17 avril 2015 relatif à la procédure de dérogation prévue à l'article L. 4153-9 du code du travail pour les jeunes âgés de moins de dix-huit ans*).

- 3) Decree No. 2015-444 of 17 April 2015 amending Articles D. 4153-30 and D. 4153-31 of the Labor Code. (*Décret n° 2015-444 du 17 avril 2015 modifiant les articles D. 4153-30 et D. 4153-31 du code du travail*).

c. Other Regulation

Not only regulating underage workers as well as children in their country, the French government also created other regulations governing the rights of children and underage workers that have been regulated in several regulations as follows:

- 1) **Law N 2016-297 of March 14th, 2016 Relative to the Protection of the Child. (*LOI n° 2016-297 du 14 mars 2016 relative à la protection de l'enfant*).**
- 2) **Decree N 2017-96 of January 27, 2017 amending the Composition of the National Council for the Protection of Children. (*Décret n° 2017-96 du 27 janvier 2017 modifiant la composition du Conseil national de la protection de l'enfance*).**

2. The Requirements for Underage Worker

France has stipulated that a child under the age of 18 may not work or employ a child under the age of 16 provided for in Article L 6222-1 Code du Travail as follows:

No person may be involved as an intern unless he was at least sixteen years old when he was twenty-nine years old at the beginning of his internship. However, young people who are at least 15 years old can start an apprenticeship contract if they justify completing the first cycle of secondary education.

Young people who reach the age of fifteen before the end of the calendar year can be registered, under school status, at a vocational high school or at an apprenticeship training centre to begin their training, under conditions determined by decision. In the State Council.

Furthermore, a worker under the age of 16 is allowed to work for artistic or entertainment activities. With the provisions that have been included in the French Labour Code (Code du Travail) in Article L 7124-1 as follows:

A child under the age of sixteen may not, without prior individual permission, granted by an administrative authority, be involved in any capacity:

A child under the age of sixteen may not, without prior individual authorization, granted by the administrative authority, be engaged in any capacity whatsoever:

1. In a show business, sedentary or itinerant;
2. In a film, radio, television or sound recording company;

3. To exercise a manikin activity within the meaning of Article L. 7123-2;
4. In an enterprise or association whose purpose is participation in video game competitions within the meaning of Article L. 321-8 of the Internal Security Code.

3. The Provision on Prohibition of Work for Underage Worker

With the provision in which the French government allows underage citizens to work, they also set restrictions on work performed for minors in France in order to protect and ensure that every underage worker gets their rights and protection. The provisions describe the duration of work underage workers in France and what work should not be done for underage workers as described in the French Labour Code (*Code du Travail*).

An underage worker has a duration of doing work in France with a duration of not more than 8 hours a day and 35 hours a week. This has been regulated in *Code du Travail* Article L3162-1 which has been in effect since January 1, 2019 and is only allowed to be more if it is bumped into certain activities and if it has received a decision from the Conseil d'Etat. An explanation of this duration as follows:

1. The effective weekly working time of thirty-five hours, in the limit of five hours a week;
2. To the effective daily working time of eight hours, within the limit of two hours per day.

Where the overruns provided for in 1 and 2 are applied:

- a. Rest periods of at least the number of hours worked beyond the eight hours per day shall be granted;
- b. Any overtime and any increase thereto shall give rise to equivalent compensatory rest.

In addition, Article L3162-3 has also explained the effectiveness in working as follows:

For young workers, an uninterrupted effective service life can exceed a maximum of four and a half hours. When the daily work time is more than four and a half hours, young workers have at least thirty consecutive minutes of rest. (*Aucune période de travail effectif ininterrompue ne peut excéder, pour les jeunes travailleurs, une durée maximale de quatre heures et demie. Lorsque le temps de travail quotidien est supérieur à quatre heures et demie, les jeunes travailleurs bénéficient d'un temps de pause d'au moins trente minutes consécutives.*)

In addition to regulating the duration of work for underage workers, the French government has arranged curfew provisions for underage workers. According to the French Labour Code (*Code du Travail*) in Article L3163-1 defines night work as follows:

1. For young workers over the age of sixteen and under the age of eighteen, all work between 10 pm and 6 am.

2. For young workers under the age of sixteen, all work between 8 pm and 6 am.

In addition to the explanation in Article L3163-1, in Article L3163-2 also explains the provisions regarding night work for underage workers as follows:

Night work is prohibited for underage worker. For young employees of commercial companies and people from the spectacle, reductions can be given, specifically, by labour inspectors. The Conseil d'Etat decree also specifies a list of sectors whose characteristics can be used as a reason for reduction. An extended agreement or collective labour agreement or company or agreement or establishment agreement can determine the conditions under which this authorization can be granted in these sectors. No exceptions are given between midnight and 4 am, depending on the very urgent cases as regulated in Article L. 3163-3. Deductions for employing children under the age of sixteen can only be given in the case mentioned in Article L. 7124-1 in entertainment, film, radio and television or sound recordings (*Le travail de nuit est interdit pour les jeunes travailleurs. Pour les jeunes salariés des établissements commerciaux et de ceux du spectacle, des dérogations peuvent être accordées, à titre exceptionnel, par l'inspecteur du travail. Un décret en Conseil d'Etat détermine en outre la liste des secteurs pour lesquels les caractéristiques particulières de l'activité justifient une*

dérogation. Une convention ou un accord collectif de travail étendu ou une convention ou un accord d'entreprise ou d'établissement peut définir les conditions dans lesquelles cette autorisation peut être accordée dans ces secteurs. Il ne peut être accordé de dérogation entre minuit et 4 heures, sous réserve des cas d'extrême urgence prévus à l'article L. 3163-3. Il ne peut être accordé de dérogation pour l'emploi de mineurs de moins de seize ans que s'il s'agit de ceux mentionnés à l'article L. 7124-1 dans les entreprises de spectacle, de cinéma, de radiophonie, de télévision ou d'enregistrements sonores.)

However, if there are certain urgent conditions, the provisions in Articles L3163-1 and L3163-2 can be revoked. This is explained in Article L3163-3 as follows:

In very urgent cases, if adult workers are not available, the provisions of Articles L. 3163-1 and L. 3163-2 may be revoked for young workers aged sixteen to eighteen years. , for passenger work that is intended to prevent accidents that will occur or to correct the consequences of accidents. An equivalent period of compensation is given to them within three weeks (*En cas d'extrême urgence, si des travailleurs adultes ne sont pas disponibles, il peut être dérogé aux dispositions des articles L. 3163-1 et L. 3163-2, en ce qui concerne les jeunes travailleurs de seize à dix-huit ans, pour des travaux passagers destinés à prévenir des accidents imminents ou à réparer*

les conséquences des accidents survenus. Une période équivalente de repos compensateur leur est accordée dans un délai de trois semaines.).

In carrying out their work, underage workers also get the right to rest in a day which is regulated in the French Labor Code (Code du Travail) in Article L3164-1 as follows:

The minimum daily rest period for young workers may not be less than 12 consecutive hours. This minimum period is extended to fourteen consecutive hours if they are under sixteen. The minimum sustained daily rest period for young employees may not be less than 12 hours in the case of exceptions provided for in Article L. 3163-2. (*La durée minimale du repos quotidien des jeunes travailleurs ne peut être inférieure à douze heures consécutives. Cette durée minimale est portée à quatorze heures consécutives s'ils ont moins de seize ans. La durée minimale de repos continu quotidien des jeunes salariés ne peut être inférieure à douze heures dans le cas des dérogations prévues à l'article L. 3163-2.*)

While in Article L3164-2 further explains the right to rest for underage workers as follows:

Young workers are entitled to two consecutive days of rest per week. Where the particular characteristics of the activity so justify, an enterprise or establishment agreement or agreement or, failing that, an extended collective labour agreement or agreement

may define the conditions under which it may be derogated from the provisions of the first paragraph for young people released from compulsory education, provided that they have a minimum rest period of thirty-six consecutive hours. Failing agreement, a decree in the Council of State defines the conditions under which this derogation can be granted by the labour inspector.

An enterprise or establishment agreement or agreement or, failing that, an extended collective labour agreement or agreement may define the conditions under which the first paragraph may be waived for young workers under sixteen years of age employed by a performance contractor, provided that they enjoy a minimum rest period of 36 hours, including at least 24 consecutive hours, and that their participation in a rehearsal or show is likely to contribute to their development and is carried out under conditions guaranteeing the preservation of their health.

In the absence of agreement and if the conditions mentioned in the penultimate paragraph of this article are met, this derogation may be granted by the labour inspector, after consulting the commission responsible for granting the authorizations mentioned in Article L. 7124-1. *(Les jeunes travailleurs ont droit à deux jours de repos consécutifs par semaine.*

Lorsque les caractéristiques particulières de l'activité le justifient, une convention ou un accord d'entreprise ou

d'établissement ou, à défaut, une convention ou un accord collectif de travail étendu peut définir les conditions dans lesquelles il peut être dérogé aux dispositions du premier alinéa pour les jeunes libérés de l'obligation scolaire, sous réserve qu'ils bénéficient d'une période minimale de repos de trente-six heures consécutives. A défaut d'accord, un décret en Conseil d'Etat définit les conditions dans lesquelles cette dérogation peut être accordée par l'inspecteur du travail. Une convention ou un accord d'entreprise ou d'établissement ou, à défaut, une convention ou un accord collectif de travail étendu peut définir les conditions dans lesquelles il peut être dérogé au premier alinéa pour les jeunes travailleurs de moins de seize ans employés par un entrepreneur du spectacle, à condition qu'ils bénéficient d'une période minimale de repos de trente-six heures, dont au moins vingt-quatre heures consécutives, et que leur participation à une répétition ou à un spectacle soit de nature à contribuer à leur développement et s'effectue dans des conditions garantissant la préservation de leur santé. A défaut d'accord et si les conditions mentionnées à l'avant-dernier alinéa du présent article sont remplies, cette dérogation peut être accordée par l'inspecteur du travail, après avis de la commission chargée d'accorder les autorisations mentionnées à l'article L. 7124-1).

Underage workers in France are not permitted to work in hazardous environments and hazardous work which can have a negative physical and

moral impact. Everything is set in the French Labor code (Code du Travail) as follows:

- a. It is forbidden to assign young people to work that expose them to pornographic or violent acts or representations on Article D4153-16 Labor code (*Code du Travail*).
- b. It is forbidden to expose them to hazardous chemical agents in Article D. 4153-17 French Labor Code (*Code du Travail*).
- c. It is forbidden to expose them to group 4 and group 3 biological agents according to the French Labor Code in Article D 4153-19.
- d. It is forbidden to expose them to mechanical vibrations according to the French Labor Code in Article D. 4153-20 and it specifies the vibrations levels which should not be exceeded according to Article R. 4443-2.
- e. Exposure to ionizing radiations, artificial optical radiation is forbidden however an exemption is possible according to the French Labor Code Articles D. 4153-21 and D. 4153-22.
- f. Exposure to hyperbaric conditions is prohibited however an exemption is possible according to the French Labor Code in Article D. 4153-23.
- g. Exposure to hazards of an electrical nature is forbidden according to the French Labor Code in Article D. 4153-24.

- h. Exposure to risks of collapse is forbidden according to the French Labor Code in Article D. 4153-25.
- i. Driving mobile work equipment is forbidden according to the French Labor Code in Article D. 4153-26 and D. 4153-27.
- j. Works requiring the use of work equipment are forbidden however an exemption is possible according to the French Labor Code in Articles D. 4153-28 and D. 4153-29.
- k. Temporary work at height is forbidden according to the French Labor Code (Articles D. 4153-30, D. 4153-31 and D. 4153-32.
- l. Works using pressure vessels are forbidden however an exemption is possible according to the French Labor Code in Articles D. 4153-33 and D. 4153-34.
- m. Working in contact with melted glass or melted metal is forbidden however an exemption is possible according to the French Labor Code in Article D. 4153-35.
- n. Exposure to extreme temperatures is forbidden according to the French Labor Code in Article D. 4153-36.
- o. Working in contact with animals is forbidden according to the French Labor Code in Article D. 4153-37.

4. The Applicable Sanction

This labour code also explains the criminal provisions if violating negligence or not fulfilling the rights for underage workers will be subject to fines. This is discussed in Article R3165-1 as follows:

Failure to comply with the provisions of Articles [L. 3162-1](#) and [L. 3162-2](#) , relating to the hours of work of young workers, is punishable by the fine for contraventions of the fourth class, pronounced as many times as There are employees affected by the offense. (*Le fait de méconnaître les dispositions des articles L. 3162-1 et L. 3162-2, relatives à la durée du travail des jeunes travailleurs, est puni de l'amende prévue pour les contraventions de la quatrième classe, prononcée autant de fois 'il ya de salariés concernés par l'infraction.*)

In violations of class 4 (four) violators who break the rules are required to pay a fine of 135 € and a maximum fine of 750 €. The rate of the fine in force due to the Public Treasury, depends on the delay of payment of the fine. The fine may be [reduced or increased](#) and the amount of the fine is indicated on the notice of contravention or the minutes drawn up by the police force.

If violation of the provisions in Article L3162-3 is found, the employer will be sentenced to a penalty which is required to pay the fine that has been regulated in Article R3165-2. The provisions of the Article are written as follows:

The fact of employing a young worker during an uninterrupted period of continuous work of more than four and a half hours, in violation of the provisions of Article [L. 3162-3](#) , shall be punished by the fine prescribed for the contraventions of the fifth

class, pronounced as many times as there are employees concerned by the offense. Employing a young worker for more than four and a half hours of daily work without a break of at least thirty consecutive minutes is subject to the same fine. Recidivism is punishable in accordance with Articles [132-11](#) and [132-15](#) of the Penal Code. (*Le fait d'employer un jeune travailleur pendant une période de travail effectif ininterrompue de plus de quatre heures et demie, en méconnaissance des dispositions de l'article [L. 3162-3](#), est puni de l'amende prévue pour les contraventions de la cinquième classe, prononcée autant de fois qu'il y a de salariés concernés par l'infraction. Le fait d'employer un jeune travailleur pour un temps de travail quotidien supérieur à quatre heures et demie sans le faire bénéficier d'un temps de pause d'au moins trente minutes consécutives est puni de la même amende. La récidive est réprimée conformément aux Articles [132-11](#) et [132-15](#) du code pénal.*).

Article 132-11 listed in the French Penal Code states that if an underage worker works non-stop for a period of more than four hours, the employer will be punished with a penalty that has been categorized as a class 5 violation. Additionally, Article 132-15 French Penal Code explain further where lawbreakers will be punished where the maximum penalty can be increased by as much as 3000 euros. This has been clearly stated in Article 132-15 as follows:

Where the regulation so provides, where a legal person, who has already been finally convicted of a fifth-class offense, incurs criminal liability, within one year from the expiry or prescription of the previous sentence, by the same contravention, the maximum rate of the fine applicable is equal to ten times that which is provided for by the regulation which represses this contravention with regard to the natural persons. *(Dans les cas où le règlement le prévoit, lorsqu'une personne morale, déjà condamnée définitivement pour une contravention de la cinquième classe, engage sa responsabilité pénale, dans le délai d'un an à compter de l'expiration ou de la prescription de la précédente peine, par la même contravention, le taux maximum de l'amende applicable est égal à dix fois celui qui est prévu par le règlement qui réprime cette contravention en ce qui concerne les personnes physiques.)*

Not only are they required to pay fines, violators who break the law may be subject to imprisonment as described in Article 132-9 French Penal Code as follows:

Where a person who has already been definitively sentenced for a crime or for an offense punishable by ten years' imprisonment by the law, commits, within ten years of expiry or prescription of the previous sentence, an offense punishable by the same penalty, the maximum of imprisonment and fine is doubled. Where a natural person who has already been definitively sentenced

for a crime or for an offense punishable by ten years' imprisonment by the law, shall, within five years from the expiration or prescription of the previous sentence, an offense punishable by a term of imprisonment of more than one year and less than ten years, the maximum imprisonment and fine is doubled. (*Lorsqu'une personne physique, déjà condamnée définitivement pour un crime ou pour un délit puni de dix ans d'emprisonnement par la loi, commet, dans le délai de dix ans à compter de l'expiration ou de la prescription de la précédente peine, un délit puni de la même peine, le maximum des peines d'emprisonnement et d'amende encourues est doublé. Lorsqu'une personne physique, déjà condamnée définitivement pour un crime ou pour un délit puni de dix ans d'emprisonnement par la loi, commet, dans le délai de cinq ans à compter de l'expiration ou de la prescription de la précédente peine, un délit puni d'une peine d'emprisonnement d'une durée supérieure à un an et inférieure à dix ans, le maximum des peines d'emprisonnement et d'amende encourues est doublé.*).

In addition to the laws in force, France also created a national structure for child protection whereby the French government created the State Secretariat for Families, Children, Elderly and Self-Government, with the Minister of Social, Health and Women's Rights, concentrating measures to protect childhood children.

French government also established the National Observatory for Children at Risk (ONED), which was created in 2004 and responds to the lack of knowledge in child protection practices and The 119, the national telephone service for children in danger (formerly SNATE SNATEM). This free route can also be used by children or adolescents for themselves or for other children such as by teachers, social workers, family members, neighbours when there is suspicion of physical injury or mental abuse, neglect or abuse of minors¹⁷.

In the international world, France supports a movement of initiatives aimed at combating child labour; The Global Compact Initiative promoted by former United Nations Secretary-General, Kofi Annan. Why does France support this movement of initiative? Because this Initiative movement was very successful, it attracted more than 5,300 companies established in 130 countries to respect basic social standards¹⁸.

France has made efforts to improve working conditions and eradicate cases of child labour by revising national laws based on EU directives, specifically social clauses that allow for the provision of procurement contract requirements. This was also done in the French strategic policy guidelines for 2007-2011¹⁹.

¹⁷ Doctissimo Famille, “La protection de l’enfance en France”, see further at <https://www.doctissimo.fr/famille/droit-de-la-famille/protection-de-l-enfance/protection-de-l-enfance>, accessed on October 8th 2019, 21:40 PM.

¹⁸ France in The United Kingdom, “France Sets out Policy on Combating Child Labour”, see further at <https://uk.ambafrance.org/France-sets-out-policy-on>, accessed on April 23th 2019, 21:35 PM.

¹⁹ France in The United Kingdom, “France Sets Out Policy on Combating Child Labour”, see further at <https://uk.ambafrance.org/France-sets-out-policy-on>, accessed on April 23th 2019, 21:35 PM.

The French Ministry also engages in the National Fair Trade Commission which guarantees production procedures that will not involve economic exploitation of children and they also guarantee fair payments to producers so that it will help reduce poverty. In addition to policies made by the French government, the Ministry of Foreign Trade has also begun cooperation with key NGOs on human rights and environmental protection. These are all products of the laws and policies of the French government.

C. The Similarities Between the Laws for the Protection of Underage Workers in Indonesia and France

Indonesia and France are Civil Law countries that have quite a lot in common. These two countries have a written Constitution and these two countries are a unitary state in the form of a republic. Furthermore, the government system in France also has the same system of government as having administrative regions and autonomous regions in the country. In addition, these two countries also adhere to a decentralized and concentrated system.

From some of the similarities, France also has similarities in protecting child labour exploited in the country. French Labour Law has regulated underage workers who have similarities with Indonesia including:

1. Article D4153-15 the French Labour Code (*Code du Travail*) has the same meaning as the Employment Act of the Republic of Indonesia Number 13 of 2003 Article 69. Article D4153 has explained that a child is prohibited from working or being employed. However, it is permissible to work with

provisions that have been determined and with an age of at least 15 (fifteen) years up to 18 (eighteen) years. In article 68 of the Employment Act No. 13 of 2003, children can work if they meet the requirements of children aged at least 13 (thirteen) years up to the age of 15 (fifteen) years and are only allowed to do light work that does not interfere with development and physical health. , mental and social.

2. Article L4153-1 on the Labour code (Code du Travail) is an explanation where a child is below 16 (sixteen) years is allowed to work as long as they follow the provisions of Article L4153-1. This article has provisions and explanations similar to Article 70 of the Employment Act No. 23 of 2003 that explains that children can do work in the workplace which is part of an education or training curriculum that has been approved by an authorized official.
3. Article L3161-1 Labour Code explains that a child will be considered as a worker if he meets the conditions explained by Article L3161-1. The provisions and sounds of Article are similar to Article 73 of the Employment Act No. 23 of 2003 which explains that children will be considered working when they are at work, unless it can be proven otherwise. In addition to article 73, Article L3161-1 also has similarities to article 70 paragraph 1 of the Employment Act No. 23 of 2003 which explains that a child can do work in a workplace which is an education curriculum or training approved by an authorized official.

In addition to several articles which have similarities with the articles in the French Labour Code, Indonesia and France also have legal products. If Indonesia has the Indonesian Child Protection Commission (KPAI) as a form of the results of the Act with the aim of child welfare and protection, then France has the same legal product. France has an Independent Institution working on the protection of children's rights in France, *Défenseur des Droits Republique Francaise* (Rights Advocate Republic of France)²⁰. In addition to KPAI, Indonesia also has a non-profit social organization called the Foster Parent National Movement (GNOTA) which is established in the economic field with the aim of completing child labour in the economic field with the hope that child labour and even exploitation of child labour can be reduced. This organization focuses more on 2 (two) things, namely education and humanity²¹. With the education of children who have become part of their rights, it is hoped that children in Indonesia can grow like normal children should and can enjoy their rights as children where they grow well with adequate education and protection.

Not only regulation, Indonesia and France also contribute in fighting child labour both nationally and internationally. Nationally, France has created the Ministry of Justice, also known as Chancellor. The Ministry of Justice also serves as the General Secretariat and A General Inspectorate of Judicial Service. They ensure the mission:

²⁰Défenseur des Droits, See further at <https://www.defenseurdesdroits.fr/fr/institution/organisation/defenseur> , accessed on April 26th 2019 at 23:50 PM

²¹Gerakan Nasional Orangtua Asuh (GNOTA), Visi dan Misi Kami, see further at <http://www.gnota.or.id/tentang-gnota/#visi-misi-kami> , accessed on April 28th 2019 at 22:20 PM

1. Preparation of laws and regulations in certain areas, such as family law, French nationality, civil justice and criminal justice, etc. ;
2. Management of the means of justice: personnel, equipment, buildings, computer, etc. ;
3. Care of the populations entrusted to it by the judicial authority: juvenile delinquents or those in danger and persons under judicial control ;
4. Definition and implementation of public policies in the field of Justice: assistance to crime victims, criminal policy, fight against organized crime, access to law and justice, etc.

While looking at Indonesia, Indonesia created the Ministry of Law and Human Rights (KEMENHUMHAM RI). The Ministry of Law and Human Rights also has a mission more or less the same as France, namely:

1. Realizing quality legislation;
2. Realizing quality legal services;
3. Realizing quality law enforcement;
4. Realizing respect, fulfillment and protection of human rights;
5. Realizing the administrative management services of the Ministry of Law and Human Rights; and
6. Realizing a professional and integrity Ministry of Law and Human Rights apparatus.

In addition to matters relating to the efforts and actions of each country, internationally Indonesia and France also have many similar contributions in

fighting and ending child labor, both in each country and throughout the world. One of the actions taken by Indonesia and France is to ratify ILO Convention No.138 on Minimum Age Convention. Indonesia ratified ILO Convention No.138 in Law No. 20 of 1999 concerning ILO Convention Ratification No.138 Concerning Minimum Age for Admission to Employment. France on the other hand also ratified ILO Convention No.138 Concerning Minimum Age for Admission to Employment²². These two countries are members of the International Labor Organization (ILO) that support the eradication of child labor which is still a large-scale case in the whole world. France is a member of the ILO since June 28th 1919 and Indonesia has been a member since May 12th 1950.

Not only that, the similarity of the steps taken by Indonesia and France in protecting underage workers and realizing child rights can also be observed on the existence of the Convention on the Right of the Child with these two countries as participants. France signed on January 26th 1990 and ratified it on August 7th 1991²³:

Declarations and reservation made upon signature and confirmed upon ratification:

²² International Labour Organization (ILO), *Natlex Database of National labour, Social Security and Related Human Rights Legislation*, See further at https://www.ilo.org/dyn/natlex/natlex4.countrySubjects?p_lang=en&p_country=FRA , accessed on April 28th 2019 at 22:33 PM

²³United Nations Treaty Collection, *Convention on the Rights of the Child*, see further at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#EndDec , accessed on April 28th 2019, 23:26 PM.

1. The Government of the French Republic declares that this Convention, particularly article 6, cannot be interpreted as constituting any obstacle to the implementation of the provisions of French legislation relating to the voluntary interruption of pregnancy.
2. The Government of the Republic declares that, in the light of article 2 of the Constitution of the French Republic, article 30 is not applicable so far as the Republic is concerned.
3. The Government of the Republic construes article 40, paragraph 2 (b) (v), as establishing a general principle to which limited exceptions may be made under law. This is particularly the case for certain non-appealable offences tried by the Police Court and for offences of a criminal nature. None the less, the decisions handed down by the final court of jurisdiction may be appealed before the Court of Cassation, which shall rule on the legality of the decision taken.

Indonesia has signed this convention on the January 26th 1990 and has ratified it as outlined in the Law of the Republic of Indonesia Number 10 of 2012 concerning the Convention on the Rights of the Child. Furthermore, in Indonesia's statement as participant of this convention explained that on February 6th 1995 the Secretary General received communications from the

Dutch Government in connection with reservations from ratification of Djibouti, Indonesia, Pakistan and the Syrian Arab Republic²⁴.

D. The Differences Between the Laws for the Protection Of Underage Workers in Indonesia and France

Even though it has quite a lot of similarities between the law for the protection of underage workers, Institutions that contribute to the protection of children and underage workers and national and international actions, Indonesia and France also have many differences that are very likely to become benchmarks for Indonesia in completing exploitation of child labour in Indonesia which is still a big issue.

Some differences between Indonesia and France can be seen in the law, actions taken for underage workers, both on a national or international scale, moral education and the economic situation in these two countries. From several aspects of the differences that have been mentioned, the explanation for several aspects that have been mentioned is more prominent in the economic and moral aspects.

1. Regulations

Despite having the same legal system and having the same concept of legal protection in the protection of underage workers, Indonesia and France still have differences in law, not only with the different Labour Code

²⁴United Nations Treaty Collection, *Convention on the Rights of the Child*, see further at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#EndDec , accessed on April 28th 2019, 23:26 PM.

(Code du Travail) -3,342 pages²⁵ - covering all aspects, starting from recruitment and dismissal to eating at someone's table but also differences in explanations in each article. The legal difference refers to:

- a. Sector or any type of work that may be carried out by underage workers during holidays where a worker should be able to rest during holidays.
- b. Curfew for underage workers and duration of work for underage workers.
- c. Types of work that should not be carried out in detail for underage workers.

From some of the points mentioned above, these points are the main points which make a difference in the detailed explanation of underage workers and become a legal proof of the protection of underage workers in France in more detail and more effective compared to Indonesia. Descriptions of these points in detail are described as follows:

1. The types and sectors of work that may be carried out during holidays are explained in detail by French labour protection laws for underage workers. In the Law of the Republic of Indonesia Number 13 of 2003 concerning Employment in articles 67-75 does explain the prohibition of employing underage children, provisions if you want to employ underage workers, work that can be done by underage workers, types of work that may not be

²⁵Silicon Republic, *What Can We Learn from French Labour Laws*, see further at <https://www.siliconrepublic.com/careers/french-labour-laws-work-practices> , accessed on May 1st 2019at 01:33 AM.

done by underage workers, protection and countermeasures for children who work outside the employment relationship. If French labour law discusses in detail the day in which underage workers may work and what types of work may be done for underage workers may work on holiday days, then Indonesia does not explain in detail such as French Labour Code. Sectors in which the particular characteristics of the activity justify, pursuant to Article L. 3164-8, the employment of young workers on legal holidays recognized by law are:

- a. The hotel industry;
- b. The restoration;
- c. Caterers and reception organizers;
- d. Coffee, tobacco and drinking establishments;
- e. The bakery;
- f. Pastry;
- g. Butchery;
- h. Delicatessen products;
- i. The dairy-creamery;
- j. The fish shop;
- k. Stores selling natural flowers, garden centers and grain mills;
- l. Establishments in other sectors primarily engaged in the manufacture of food products intended for immediate consumption or whose sole activity is the sale of foodstuffs at retail;
- m. The shows.

Indonesian Labor Law states about the time and duration of work of an underage worker in article 69 paragraph 2 letters c and d, besides that also mentioned in article 71 paragraph 2 letter c. From the mentioned it can be understood that an underage worker has a working time of no longer than 3 (three) hours a day and is carried out only during the day and must be ensured not to disrupt school hours, Indonesian labor laws for the protection of underage workers do not explain the maximum limits per week a worker should do a worker doing his work. While French labor law explains the maximum weekly limit of a child laborer doing his work is 48 hours according to *Code du Travail* (Labor Code) Article L3121-20²⁶.

Status for workers under the age of 18 actually cannot exceed 35 hours a day or 8 hours a day²⁷. However, in some conditions where a job can exceed maximum working hours will be ratified in cases where a temporary increase is imposed. This has been stipulated in article L. 3121-18 *Code du Travail* (Labor Code) which explains for reasons such as:

1. Work to be performed within a specified time because of their nature, the charges imposed on the company or commitments entered into by it;

²⁶Legifrance, Code du Travail (Labor Code) Article L3121-20. Modified by Law n ° 2016-1088 August 8, 2016 - art. 8 (V). See further at https://www.legifrance.gouv.fr/affichTexteArticle.do;jsessionid=4C0EB7819872E0474F1271CEF7BFDDDB.tplgfr23s_3?cidTexte=JORFTEXT000032983213&idArticle=LEGIARTI000033001006&dateTexte=20190513&categorieLien=id#LEGIARTI000033001006 , accessed on May 4th 2019 at 20:35 PM.

²⁷Ministère du Travail (Ministry of Labour), *La durée Légale du Travail (The Legal Duration of Works)*, see further at <https://travail-emploi.gouv.fr/droit-du-travail/temps-de-travail/article/la-duree-legale-du-travail#Quels-sont-les-temps-de-travail-comptabilises-dans-la-duree-legale-nbsp> . Accessed on May 4th 2019 at 20:40 PM.

2. Seasonal work;
3. Work involving increased activity during certain days of the week, month or year.

In addition to what has been explained, Indonesian law does not explain curfews for underage workers, while French labor law explains and enforces the rules for nighttime work for underage workers that are not explained by Indonesian labor law. A description of the night job for workers is explained in Article L3122-2 which explains that: Any work done during a period of at least nine consecutive hours including the interval between midnight and 5 am is considered night work. The night work period starts no earlier than 9 pm and ends no later than 7 am. (*Tout travail effectué au cours d'une période d'au moins neuf heures consécutives comprenant l'intervalle entre minuit et 5 heures est considéré comme du travail de nuit. La période de travail de nuit commence au plus tôt à 21 heures et s'achève au plus tard à 7 heures.*)

In addition to this explanation, French labor law also applies rules for underage workers who do night work, namely:

1. Between 8 pm and 6 am for underage worker under 16 years old.
2. Between 10 pm and 6 am for underage worker from 16 to 18 years old.²⁸

In the types of work that may not be done by underage workers under the Employment Act of the Republic of Indonesia explained in article 69

²⁸Ministère du Travail (Ministry of Labour), *Working Time of Young People Under 18*, see further at <https://travail-emploi.gouv.fr/droit-du-travail/temps-de-travail/article/le-temps-de-travail-des-jeunes-de-moins-de-18-ans>, accessed on May 4th 2019, 20:40 PM.

paragraph 1 which states that children aged 13 (thirteen) years up to 15 (fifteen) years may only do work mild which does not interfere with development and physical, mental, and social health. Furthermore, it has also been explained in Article 71 paragraph 2 letter c, that the conditions and environment of the work must not disturb physical, mental, social, and time development as if. In addition, also mentioned by article 72 paragraph 2 letters a, b, c and d is the worst work intended not to be employed by underage workers:

1. All forms of work in the form of slavery or the like.
2. Work that utilizes, provides, or offers children for prostitution, the production of pornography, pornographic shows, or gambling.
3. Work that utilizes, provides, or involves children for the production and trade of liquor, sodium, psychotropic and other addictive substances, and / or;
4. All work that endangers a child's health, safety or morals.

These points actually have similarities with the rules in articles in French labour law in protecting underage workers, a difference that is very noticeable is that French labour law is more detailed in every work in each article and provisions that have been determined. In Code du Travail (Labour Code) Article D4153-15: *The provisions of this section define work as prohibited for young people aged fifteen and under eighteen years under Article L. 4153-8 and work which is prohibited is the possibility of application for the release of the Articles L. 4153-9.*

In Article L. 4153-8 mentioned in Article D4153-15 states: It is prohibited to employ workers under 18 occupational categories that make them at risk for health, safety, morals, or exceed their strength. This has similarities with the Republic of Indonesia Labor Law number 13 of 2003 in article 71 paragraph 2 letter c and article 74 paragraph 2 letter d. In addition, in French Labor Law Article L4153-9 explains: Under the degrading method of Article L. 4153-8, workers under the age of eight can only be employed in certain occupations mentioned in the same article under certain conditions determined by regulations.

What makes a striking difference between the laws of protection for underage workers in Indonesia and France is an explanation of the detailed explanation of each work that cannot be done through the explanation of each article. Job prohibitions for underage workers are:

1. Workers aged 15 years to 18 years are prohibited from working in conditions exposed to hazardous chemical exposure. Chemical exposure that may be exposed is explained further. Explained in article D4153-17. In paragraph 1 of article D4153-17, it mentions: It is for the influence of young people in work involving preparation, use, handling or exposure to chemicals defined in Article R. 4412-3 and R. 4412-60, in the exception of hazardous chemicals which are only included in the category of hazards, which are defined in 2 ° and 15 ° of Article R. 4411-6 or in Sections 2.4, 2.13, 2.14 and in Section 4 of Annex I of Regulation No 1272/2008. Furthermore, Article R4411-6 mentioned by article D4153-17 is:

Substances and mixtures that meet the criteria for physical hazards, health hazards or environmental hazards as defined in Annex I of Regulation (EC) No 1272/2008 of the European Parliament are considered dangerous, and Board December 16, 2008.

2. The form of work prohibited for workers under the age of 18 is explained by the French Labor Code article R 4411-6 where a child who works may not be exposed to the following chemical mixtures:
 - a. Explosives substances
 - b. Extremely flammable
 - c. Easily flammables
 - d. Flammables
 - e. Very toxic
 - f. Toxic
 - g. Noxious
 - h. Corrosive
 - i. Irritants
 - j. Sensitizers
 - k. Carcinogenic
 - l. Mutagenic
 - m. Toxic to reproduction
3. In addition to explaining the provisions mentioned above, France also imposed a ban on underage workers (15-18 years) to work where they could be exposed to biological groups 3 and 4. One of the biological forms of

group 3 was the Hepatitis Virus and the Rabies Virus²⁹. An explanation of this provision is explained in Article D4153-19 and Article R4421-3. Article D4153-19 states: It is prohibited to assign young people to work to expose them to groups of 3 biological agents in the meaning of Article R. 4421-3. While the explanation regarding Article R4421-3 is: Biological agents are classified into four groups based on the risk of infection:

- a. Group 1 includes biological agents that are unlikely to cause disease in humans;
- b. Group 2 includes biological agents that can cause disease in humans and are a danger to workers. Their spread in the community is impossible and there is usually prophylaxis or effective treatment;
- c. Group 3 includes biological agents that can cause serious illness in humans and are a serious danger to workers. Their spread in the community may occur, but there is usually prophylaxis or effective treatment;
- d. Group 4 is a biological agent that causes serious illness in humans and is a serious danger to workers. The risk of their spread in society is high. There is usually no prophylaxis or effective treatment.

²⁹AtouSante, *Works Forbidden by Law for Young People in France*, see further at <https://www.atousante.com/en/works-forbidden-law-young-people-france/> . Accessed on May 4th 2019 at 23:05 PM.

Overall, Article D4153-15 of the French Labour Code has also explained further about the details of work that is prohibited for underage workers. In addition to the order of explanation above, further explanation is:

- a. Prohibition for underage workers in France to work with conditions exposed to mechanical vibration. Explained in Article D4153-20: *It is prohibited to assign young people to work to expose them to vibrational levels higher than the daily exposure values defined in Article R. 4443-2. The provisions under Article R. 4443-2 are 2.5 m / s² for vibrations of hands and arms, and 0.5 m / s² for vibrations transmitted throughout the body.*
- b. Prohibition for underage workers in France if working with conditions when exposed to ionizing radiation, artificial optical radiation is prohibited but exceptions are possible. Explained to the French Labour Code (Code du Travail) Article D4153-21: *It is not permissible to assign young people to work to expose them to radiation, which requires classification in the sense of Article R. 4451-44.*
- c. Underage workers in France are prohibited from working when exposed to hyperbaric conditions, exceptions are possible. This is explained in Article D4153-21.
- d. Underage workers in France are prohibited from working when exposed to hyperbaric hazards. Explained in Article D4153-23: *It is prohibited to assign young people to hyperbaric work in the sense of Article R. 4461-1.*

- e. Underage workers work when doing work that is at risk of destruction.

This is explained in Article D4153-25: *It is for young people to demolition work, trench work, which involves the risk of collapse and burial, including armour, excavation work or galleries and support work.*

- f. Workers under general are prohibited from working when they work by driving work equipment. This is stated in Article D4153-26: *It is prohibited to assign young people to ride motorized four-wheeled bikes and agricultural tractors, or with devices in a folded position, and not equipped with a driver restraint system. In a driving position if there is a rollover.* And Article D4153-27:

I. - It is prohibited to assign young people to move to work equipment and work equipment used to lift.

II. - Prohibitions mentioned in I can be excluded in the conditions and forms set out in section 3 of this chapter.

- 4. Underage workers are prohibited from working when working with work equipment, but will be exempted from the conditions and conditions of work. This is referred to and explained in Article D4153-28:

I. - It is prohibited to assign young people to work involving use or maintenance:

(1) Machine mentioned in Article R. 4313-78, regardless of the date of commissioning;

(2) Machines with movable elements that contribute to work that cannot be accessed during their operations.

II.-Prohibitions mentioned in I can be excluded in the conditions and forms set out in section 3 of this chapter.

5. Underage workers are prohibited from working when doing temporary work that is in a condition that requires to be at an altitude. Explained in:

a. Article D4153-30: *It is forbidden, in the workplace, to assign young children to temporary work at an altitude when preventing the risk of falling from a height is not guaranteed by collective protection measures.*

b. Article D4153-31:

I. *Prohibited at work to assign young people to set up and dismantle scaffolding.*

II. *Prohibitions mentioned in I can be excluded in the conditions and forms set out in section 3 of this chapter.*

c. Article D4153-32: *It is prohibited to assign young people to work at a height above trees and other wood and semi-wood species.*

- For underage workers in France it is forbidden to do work where they use pressure vessels. But exceptions are possible. Described in Articles D4153-33:

I. *It is forbidden for young people to do work that involves handling operations, monitoring, controlling and intervening on pressure vessels subject to monitoring in*

service in accordance with Article L. 557-28 of the environmental code.

II. Prohibitions mentioned in I can be excluded in the conditions and forms set out in section 3 of this chapter.

And Articles D4153-34:

I. It is prohibited to assign young people:

1. During the visit, maintenance and cleaning of the inside of tanks, tanks, ponds and tanks;

2. Work involving operations in a limited environment, especially in wells, gas pipes, smoke channels, sewers, holes and tunnels.

II. Prohibitions mentioned in I can be excluded in the conditions and forms set out in section 3 of this chapter.

- Underage workers in France are strictly prohibited from doing work where they make contact with a melted glass or metal but an exception is possible. It is explained in article D 4153-35:

I. It is prohibited to assign young people to pour glass or molten metal works and receive them in the normal way to places assigned to this work.

II. Prohibitions mentioned in I can be excluded in the conditions and forms set out in section 3 of this chapter.

- Extreme temperature exposure is prohibited for underage workers in France. explained in Article D4153-35:

- I. *It is prohibited to assign young people to pour glass or molten metal works and receive them in the normal way to places assigned to this work.*
 - II. *Prohibitions mentioned in I can be excluded in the conditions and forms set out in section 3 of this chapter.*
- It is prohibited to make contact with animals for underage workers in France. Explained in Article D4153-37: *It is prohibited to assign young people to:*
- I. *Slaughter, euthanasia and animal rendering;*
 - II. *Work in contact with wild or poisonous animals.*

In addition to the differences regarding the detailed explanation of any work that may not be done by underage workers in France, France also has a *Dérogation* procedure. This document must be asked to the labor inspector (article French Labor article R 4153-39) and can be granted for 3 years. According to the latest decision (n ° 2013-914³⁰). Provided for a workplace, not for a worker. In addition, in March 2017 France has enacted a Corporate Liability Act which has created a 'precautionary obligation' for multinational companies that carry out all or part of their activities in France³¹. This law is further from MSA or other transparency laws that

³⁰**Decree No. 2013-914 of 11 October 2013 on the derogation procedure provided for in Article L. 4153-9 of the Labour Code for Young People Under The Age of Eighteen.**

³¹House of Commons, Chambre Des Communes Canada, *A Call to Action: Ending The Use of All Forms of Child Labour in Supply Chains*, 42nd Parliament, 1st session, October 2018.

specifically identify risks and prevent violations of human rights and fundamental freedoms.

a. Actions

Not only has the legal differences that are quite easy to see, France and Indonesia also have differences in actions taken to eradicate child labour exploited in their respective countries. As we know, France has nationally revised directives from the EU into national law. France also follows the standards of an FTA signed by the European Union. This agreement is more focused on employment with reference to the ILO Convention.

France with its actions has also been increasingly mobilized to promote children's rights, recognition of their testimony and respect for their best interests since the signing of the protocol on November 20th 2014 in the UN which established a procedure whereby someone who said they were victims of the Convention's violations or protocols can speak to the Committee on the Rights of the Child. With this commitment, which is part of efforts for the welfare of children and respect for their needs, in accordance with the 2015-2015 child protection roadmap, which was presented at the Council of Ministers by the Minister of Children's Affairs on August 19th³².

³²France in the United Kingdom, *France to Ratify UN Children's Rights Protocol*, See further at <https://uk.ambafrance.org/France-to-ratify-UN-children-s-rights-protocol> , accessed on May 21st 2019 at 00:21 PM.

When looking at and comparing what was done by France and Indonesia, did not do what the French did, which adopted and directed EU law on Indonesian national law. However, Indonesia has taken a step in which Indonesia has ratified ILO Convention No.138 concerning Minimum Age Convention.