

THE EFFICACY OF THE RIGHT TO EDUCATION AND ITS IMPACT ON THE ELIMINATION OF CHILD LABOR IN INDONESIA AND TIMOR-LESTE

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Abstract

Indonesia and Timor-Leste have actively ratified the international human rights instruments such as CRC, ICESCR as well as ILO Conventions. One of the fundamental human right is the right of education that mandated by the constitutional frameworks of Indonesia and Timor-Leste. Indonesia mandates twelve years of compulsory education, while Timor-Leste requires nine. On the other hand, child labor play important role hindering the right of education. In Timor-Leste, 16% of children are working in the service and agricultural sectors. Although as not as high in Timor-Leste, an estimated 1.76 million of the nation's 58.8 million children are engaged in child labor. These figures starkly contrast with the constitutional protections afforded by Article 28B and 31 of Indonesia's 1945 Constitution and Article 18 of Timor-Leste's Constitution, which explicitly protect children's rights and guarantee state-financed education. This study analyses the legal frameworks of both nations using comparative socio-legal methodology to assess the efficacy and implementation gaps their respective compulsory education programs. The findings indicate that while robust legal

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and constitutional mandates exist, their enforcement is severely undermined. Key impediments identified include pervasive poverty, the persistence of child labor in hazardous conditions, and deeply embedded sociocultural norms that frame children as economic assets rather than as rights-holders. This study concludes that a significant discrepancy exists between de jure protections and de facto realities, positing that legal mandates for education are insufficient without concurrent, targeted interventions that address the complex socioeconomic drivers of child labor.

Keywords: Child labor; Child rights; Constitution; Human rights; The rights to education

I. INTRODUCTION

Timor-Leste and Indonesia claim to be states governed by the rule of law and human rights obligation under international human rights law.¹ To fulfil this obligation, the State must focus on three key actions: to respect, to protect, and to achieve human rights.² Compliance entails Timor-Leste and Indonesia taking progressive steps to ensure the realization of these rights.³ Furthermore, both constitutions should interpret human rights as having universal principles as legal rights and, therefore, should be obeyed by the states.⁴

Article 1(1) of the Constitution of Timor-Leste states, “The Democratic Republic of Timor-Leste is a democratic, sovereign, independent, and united State, based on the law, the will of the people, and the honor of human dignity.” As a state governed by law, the government has a legal responsibility to protect the rights of every citizen, including the rights of children⁵. Meanwhile, the Indonesian Constitution states that the State of Indonesia shall be a state based on the rule of law;⁶ moreover, it declares that every child shall have the right to live, grow, and develop, and shall have the right to protection from violence and

¹ Jack Donnelly, “Cultural Relativism and Universal Human Rights,” *Human Rights Quarterly* 6, no. 4 (1984): 411.

² Katharine G. Young, “Rights and Obligations,” in *International Human Rights Law*, 4th ed., ed. Daniel Moeckli, Sangeeta Shah, Sandesh Sivakumaran, and David Harris (Oxford: Oxford University Press, 2022), 129–48.

³ Young, “Rights and Obligations.”

⁴ Titon Slamet Kurnia and Ninon Melatyugra, “Universality of Rights as an Interpretive Principle for the Indonesian Constitutional Court,” *Constitutional Review* 10, no. 2 (2024): 474.

⁵ Constitution of the Democratic Republic of Timor-Leste, Article 6(1)(b): “The basic objectives of the State are: To guarantee and promote the basic rights and freedoms of citizens as well as the honour for the principles of a democratic State based on the rule of law.”

⁶ 1945 Constitution of the Republic of Indonesia, Article 1.

discrimination.⁷ Failure to fulfil this responsibility is considered a violation of the essence of the State, because the Constitution governs it as the highest law, and the principles of human rights as customary international law. Consequently, the State has a duty as a human rights obligor, meaning it is the government's responsibility to uphold these rights.

Under international human rights law, the State must protect children's rights. In Indonesia and Timor Leste, these rights are safeguarded under national child protection laws. Timor Leste⁸ and Indonesia⁹ have also ratified the United Nations Convention on the Right of the Child (CRC), with Timor Leste being a new United Nations (UN) member. Timor-Leste gained independence in 2002 and, strives to establish and develop a country that promotes the welfare of its people, as outlined in the Constitution of the Democratic Republic of Timor Leste (KRDTL). As a rule-of-law State, Timor-Leste embraces democratic principles, including respect for human dignity.¹⁰ Indonesia gained independence in acknowledged and guaranteed human rights under the 1945 Indonesian Constitution.¹¹ Though Indonesia and Timor Leste may differs in their respective path to independence and the enactment of its democracy, child labor still harbours as one of the main unresolved issue in its society.

Defining the word "child" may constitute a task on its own. Legal definition varied amongst jurisdictions, influenced not only by how a state define the word from a legislative frameworks but also to an extend on the efforts made by state in integrating international legal norms, many referring to the scope delineated by the CRC.¹² On the other hand, the definition and context of a "child" can be entirely different from an economic and development standpoint. Children are discerned through human capital theory, holding their role as

⁷ 1945 Constitution of the Republic of Indonesia, Article 28B(2).

⁸ Timor-Leste National Parliamentary Resolution No. 16/2003 on Ratification of the Convention on the Rights of the Child.

⁹ Presidential Decree No. 36 of 1990 on Ratification of the Convention on the Rights of the Child (Republic of Indonesia 1990).

¹⁰ Constitution of the Democratic Republic of Timor-Leste, preamble: "Fully aware of the need to build a democratic culture and institutions appropriate for a State of Law, where respect for the Constitution and for democratically elected institutions is an unquestionable foundation."

¹¹ 1945 Constitution of the Republic of Indonesia.

¹² Convention on the Rights of the Child, adopted November 20, 1989, UN General Assembly Resolution 44/25.

“resources”, to support the better future of their nation. Such view stresses and limit the role of children solely as an investment, where dedication towards health and education serve the purposes for future returns (both societal and economically).¹³ This specific view on children has been raised as a concern by the CRC, highlighting that children shall not be confined merely as tools of development but to acknowledge them as an independent subject with rights to be respected.¹⁴ Consequently, this approach asserts that children are entitled to a specific set of inalienable rights and special protections, rather than being primarily defined by future responsibilities or their utility to the state.¹⁵ They require guidance and protection to ensure their physical, mental, and social development. Children can mature into individuals who contribute positively to their country’s growth when adequately supported.¹⁶

Human rights protection is essential for everyone, especially for children living in poverty, as it leads to forcing children into economic activities for many reasons, such as child labor. However, both in Indonesia and Timor-Leste, child labor remains a significant issue that affects the implementation of children’s rights. According to the International Labor Organization (ILO), in Timor-Leste there is approximately 67,688 children aged 5 to 17 years, or 16.1% of this age group, are engaged in economic activities in rural and urban areas.¹⁷ While in Indonesia, the number of child laborers in 2022 is approximately 58.8 million children aged 5 to 17, of which 4.05 million, or 6.9%, are working. Among those working children, 1.76 million (43.3%) are considered child laborers, and unfortunately, 20.7 percent of them are involved in the worst forms of labor. Many of these child laborers come from rural areas, where extreme poverty persists.¹⁸

¹³ G. S. Becker, *Human Capital: A Theoretical and Empirical Analysis, with Special Reference to Education* (New York: National Bureau of Economic Research, 1964), 155.

¹⁴ M. Freeman, “The ‘New’ Sociology of Childhood and Children’s Rights,” *The International Journal of Children’s Rights* 15, nos. 3–4 (2007): 413.

¹⁵ UNICEF, *A Human Rights-Based Approach to Programming: Conceptual Framework* (New York: United Nations Children’s Fund, 2007).

¹⁶ UNICEF, *Sustainable Development Starts And Ends With Safe, Healthy And Well-Educated Children*, 2013, 2.

¹⁷ UNICEF, “Orang Tua Jangan Libatkan Anak dalam Aktivitas Kerja [Parents Should Not Involve Children in Work Activities],” *TATOLI Agência Notícias de Timor-Leste*, accessed April 21, 2024; ILO, “Analysis of Child Economic Activity and School Attendance Statistics from National Household or Child Labor Surveys,” accessed June 1, 2024.

¹⁸ Ministry of Manpower of the Republic of Indonesia, *Roadmap Towards a Child Labour-Free Indonesia in 2022* (Jakarta: Ministry of Manpower of the Republic of Indonesia, 2022).

There are many findings stating that child labor has an impact on children's physical and mental development. Working children have higher rates of hospitalization than their non-working counterparts.¹⁹ Epidemiological studies reveal that children exposed to toxic agents at a young age have higher mortality and morbidity rates than adults exposed to the same agents.²⁰ Working children using hand tools designed for adults have a higher risk of fatigue and injury than adults.²¹ The World Health Organization (WHO) study noted, «Long hours and days of uninterrupted work have a stultifying effect on the child, narrowing his horizons and often crippling him emotionally.²² ILO states that children in certain occupations are also vulnerable to physical and sexual abuse.²³ Child labor deprives children of their chance to benefit from typical development and often replaces education.²⁴ These socioeconomic realities are not insignificant; rather, they are formidable barriers that systematically deny children their right to develop to their fullest potential within a safe and protective environment.

The research aims to scrutinize firstly, to what extent does a disconnection exist between the codified right to education and the socioeconomic realities that drive children into hazardous work in Indonesia and Timor-Leste. Second, how effective Law No 20/2003 (Indonesia) and Law No. 14/2008 (Timor Leste) in mandating compulsory education as a mean to eliminate child labor. Lastly, does the standard of protection of children have the capacity to intervene impoverished communities as stated in Article 32 of the CRC in Indonesia and Timor Leste.

II. METHOD

This research focus its findings through a comparative socio-legal method, assessing the Indonesia and Timor Leste's current legal policies in efforts to eliminate child labor. A functionalist approach will assist this study by delineating

¹⁹ World Health Organization (WHO), *Children at Work: Special Health Risks* (Geneva: World Health Organization, 1987).

²⁰ World Health Organization (WHO), *Children At Work*.

²¹ Alan D. Woolf, "Health Hazards for Children at Work," *Journal of Toxicology: Clinical Toxicology* 40 (2002): 477.

²² Woolf, "Health Hazards for Children," 478.

²³ International Labour Office (ILO), *Child Labour: Targeting the Intolerable* (Geneva: ILO, 1996), 5.

²⁴ James J. Silk and Meron Makonnen, "Ending Child Labor: A Role for International Human Rights Law," *Saint Louis University Public Law Review* 22 (2003): 359.

constitutional and labor provisions to assess and evaluate programs of basic and primary school as a right mandated through international and domestic norm in its application. Comparative study is essential in analysing the different approaches Indonesia and Timor Leste in compliance to universal commitment in tackling child labor.

Existing disparity between written code (normative provisions) and its implementation will be addressed through a legal gap analysis. Legal gap analysis will assist in dissecting the interrelation of the rights to education enshrined in constitution and the on-going presence of child labor in Indonesia and Timor Leste. Such analysis is needed to settle whether current legal foundation have effectively influence mandatory education as preventive method. The analysis will not only describe but integrate primary legal tools on addressing the implementation and challenges faced. Through the delineation of systematic barriers that range from limits on resources to the execution of positive laws. Therefore, such approach is required to address why the current provisions still fail to provide real action in eliminating child labor.

Comparative study will ensure to analyse the supreme legal instruments in both Indonesia and Timor Leste in light to substantiate an accepted baseline. Indonesia, referring to Article 31 of the constitution which mandates the right to education and the resource allocation for the educational sectors. On the other hand, Timor Leste's Section 50 and Section 59 of its Constitution impede on the practice of child labor by establishing a connection between education and labor protection by obliging the rights to education and the prohibition of child exploitation for economic gain. Both Indonesia's and Timor Leste's Constitution reflects the different approach in respect to the rights to education and its agenda for child protection.

Lastly, the methodology employed will help to address the efforts made by Indonesia and Timor Leste in ratifying international obligations into their respective national laws. It is to our knowledge that both Indonesia and Timor Leste are signatories of the CRC and core ILO Conventions—C138 on Minimum

Age; C182 on Worst Forms of Child Labor. The study evaluates how effective national laws incorporate national standards in determining the legal efficacy of such adoption. It is required to review both Indonesia's Child Protection law (Law No. 23/2002) in conjunction to Manpower Act (Law No. 13/2003). Conversely, it is also required to analyse Timor Leste's Labor Code (Law No. 4/2012). Scrutinizing these instruments identifies normative gaps or statutory contradictions that may inadvertently perpetuate child labor at the expense of educational access.

III. ANALYSIS AND DISCUSSION

3.1. The Failure to Connect the Right to Education and Ending the Child Labor in Timor Leste and Indonesia

Education is both a right and essential for realizing other human rights, thus enhancing all rights and freedoms when it is guaranteed, while jeopardizing them all when it is violated.²⁵ While education isn't solely a children's right, it's particularly crucial for their development and well-being.²⁶ The CRC significantly advanced the articulation of these rights, especially for those under 18, going beyond the provisions of the International Covenant on Social, Economic, and Cultural Rights (CESCR). The CRC's Articles 28²⁷ and 29²⁸ and other provisions establish a complex set of "education rights," as Lundy et al. argue, that are more nuanced than the simple "right to education". The State that 'education rights has been chosen in place of the 'right to education' in an attempt to be true to the complex and multifaceted ways in which these provisions have evolved and

²⁵ K. Tomaševski, *Education Denied: Costs and Remedies* (London: Zed Books, 2003).

²⁶ K. Tomaševski, "Globalizing What: Education as a Human Right or as a Traded Service," *Indiana Journal of Global Legal Studies* 12, no. 1 (2005): 1.

²⁷ Convention on the Rights of the Child, Article 28: "States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity . . ."; Article 28(1) (a): "Make primary education compulsory and available free to all."

²⁸ Convention on the Rights of the Child, Article 29: "States Parties agree that the education of the child shall be directed to: (a) the development of the child's personality, talents and mental and physical abilities to their fullest potential; [and] (b) the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations."

been articulated in international human rights law, particularly in the CRC.²⁹

The CRC defines a child as “any human being under the age of 18 unless the applicable law sets an earlier age of majority.”³⁰ This definition is consistent across international treaties, reflecting a global consensus on the age limit for defining children. In addition to age, these agreements emphasize the importance of recognizing and promoting children’s rights, ensuring they can live, grow, and develop freely. However, there are variations in how a child is defined in Indonesia and Timor-Leste that lead to the limitation of certain child’s rights. Under Indonesian criminal law, a child is deemed responsible for committing a crime at age 12.³¹ In contrast, Timor-Leste currently has no juvenile justice law, but the minimum age of criminal responsibility is 16 years.³² Those aged 16 to 21 are defined as juveniles within the juvenile justice system, which has yet to be established. Meanwhile, in Indonesia, juveniles are subject to the juvenile criminal justice system. In private law, such as the legal age for marriage and entry into the workforce, definitions of a child also vary, reflecting different rules and customs in both countries. The definition of “child” itself becomes problematic when considering how Indonesia, Timor-Leste and society protect children or hold them accountable, especially since the CRC allows each State to define “child” according to its national laws and regulations. This flexibility in definition can lead to inconsistencies in child protection and the assignment of responsibilities. The cultural and national interests regarding the various definitions of the child create the complexity of the rights implementation.³³

The issue of child labor is one of the oldest problems in our society, and it is still a challenge around the globe.³⁴ Indonesia and Timor-Leste have ratified

²⁹ Laura Lundy, Karen Orr, and Harry Shier, “Children’s Education Rights: Global Perspectives,” in *Handbook of Children’s Rights: Global and Multidisciplinary Perspectives*, ed. Martin D. Ruck et al. (Abingdon: Routledge, 2017).

³⁰ Convention on the Rights of the Child, Article 1.

³¹ Judicial Review of the Juvenile Criminal Justice System, Decision of Constitutional Court No. 1/PUU-VIII/2010 (The Constitutional Court of the Republic of Indonesia 2010).

³² Penal Code, Article 20, Democratic Republic of Timor-Leste.

³³ Fernando R. Tesón, “International Human Rights and Cultural Relativism,” *Virginia Journal of International Law* 25, no. 4 (1985): 870.

³⁴ Amir Radfar et al., “Challenges and Perspectives of Child Labor,” *Industrial Psychiatry Journal* 27, no. 1 (2018): 17.

several conventions aimed at addressing child labor, including ILO Convention No. 182, which focuses on the immediate action needed to eliminate the worst forms of child labor. Article 18 of the KRDTL addresses “Child Protection,” a fundamental basis for safeguarding children’s rights. In this context, Philip Alston and John Tobin emphasize the necessity for special protection for children,^{35,36} as highlighted by Patrícia Jerónimo. They describe the KRDTL and the 1945 Indonesian Constitution as a “Special Protection Constitution.” As States Parties to the CRC, the National Parliament of Timor-Leste enacted Law No. 6 of 2023, concerning the Protection of Children and Adolescents in Danger.³⁷ Similarly, Indonesia introduced Law No. 35 of 2024, which outlines the principles, procedures, and responsibilities of various parties involved in child protection programs. However, statutory protections remain insufficient as long as economic access remains discriminatory across different segments of society.³⁸

As a member of the UN’s Organ, such as ILO, it is important to scrutiny whether Indonesia and Timor-Leste implement the State’s obligation under the child rights and labor rights as stated in the ILO Constitution. According to the International Labor Organization (ILO), in Timor-Leste there is approximately 67,688 children aged 5 to 17 years, or 16.1% of this age group, are engaged in economic activities in rural and urban areas. Of these economically active children, 12.5% are classified as child laborers, with a majority (55.5%) involved in hazardous work. While 83.8% of the total child population is in school, working children are less likely to attend. About 43,000 children in this age group have never attended school. Among these, 6,455 are involved in economic activities,

³⁵ Philip Alston and Mary Robinson, eds., *Human Rights and Development: Towards Mutual Reinforcement* (Oxford: Oxford University Press, 2005).

³⁶ Gordon Betcherman et al., “Child Labor, Education, and Children’s Rights,” in *Human Rights and Development: Towards Mutual Reinforcement*, ed. Philip Alston and Mary Robinson (Oxford: Oxford University Press, 2005).

³⁷ Patrícia Jerónimo, “Os Direitos da Criança em Timor-Leste [Children’s Rights in Timor-Leste],” in *Estudos em Homenagem ao Professor Doutor Heinrich Ewald Hörster [Essays in Honor of Professor Dr. Heinrich Ewald Hörster]* (Coimbra: Almedina, 2012), 14.

³⁸ *Unnikrishnan J.P. v. State of Andhra Pradesh*, Decision of the Supreme Court of India (The Supreme Court of India 1993).

4,901 are classified as child laborers, and 2,888 are engaged in hazardous work.³⁹ While in Indonesia, UNESCO indicates that among children aged 5 to 14 years who are child laborers, 55.8% work in the agricultural sector, 36.9% in the service sector (which includes domestic work, street work, as well as selling, begging, and scavenging), and 7.3% in the industrial sector. In Indonesia, the number of child laborers in 2022 is approximately 58.8 million children aged 5 to 17, of which 4.05 million, or 6.9%, are working. Among those working children, 1.76 million (43.3%) are considered child laborers, and unfortunately, 20.7 percent of them are involved in the worst forms of labor. Many of these child laborers come from rural areas, where extreme poverty persists.⁴⁰ Based on this data, it is hardly to state that Indonesia and Timor-Leste has fulfil the obligation under the ILO Convention on the elimination of child labor.

The ILO-IPEC differentiates between “working children” and “child labor.” “Working children” participate in age-appropriate, non-hazardous tasks that contribute positively to their development and don’t interfere with their education. These activities, such as household chores or learning traditional skills, are generally considered beneficial.⁴¹ Although these work activities may involve less risks,⁴² they differ from “child labor.” ILO Convention 138 (Article 7) permits light work for 13–15-year-olds, provided it doesn’t endanger their health or development or hinder their education or vocational training. “Child labor,” on the other hand, refers to work that negatively impacts children’s education, safety, health, growth, and development. This includes excessive working hours and exploitative conditions that prevent school attendance. Timor-Leste and Indonesia face challenges with child labor in hazardous occupations, as detailed below.⁴³

³⁹ UNICEF, “Orang Tua Jangan Libatkan [Parents Should Not Involve]”; ILO, “Analysis of Child Economic Activity.”

⁴⁰ Ministry of Manpower of the Republic of Indonesia, *Roadmap Towards a Child Labour-Free Indonesia in 2022*.

⁴¹ ILO-IPEC, “International Programme on the Elimination of Child Labour (IPEC): What Is Child Labour?,” International Labour Organization, accessed April 30, 202.

⁴² ILO, *Menanggulangi Pekerja Anak: Panduan untuk Pengawas Ketenagakerjaan [Tackling Child Labour: A Guide for Labour Inspectors]* (Jakarta: ILO, 2002), 7.

⁴³ Ministry of Manpower of the Republic of Indonesia, *Roadmap Towards a Child Labour-Free Indonesia in 2022*.

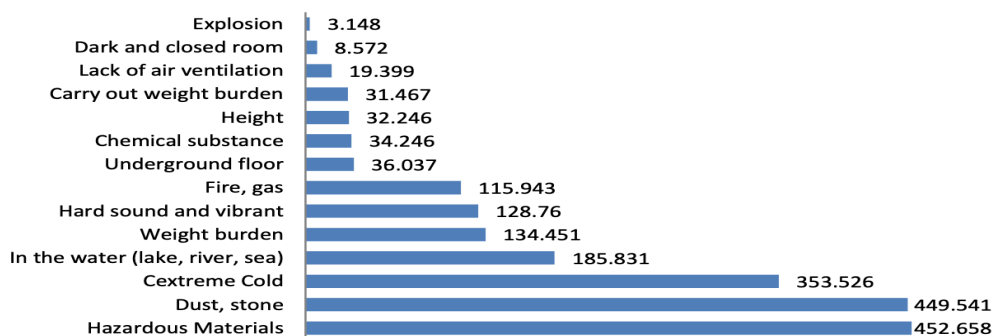


Figure 1. Number of children aged 5-14 exposed to hazardous materials.⁴⁴

Child labor deprives children of their childhood, limits their potential, and harms their physical and mental health. This dangerous work can be physically, mentally, socially, or morally damaging and often prevents children from attending school or forces them to combine it with excessive work. The data illustrates that numerous children aged 15-17 work around 40 hours each week in Indonesia. Such numbers refers similarly to the working hours of adults. Nonetheless, there seem to be discrepancies in differentiating the understanding of ‘child labor’ and ‘working children’. Respectively, ‘child labor’ refers to the exploitative nature of the work while ‘working children’ may constitute as permissible. The lack of empirical data and legislative reluctance in defining the terms that is not limited to age and location fail in confronting the nature of exploitation of children.

ILO Convention No. 182 defines the worst forms of child labor as slavery, trafficking, forced recruitment for armed conflict, and the use of children in prostitution, pornography, or illegal drug-related activities. Any work jeopardizing a child’s health, safety, or moral development is strictly prohibited.⁴⁵ Article 4(1) mandates that national laws and authorities, in consultation with relevant employer and worker organizations, regulate the types of work specified in Article 3(d) (hazardous work). This regulation must comply with international standards, notably Recommendation No. 190 concerning the Worst Forms of Child Labor

⁴⁴ Ministry of Manpower of the Republic of Indonesia, *Roadmap Towards a Child Labour-Free Indonesia in 2022*.

⁴⁵ ILO, *Pekerja Anak: Manual Informasi bagi Guru, Pendidik, dan Organisasi Pendidikan [Child Labour: An Information Manual for Teachers, Educators, and Educational Organizations]* (Jakarta: ILO, 2009), 39.

(1999). Criteria for identifying hazardous work include: (a) exposure to physical, psychological, or sexual abuse; (b) work in dangerous locations or conditions; (c) use of hazardous machinery or heavy lifting; (d) unhealthy environments involving hazardous materials or extreme conditions; and (e) difficult working conditions, such as long hours or confinement.

Table 1. Children aged 15-17 by age group and working hours⁴⁶

Age Group	0-15	16-30	31-40	>40	Total
Number					
15-17	611	650	255	9094	10510
15	194	129	59	3102	3484
16	203	216	81	3158	3658
17	214	205	115	2834	3368
Percentage					
15-17	5.8	5.2	2.4	86.5	100
15	5.6	3.7	1.7	89.0	100
16	5.5	5.9	2.2	86.3	100
17	6.4	6.1	3.4	84.1	100

Source: Sakerma, 2012

Child labor significantly impacts children’s right to education, primarily due to economic factors,⁴⁷ and exacerbated in States unable to ensure equitable access to economic opportunities for all. According to Article 32 of the CRC, child labor involves economic exploitation that disrupts a child’s education and overall health. This often results in limited school attendance, making it harder for them to secure decent jobs later, leading to unemployment and job instability.⁴⁸ The ILO states that children who leave school before age 15 face significant challenges in finding good employment. Thus, child labor has severe short-term and long-term consequences for children and overall economic development, hindering future productivity and efforts to reduce poverty.⁴⁹

⁴⁶ Ministry of Manpower of the Republic of Indonesia, *Roadmap Towards a Child Labour-Free Indonesia in 2022*.

⁴⁷ Government of Timor-Leste, *Timor-Leste First National Child Labor Survey Report and Mini-Labor Force Survey Report 2016* (Dili: Governo de Timor-Leste, 2016).

⁴⁸ Rebeca Ribeiro Silva, “Trabalho Infantil na Ordem Jurídica Internacional [Child Labour in the International Legal Order]” (dissertation, Universidade de Lisboa, 2018), 25.

⁴⁹ ILO, *World Report on Child Labour: Economic Vulnerability, Social Protection and the Fight against Child Labour* (Geneva: ILO, 2013), 16

In Indonesia, there were 24.06 million poor people in Indonesia and, 11.34 percent live in rural (villages) areas.⁵⁰ In those are many children aged 7-17 are engaged in economic activities rather than attending school, particularly in impoverished regions, especially in eastern Indonesia. Papua province has the highest rate of out-of-school child labor, followed by Central Java.⁵¹ Most child laborers work in the agricultural sector. Nationally, 177,374 children work in agriculture, fishing, trade, and services instead of attending school (Figure 2). While most working children (87%) also attend school, their attendance rates are still lower than those of their non-working peers, highlighting the negative impact of child labor on education for all.

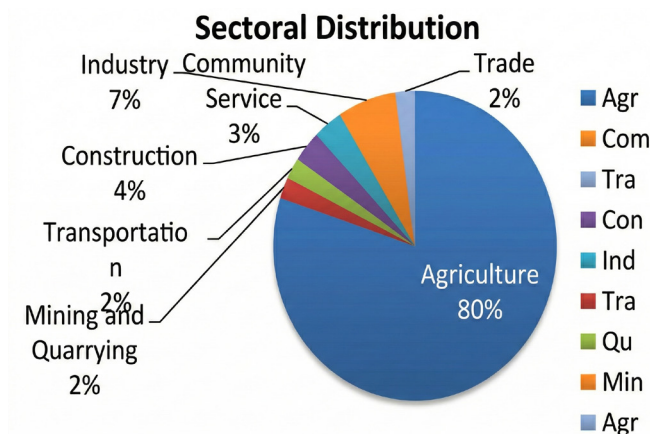


Figure 2. Percentage of employment in rural areas for children aged 10-17.⁵²

The CRC is built on four core principles: non-discrimination (Article 2), the best interests of the child (Article 3), the right to life, survival, and development (Article 6), and respect for the child’s voice (Article 12). Despite this core principles oblige State Parties of CRC, the economic exploitation arises when a child’s work compromises their rights to education and health, thereby

⁵⁰ BPS-Statistics Indonesia, *Indonesia Poverty Profile, September 2024* (Jakarta: BPS, 2025).

⁵¹ The National Team for Accelerated Poverty Reduction (TNP2K), *Annual Report on Very Poor Households (RTSM) in 2012* (2012).

⁵² The National Team for Accelerated Poverty Reduction (TNP2K), *Annual Report on Very Poor Households (RTSM) in 2012*.

hindering their overall development.⁵³ Article 32 of the CRC explicitly protects children from work that harms their health or development, guaranteeing them a safe working environment and fair wages. Other relevant articles include 28 (right to education), 29 (goals of education), and 31 (right to leisure and cultural activities). Article 28(1) emphasizes the State's commitment to progressively realizing the child's right to education on an equal opportunity basis. Both Indonesia and Timor-Leste demonstrate a systemic failure to uphold the core tenets of the Convention on the Rights of the Child (CRC), specifically regarding the violation of Articles 28 through 31. Indonesian government's educational policies and program interventions fail to address the root causes of barriers to education, such as the hidden costs of uniforms, books, and other school-related expenses. Rather, the government allocates its budget toward infrastructure development and nutritional meals programs, placing a significant burden on the national fiscal budget.⁵⁴ Critics argue that this prioritization fails to uphold the fundamental right to equal access. Furthermore, undermining basic education for marginalized groups leads to constitutional violations by failing to fulfill the essential educational needs of vulnerable communities.⁵⁵ Similarly, Timor-Leste grapples with extreme poverty and infrastructural shortages, despite possessing national legislation that explicitly mandates the realization of these rights.⁵⁶ In Timor-Leste, the state's obligation to protect the right to education is frequently undermined by economic realities; the prohibitive "hidden costs" of schooling and a lack of physical access in rural areas force families to prioritize child labor over educational aim.⁵⁷

The CRC emphasizes that education should aim to develop children's personalities, mental capacities, and physical abilities to their fullest potential (article 29(1)(a) and recognizes children's right to rest, play, and age-appropriate cultural and artistic activities (article 31(1)). Similarly, The ICESCR also obliges the

⁵³ Komnas HAM, "Komnas HAM Soroti Eksploitasi Ekonomi terhadap Pekerja Anak [Komnas HAM Highlights Economic Exploitation of Child Workers]," accessed April 25, 2024.

⁵⁴ East Asia Forum, "Indonesia's Free Meal Program Cracks under Poor Leadership," November 14, 2025.

⁵⁵ Fulcrum, "Indonesia's Free School Lunches: Not So Free," February 6, 2025.

⁵⁶ U.S. Department of Labor, *2024 Findings on the Worst Forms of Child Labor: Timor-Leste* (Washington, DC: U.S. Department of Labor, 2025).

⁵⁷ United Nations in Timor-Leste, *Timor-Leste Common Country Analysis* (Dili: United Nations in Timor-Leste, 2025).

member state to protect children's rights, such as but not limited to the rights to life, health, free basic education, adequate living standards, leisure, recreation, and the right of minority children to enjoy their own culture.⁵⁸ Addition to that, Article 10(3) ICESCR mandates protection from economic and social exploitation, specifically prohibiting hazardous child labor that threatens their health or development, with legal penalties for violations. It also encourages State Member to establish a minimum working age and enforce it with legal action.

Both the CRC and the ICESCR establish a comprehensive legal norms that frames economic exploitation not as an isolated labour issue, but as a fundamental barrier to a child's holistic development. This framework constructs an indivisible and interdependent set of protections, where the prohibition of harmful child labour is a requirement for realizing the rights to education, health, leisure, and a protected childhood. Indonesia and Timor-Leste are in breach of their statutory commitments under the CRC and ICESCR. Despite ratifying these instruments, both nations exhibit significant implementation gaps regarding Article 32 of the CRC (protection from economic exploitation) and Articles 13 and 14 of the ICESCR (right to education), failing to translate these international norms into effective domestic enforcement.

3.2. The Relationship between Primary Education Access and Child Labor in Timor-Leste and Indonesia

3.2.1. Indonesian Challenges in Eliminating Child Labor through Primary Education Access

Child labor and the right to education are concerns across ASEAN.⁵⁹ In 2016, the ASEAN-ILO developed a roadmap to combat the worst forms of child labor, focusing on legal enforcement, education and training, social protection, partnerships, funding, support for vulnerable children, communication, and

⁵⁸ Fúlvia Rosemberg and Carmem Lúcia Sussel Mariano, "A Convenção Internacional sobre os Direitos da Criança: Debates e Tensões [The International Convention on the Rights of the Child: Debates and Tensions]," *Cadernos de Pesquisa [Research Notebooks]* 40, no. 141 (2010): 712.

⁵⁹ ASEAN, *ASEAN Roadmap on the Elimination of the Worst Forms of Child Labour by 2025* (Jakarta: ASEAN Secretariat, 2021).

awareness campaigns.⁶⁰ In Indonesia, the Constitution obliges the government to ensure the basic education program with full financing.⁶¹ The Constitutional Court (MK) has adjudicated various education-related cases and handed down decisions such as No. 58/PUU-VIII/2010 on the judicial review of Law No. 20 of 2003 on the National Education System. The Indonesian Constitutional Court declared the word ‘can’ in Article 55 paragraph (4) of Law No. 20 of 2003 on the National Education System, if linked to Article 31 paragraph (2) of the 1945 Constitution, resulting in the financing for any community-based or implemented basic education by other parties than the government to not be mandatory for the central and/or regional government.⁶² This means the Constitutional Court decided that the word ‘can’ in said article was contrary to the 1945 Constitution if community-based educational institutions said the article included basic education.

Responding to the Decision, Judge Foekh stated that the Constitutional Court could not interfere in implementing the norm through its decision, including on the education budget. Regulation of the Ministry of Home Affairs No. 77 of 2020 on Technical Guidelines for Regional Financial Management under private schools. However, He continued to state that the Constitutional Court’s commitment to implementing these constitutional rights has been expressly conveyed through its decisions.⁶³ Does this policy contravene the Constitutional Court’s decision? The unequivocal answer is that it constitutes absolute non-compliance with the Court’s mandate. The policy effectively circumvents the constitutional obligation by delegating the fiscal burden of “free basic education” primarily to Pemerintah Daerah [Regional Government], however when the central government is absent to conduct adequate oversight or ensure that regional budgets (*APBD*), there are possibility of insufficient fund to cover these costs. This contradicts the Constitutional Court’s ruling (specifically Decision No. 13/PUU-VI/2008 and

⁶⁰ ASEAN, *ASEAN Roadmap on the Elimination of the Worst Forms of Child Labour by 2025*.

⁶¹ 1945 Constitution of the Republic of Indonesia, Article 31(2).

⁶² Judicial Review of Law No. 20 of 2003 on the National Education System, Decision of Constitutional Court No. 58/PUU-VIII/2010 (The Constitutional Court of the Republic of Indonesia 2010).

⁶³ Constitutional Court of the Republic of Indonesia, “Court’s Role in Protecting Citizens’ Right to Education,” January 20, 2023.

reaffirmed in Decision No. 3/PUU-XXII/2024), which clearly decide that the state's responsibility to finance basic education is also constitutional mandate for central government that cannot be abdicated solely to regional autonomy, especially when it leads to inequality in implementation. The legal consequence is this policy mismatch leads to a violation of the State's obligations under the CRC. By allowing regional fiscal capacity to dictate a child's access to schooling, the central government fails to guarantee the "available resources" standard required to prevent discrimination, thereby breaching the right to education as a universal entitlement regardless of the jurisdiction.⁶⁴

While basic primary education aims to reduce child labor by engaging children in schooling, the concept of compulsory education presents a paradox. Although education is a recognized right, the *obligation* to receive that education raises questions. This compulsory nature of a right requires careful consideration. Since compulsion implies a duty, it's crucial to determine who holds this duty. Neither children nor their families should be compelled to exercise this right without due process. Laws regarding compulsory education should adapt to the evolving autonomy of maturing individuals. In its progressive flexibility, they must reflect the growing possibilities of choice for right-holders who are adults' *in fieri* [in the making].⁶⁵ In response to ongoing questions about state obligations regarding the right to education, a recent Constitutional Court ruling (MK No. 3/PUU-XXII/2024) reaffirms this fundamental duty. The decision, issued on May 27, 2025, mandates that the state provide inclusive, equitable, and free basic education across all public and private schools. This ruling reinforces Article 31, paragraphs (1) and (2) of the 1945 Indonesian Constitution, solidifying education as a guaranteed, cost-free right for every child. The Constitutional ruling should be provide by clear executing on progressive realization of rights. CESCR imposes an immediate 'obligation of conduct' that precludes passivity. Under Limburg Principle 72 and CESCR interpretations of Article 2(1), States

⁶⁴ Committee on Economic, Social and Cultural Rights (CESCR), *Report on the Third Session*, Economic and Social Council, Official Records, UN Doc. E/1989/22 (1989).

⁶⁵ José-Luis Gaviria, "Education: A Compulsory Right? A Fundamental Tension within a Fundamental Right," *British Journal of Educational Studies* 70, no. 6 (2022): 653–75,

must demonstrate ‘deliberate, concrete and targeted’ efforts toward compliance.⁶⁶ Article 14 reinforces this by requiring States lacking universal primary education to adopt a comprehensive plan of action within two years. The *raison d’être* [reason for being] of this provision is to strip away the defense of ‘resource constraints,’ ensuring that even the poorest nations take immediate, calculable steps toward guaranteeing education as a right.⁶⁷

An analysis of these interventions, informed by Indonesian Manpower Ministry data (Table 2), reveals a focus on combating the most severe forms of exploitation. However, seemingly, Indonesian government fails to develop efficacy of prevention. Child trafficking for sexual purposes emerges as the primary issue until present, driven by entrenched economic and cultural factors. The second most prevalent concern is the use of children as drug mules and limited protection towards them. Despite these targeted efforts, a significant implementation gap persists (Table 2). While a phased approach prioritizing compulsory education has reportedly increased school participation rates over a four-year period, the programs’ overall efficacy is fundamentally undermined by systemic poverty. This socio and legal structural barrier ensures that child labour remains a persistent challenge, questioning the long-term impact of education-based interventions without concurrent, robust economic support for vulnerable families.

Table 2. Child workers who were prevented and withdrawn in 2012-2017⁶⁸

Sector	withdrawn	Prevented	Number
Trafficking for prostitution	177	6,709	6,886
Drug trafficking	517	8,298	8,815
Child domestic worker	2	1,321	1,323
Footwear	1,830	6,399	8,229
Fishery	711	6,283	6,994
Gold mining	421	3,539	3,960
Prevention in disaster areas	-	8,904	8,904
Jumlah	3,658	41,453	45,111

⁶⁶ United Nations, *General Comment No. 3 of the CESCR*, UN Doc. E/1991/23 (1991).

⁶⁷ Philip Alston, “The International Covenant on Economic, Social and Cultural Rights, United Nations,” in *Manual on Human Rights Reporting* (New York: United Nations, 1991), 68.

⁶⁸ Ministry of Manpower of the Republic of Indonesia, *Roadmap Towards a Child Labour-Free Indonesia in 2022*.

While primary education enrolment increased significantly between 2009 and 2013, maintaining compulsory education and school participation became increasingly challenging as children entered their teenage years, caused by the rising and significantly expensive tuition fees.⁶⁹ Moreover, meaningful participation is lacking when one of the critical principles in child rights is the child's best interest are absence in Indonesia's policy relate.⁷⁰ The education attendance becomes a burden for children when there is inequality in education equity, as well as the view from the family regarding education as an investment, instead of a right, and the aims towards the child's development.⁷¹ These deeply ingrained intergenerational cultural norms are difficult to deconstruct, often failing to align with a child-centered perspective, with girls being disproportionately affected. In Indonesia, more girls living in poverty, in particular, often bear a disproportionate burden of household and parental care responsibilities, stemming from both cultural and economic pressures.⁷²

The Indonesian government's strategy to combat child labor is predicated on addressing its primary socioeconomic driver: poverty. The Ministry of Manpower builds several social protection framework by providing income security for vulnerable families. This approach combines several mechanisms:

1. Direct Financial Relief through conditional and unconditional cash transfers.
2. Income Generation via labour-intensive job creation schemes and access to microcredit for family enterprises.
3. Barrier Reduction by providing food assistance and tuition exemptions, which lowers household expenditure burdens.

The underlying logic of this policy is that by alleviating economic precarity, these initiatives will collectively dismantle the conditions that compel families to engage their children in labor, thereby fostering greater access to education. However,

⁶⁹ Raja Bentaouet Kattan and Nicholas Burnett, *User Fees in Primary Education* (Washington, DC: World Bank, 2004).

⁷⁰ Emily Keddell, "Recognising the Embedded Child in Child Protection: Children's Participation, Inequalities and Cultural Capital," *Children and Youth Services Review*.

⁷¹ Zikun Zhou, Xiaoyan Lei, and Yan Shen, "Education Burden Reduction, Family Education Investment, and Education Equity," *China Economic Quarterly International* 3, no. 3 (September 2023): 179..

⁷² Badan Pusat Statistik (BPS), *Indonesia Poverty Profile in March 2023*, Official Statistics News No. 47/07/Th XXVI (Jakarta: BPS, 2023).

these programs will face many challenges regarding the increasing number of poor households or poverty in several provinces in Indonesia, especially in the Eastern part of Indonesia, which contributes to child labor and reduces the equal opportunity for every child to access education.

According to the Data Statistics Agency, poverty has decreased both in rural and urban areas. The Data Statistic Agency states that Indonesia’s poverty rate declined from September 2012 to March 2023, both in number and percentage, except in September 2013, March 2015, March 2020, September 2020, and September 2022. The increase in fuel prices triggered the rise in September 2013, March 2015, and September 2022 (Figure 3). Meanwhile, the increase from March 2020 until September 2020 was caused by the large-scale social distancing during the COVID-19 pandemic in Indonesia.⁷³

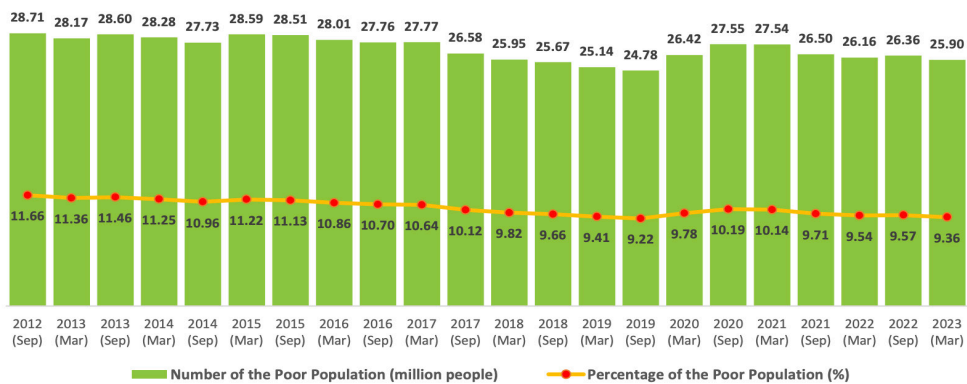


Figure 3. Number of the poor population in Indonesia (2012-2023)⁷⁴

Ultimately, the state’s reliance on regional autonomy to finance primary education, coupled with the Ministry of Manpower’s isolated approach to poverty reduction, creates a structural barrier to the fulfillment of the right to education. A socio-legal analysis reveals that these programs are functionally disconnected: economic interventions do not target the specific financial burdens of schooling (the ‘hidden costs’), resulting in a policy failure where child labor persists as

⁷³ Badan Pusat Statistik (BPS), *National Socio-Economic Survey (SUSENAS), September 2012–March 2023*.

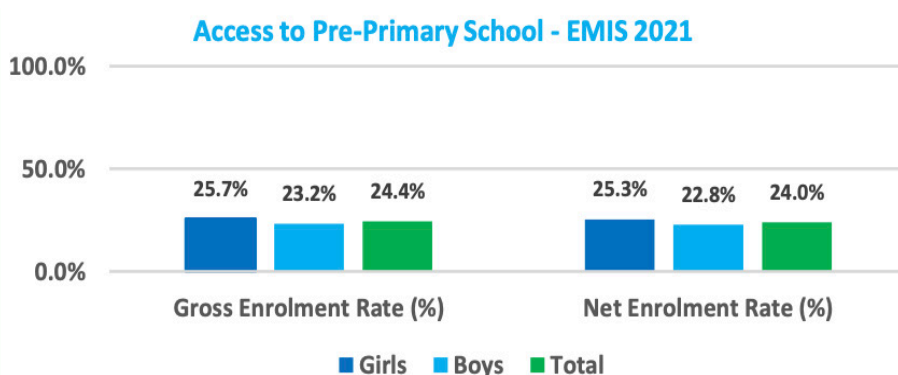
⁷⁴ Badan Pusat Statistik (BPS), *National Socio-Economic Survey (SUSENAS), September 2012–March 2023*.

a survival strategy. Consequently, the current regulatory framework fails to dismantle the poverty-education trap, leaving the most marginalized children without substantive protection.

3.2.2. Timor Leste Challenges in Eliminating Child Labor through Primary Education Access

Like Indonesia, Timor-Leste recognizes that ending child labor is a legal obligation under the rule of law. International law plays a significant role in shaping national law in Timor-Leste. As an initial step, the country has ratified several international legal instruments to eliminate child labour, particularly in hazardous sectors. By ratifying ILO Convention No. 182, Timor-Leste is committed to taking immediate and effective measures to prohibit and eliminate the worst forms of child labor.⁷⁵ Patricia concludes that the welfare of children in Timor-Leste does not solely depend on introducing new legal frameworks, but rather on the practical implementation of the existing ones.⁷⁶ As a result, the rise in the number of child laborers in Timor-Leste is no longer simply a legal issue or a consequence of a legal vacuum, but the violation of access to education. As shown in the data below, the child attends school below 50 percent, or 24% where the boys are less than the girls.⁷⁷

Figure 4. Access to Pre-primary School⁷⁸



⁷⁵ Jerónimo, "Os Direitos da Criança em Timor-Leste [Children's Rights in Timor-Leste]," 13.

⁷⁶ Jerónimo, "Os direitos da Criança," 27.

⁷⁷ UNICEF, *Timor Leste at Glance, 2024* (2024).

⁷⁸ UNICEF, *Timor-Leste at a Glance, 2024*.

The *Países Africanos de Língua Oficial Portuguesa* (PALOP),⁷⁹ in collaboration with IPEC and the ILO, offers recommendations for implementing ILO Conventions No. 138 and No. 182 and national laws in CPLP countries.⁸⁰ Since its establishment, the Timor-Leste government has made significant efforts to produce and ratify numerous national legal instruments and conventions related to child protection. Researchers indicate that Timor-Leste has actively worked to enforce constitutional protections for children and has ratified several international conventions, alongside passing national laws to protect children and improve child poverty reduction. However, there is an issue within the Employment Law regarding the definition of a child that defines a child as anyone under 17 years of age, which does not align with the definition specified in ILO Convention No. 182 concerning the elimination of the worst forms of child labor.

Article 9, paragraph (3) of the KRDTL states that “all rules that conflict with the provisions of international treaties, treaties, and agreements applied in the national legal system of Timor-Leste shall not apply.” This implies that the Constitution grants superior legal status to international conventions incorporated into the national legal framework, rendering any conflicting legal rules invalid. Consequently, this raises the possibility that the provisions in the Labor Law defining a child as someone under the age of 17 may be invalid. Therefore, the government must protect children’s rights by ensuring they are not allowed to work as adults as obliged by Article 32, paragraph (2) of the Convention on the Rights of the Child.

Under the obligation for parents to actively participate in child protection programs, the child protection system defined in Article 4, letter (j) of Law No. 6/2023 outlines the cooperation needed among parents, relevant government institutions, community organizations, regional authorities, legal institutions, security forces, the Ombudsman for Human Rights and Justice, social solidarity institutions, civil society, and religious organizations. This collaboration aims to

⁷⁹ Wikipedia, “Países Africanos de Língua Oficial Portuguesa [African Countries with Portuguese as an Official Language],” accessed May 13, 2024.

⁸⁰ Timor-Leste Customs Authority, “Comunidade dos Países de Língua Portuguesa (CPLP) [Community of Portuguese-Language Countries (CPLP)],” accessed May 13, 2024.

ensure the welfare of children, promote and protect their rights, and prevent actions that may endanger these rights, all while prioritizing children’s best interests. Additionally, Article 4, paragraph 1, letter (a) of Law No. 6/2023 mandates that parents cooperate with child protection services.⁸¹ However, a profound dichotomy exists between the written law (*de jure*) and the law in action (*de facto*). As illustrated in Figure 4, these legal instruments are rendered functionally inert in practice. This implementation failure occurs because the regulatory framework ignores the structural root cause: the chronic poverty pervasive across most regions of Timor-Leste, which overrides the normative power of the law. Timor-Leste faces a challenge similar to that of Indonesia, where poverty contributes to low school attendance among children, often forcing them into economic activities that result in child labor.⁸² As a consequence of child labor, these children encounter significant obstacles that hinder their ability to attend school, leading to an increase in dropout rates as shown in Table 3.⁸³

Table 3. Education Enrolment⁸⁴

Pre-Primary School Gross Enrolment Rate - (GER) (%)	Total	26.7	Pre-Secondary School Net Enrolment Rate-Cycle 3 (NER) (%)	Total	58.8
	Male	25.5		Male	51.1
	Female	28.0		Female	67.3
Pre-Primary School Net Enrolment Rate - (NER) (%)	Total	24.8	Primary School Drop-Out Rate (%)	Total	3.9 (iv)
	Male	23.6		Male	4.3 (iv)
	Female	26.0		Female	3.4 (iv)
Primary School Gross Enrolment Rate-Cycle 1&2 (GER) (%)	Total	105.1	Pre-Secondary Drop-Out Rate (%)	Total	2.7 (iv)
	Male	102.0		Male	3.2 (iv)
	Female	108.5		Female	3.4 (iv)
Primary School Net Enrolment Rate-Cycle 1&2 (NER) (%)	Total	87.2	Gender Parity Index in NER (female to male)	Pre-Primary School	1.1
	Male	83.0		Primary School	1.1
	Female	91.9		Pre-Secondary School	1.34

⁸¹ Law No. 6/2023, Article 4(1)(j) (Democratic Republic of Timor-Leste).

⁸² UNICEF, *Timor Leste at Glance*, 2024.

⁸³ UNICEF, *Timor Leste at Glance*, 2024.

⁸⁴ UNICEF, *Timor Leste at Glance*, 2024.

Pre-secondary School Gross Enrolment Rate-Cycle 3 (GER) (%)	Total	92.7	Youth (age 15-24) Literacy Rate (%)	Total	84.3 (i)
	Male	85.2		Male	84.6 (i)
	Female	101.1		Female	84.0 (i)

Timor-Leste government has developed several programs to combat child labor. One such initiative is the *Bolsa da Mãe* [Mother's Bag], which targets poor and vulnerable households with children. The program aims to reduce poverty, increase participation in compulsory education, and enhance access to basic health services.⁸⁵ Implemented since 2008,⁸⁶ the Mother's Bag Program is regulated under Government Regulation No. 1 of 2024, which pertains to the 2nd Amendment of Regulation No. 18 of 2012 regarding conditional assistance known as "*Bolsa da Mãe*." The question is whether this program possess the requisite impact to disrupt the systemic of child labor exploitation? A critical legal analysis suggests it does not. The program faces from a fundamental flaw: it lacks sustainability and an integrated strategic framework for elimination. Although the program provides temporary aid to impoverished households, it fails to incentivize families who actively contribute to ending child labor. Legally, this approach is insufficient because it frames state assistance as discretionary charity rather than a constitutional obligation. By failing to institutionalize this aid as a human right, the state evades its duty to create a permanent, enforceable mechanism for the protection of children.

Although this regulation is based on several principles outlined in the KRDTL. These include paragraph 1 of Article 18 of the Regulation, which emphasizes the State's responsibility to provide special protection for children, and paragraph 2 of Article 19, which mandates the State to promote young people's education, health, and vocational training, however this policy hard to be implemented. Paragraph 1 of Article 56 also states that all citizens are entitled to legal assistance and social security. This regulation highlights the importance of increasing educational access, particularly for children from subsidized families, and aligns with social

⁸⁵ ILO, *Assessing the Bolsa da Mãe [Mother's Grant] Benefit Structure: A Preliminary Analysis* (2015), 1.

⁸⁶ ILO, "'Bolsa Mãe' Programme em Timor-Leste ['Mother's Grant' Programme in Timor-Leste]," *Social Protection*.

and educational policies.⁸⁷ As noted, one contributing factor to child labor is the vulnerability of economic conditions does not address directly, since using subsidizing framework instead of eliminating the financial burden of family in school and health sectors.

Specifically, Article 8 of this Regulation outlines the essential criteria for receiving the Mother's Bag subsidy. These criteria are as follows: 1. Household economic conditions, prioritizing those in more dire financial situations. 2. The number of caregivers in the household, giving preference to single-parent or equivalent households. 3. The number of children in the family, prioritizing families with more children. 4. The presence of children with physical or mental disabilities. Article 24 specifies that the provision of subsidies must include a written agreement between the responsible party and the subsidy recipient. This agreement should outline the obligations of each party to ensure access to basic education and health services, as well as to improve the socio-economic conditions of families. Additionally, Article 25 details the obligations of aid recipients. They are required to provide food, hygiene, safety, and comfort for all children under their care, as far as they are able. They must also ensure that all school-aged children in their families attend school as mandated and submit the necessary supporting documents. Based on the author's research, there has been no communication from the relevant parties, specifically the government, regarding the impact of the Mother's Bag program on reducing child labor in Timor-Leste.

However, considering the conditions and requirements outlined in the regulation, the Mother's Bag program has the potential to help reduce poverty and child labor in Timor-Leste if these stipulations are effectively implemented and evaluated by both the government and the subsidy recipients. According to a report from the Social Solidarity Institute, approximately 69,571 families are expected to receive assistance from the Mother's Bag program in 2024.⁸⁸

⁸⁷ Government Regulation No. 1 of 2024 concerning the Second Amendment to Regulation No. 18 of 2012 on apoio condicional "Bolsa da Mãe" [conditional "Mother's Grant" support], preamble.

⁸⁸ TATOLI Agência Noticiosa de Timor-Leste, "MSSI Aprova Beneficiários 69.571 ba Programa Bolsa da Mãe Kondisional 2024 [MSSI Approves 69,571 Beneficiaries for the 2024 Conditional Mother's Grant Program]."

However, this number does not reduce the limitation of access to education for children or family who are living poor quality and not in quality attainable standard of living.

The Mother's Bag Program aims to improve the economic situation of households while also actively working to reduce child labor. In addition to this program, the government has established laws and policies that promote compulsory basic education. The State's responsibility to address child labor through educational initiatives is outlined in Article 32 of the CRC. These education programs are essential steps for participating states to ensure that every child has the right to education and is protected from economic exploitation or harmful occupations that can jeopardize their physical, mental, spiritual, moral, or social development. Specifically, this education must be basic, compulsory, and provided free of charge to all children.⁸⁹

The National Parliament of Timor-Leste enacted Law No. 14 of 2008 concerning Basic Education, which aims to ensure universal, compulsory, and free nine-year basic education. This law strengthens equal opportunities for access and success in schools and establishes measures for effective education in line with quality standards. Article 59 of the Constitution mandates the State to provide free basic education, while Article 7 outlines the education system, including preschool, secondary, higher, out-of-school, and vocational training. Government Regulation No. 3 of 2007 further supports this framework, designating these educational components as essential for combating poverty and enhancing the nation's education.⁹⁰

Government Regulation No. 3 of 2007 outlines key principles for educational and cultural policies in Timor-Leste, such as education as a Fundamental Right that aligns with constitutional and international agreements, including the CRC. Secondly, the Law and Policy should focus on children and learning by creating safe learning environments free from violence. Thirdly, Equal access opportunities should be ensured by ensuring equal education access for girls,

⁸⁹ Convention on the Rights of the Child, Article 28.

⁹⁰ Timor-Leste Government Resolution No. 3 of 2007, preamble.

the poor, rural communities, and disadvantaged groups. Fourthly are quality and values through developing a curriculum that supports holistic learning in economic, social, cultural, moral, political, and spiritual areas while promoting national identity. Lastly, participation and consultation should be ensured by engaging key stakeholders, including parents, communities, private educators, and civil society. These principles are essential for establishing an effective, inclusive education system. However, this law becomes useless when the children have limited access to the education and cultural activities.

Law No. 14 of 2008 guarantees the right to education for all citizens and highlights the significance of private and cooperative education as a form of freedom in learning and teaching (Article 3, paragraph 2). Preschool education, or Early Childhood Education (PAUD), is described in Article 7, paragraph 2 as an extension of the educational activities provided by parents or families, encouraging their collaboration. This means preschool education is rooted in the child's home life and continues into school settings. Article 12, paragraph 4 states that attending preschool is optional. It emphasizes the essential role of families in early childhood education while also noting the State's duty to encourage enrolment, especially for five-year-olds. PAUD serves children from three years old until they start primary school. The government is responsible for providing a Preschool/PAUD education network, including kindergartens run by local governments and private entities, as well as cooperatives, parent associations, and various organizations. This collaborative network also involves trade unions and employers' associations to help prevent harmful work for young children. While these legal notions are principled in theory, they remain normatively disconnected from the reality of the informal economy. In practice, children engaged in street situations or informal sectors in Timor-Leste are effectively beyond the reach of statutory protection. The high prevalence of informal child labor in the jurisdiction highlights a critical regulatory void, where the law's protective mechanisms fail to penetrate the very sectors where exploitation is most rampant.

Law No. 14 of 2008 also governs *Acção Social Escolar* [School Social Action] as outlined in Article 40. The purpose of School Social Action is to support students who are severely economically disadvantaged by providing targeted and public measures of positive discrimination in accordance with the law. This initiative includes various services such as reimbursement for meal costs, canteen services, transportation to school, accommodation, textbooks, school supplies, and the provision of scholarships. School Social Action applies to the 9 years of Primary and Secondary Education (Verses 1 and 2). However, the method of reimbursement is ineffective since many poor households are to pay that need in the first place, and they are unable to afford that.

Nine Years of Primary Education, as outlined in Article 11 of Law No. 14/2008, includes the following conditions and principles: (1). Basic education is universal, compulsory, and free, lasting for nine years. (2). Children who turn six by December 31 of the year before the start of the new school year are eligible to enter primary education. (3). Children aged six between January 1 and March 31 may also enter elementary school, if there are available places. (4). Cases not addressed in the previous two points will be reviewed and decided upon by the appropriate regional education office. The obligation to attend primary education concludes at the end of the school year when the student reaches seventeen. Tuition-free primary education covers tuition, fees, and costs associated with registration, attendance, and diplomas. Students are also provided with free books, school supplies, transportation, food, and accommodation if needed.

Law No. 14 of 2002 regulates various forms of education in Timor-Leste, aiming to eradicate illiteracy, ensure access to education for all citizens, and enhance human resources. The types of education addressed include special education, mainly for children with disabilities, Out-of-School education, arts, re-education assigned for students above the basic age of education, and long-distance learning that provides access to learning opportunities. Access to schools has long been recognized as a crucial factor in households' decisions about their children's time use. Several studies indicate that improved access to education

can significantly reduce children's involvement in both economic activities and household chores. Specifically, the availability of primary schools within communities and the distance to these schools play a vital role in decreasing child labor.

A report published by the Ministry of Education of the Democratic Republic of Timor-Leste in 2015 indicated that the level of education related to Education for All (EFA) has been steadily increasing. Since gaining independence in 2002, Timor-Leste has made significant progress toward achieving EFA goals. This progress was evaluated using various educational indicators collected in the Education Management Information System (EMIS) and national censuses conducted in 2004 and 2010.⁹¹ However, education in Timor-Leste still faces challenges, particularly regarding access to education for rural versus urban populations and the overall quality of education.⁹² The government has struggled to implement the various educational programs across all districts effectively, but fail to distribute the equal access both in rural and urban areas.

Additionally, inadequate infrastructure and limited communication and transportation facilities remain significant obstacles. The law emphasizes that guaranteeing the right to education is crucial for addressing citizens' economic, social, and cultural inequalities. This right is vital for personal, professional, and community success.⁹³ By ensuring every citizen has access to education, particularly from childhood, Timor-Leste can foster hopes for economic growth and development.⁹⁴

3.3. The Challenges of Fulfilling the Right to Education and Eliminating Child Labor: A Constitutional Comparison of Indonesia and Timor-Leste

While both nations firmly mandate state protection of educational rights, their constitutional architectures reveal distinct philosophical approaches to the

⁹¹ UNESCO, *Timor-Leste National EFA 2015 Review*.

⁹² World Bank, "Timor-Leste: Começando uma Revolução da Educação [Timor-Leste: Starting an Education Revolution]," accessed July 7, 2024.

⁹³ Law No. 14 of 2008, Article 1(2) (Democratic Republic of Timor-Leste).

⁹⁴ Susete Albino, "(Re)building the Educational System of Timor-Leste: Evolution and Current Challenges," *Cadernos de Estudos Africanos [Journal of African Studies]* 39 (2020): 31–55.

intersection of right to education and eliminate the child labor. Indonesia relies on an affirmative duty framework based on Article 31 of the 1945 Constitution imposes a substantial obligation on the state to fund and provide education, primarily framing it as a mechanism for national education development. However, as a legacy text, the UUD 1945 lacks explicit constitutional prohibitions against child labor, delegating the economic protection of minors to lower-tier statutory laws.⁹⁵ On the other hand, Timor-Leste has an integrated constitutional model. It reflects international human rights law, Section 59 (Right to Education) is deliberately paired with Section 50 (Protection of Minors in the Workplace). This structural pairing constitutionally acknowledges that economic exploitation is a direct threat to educational access, elevating child labor from a mere statutory dispute to a fundamental constitutional rights violation.

Despite both states show commitment to international standards by ratifying of the CRC and core ILO Conventions (C138 and C182), their divergent strategies for domesticating these treaties yield unique enforcement challenges. Indonesia utilizes a bifurcated legal structure, separating the fundamental right to development within the Child Protection Law from the specific minimum age and hazardous work regulations housed in the Manpower Act. This statutory dichotomy inherently generates enforcement friction, necessitating complex inter-ministerial coordination between social welfare bodies and industrial relations inspectorates.⁹⁶ On the other hand, Timor-Leste centralizes these international protections directly within its national Labor Code. While this provides a cohesive and legally framework, the structural vulnerability shifts to state capacity; the efficacy of a robust Labor Code remains severely constrained by the geographic and resource limitations of state labor inspectorates operating in rural districts.⁹⁷

Beyond formal legal structures, the realization of constitutional guarantees in both countries is severely hampered by local socioeconomic realities. Despite legal

⁹⁵ Yana Suryana, Yulia Kurniaty, and Aroma Elmina Martha, "A Model for Protecting the Right to Education for Child Labour," *Jurnal Hukum IUS QUIA IUSTUM* 30, no. 2 (2023):371-95.

⁹⁶ Siti Nurhayati and Elly Asmarawati, "Prevention of Child Labor Exploitation through the Implementation of Fair Labor Laws," *Pena Justisia: Media Komunikasi dan Kajian Hukum [Pena Justisia: Media for Legal Communication and Studies]* 24, no. 1 (2025): 3468–85.

⁹⁷ P. Justino, M. Leone, and P. Salardi, "Short- and Long-Term Impact of Violence on Education: The Case of Timor-Leste," *The World Bank Economic Review* 28, no. 2 (2014).

alignment with international treaties prohibiting the worst forms of child labor, both countries struggle to regulate their vast informal agricultural sectors. In rural and agrarian contexts across Indonesia and Timor-Leste, children's participation in the workforce is often normalized as an essential family obligation or survival mechanism, rather than as legally punishable exploitation.⁹⁸ Consequently, the ultimate effectiveness of both countries' legal frameworks deliver not solely on their doctrinal elegance, but on the practical capacity of their respective Child Protection Laws and Labor Codes to dismantle the underlying economic necessity of child labor. Only by addressing these socioeconomic drivers can the constitutional promises of universal education be fully actualized.⁹⁹

IV. CONCLUSION

The right to education in Indonesia and Timor-Leste is critical instrument for both countries to eliminate child labor as part of the Convention on the Rights of the Child (CRC) ratification. Although the "Right to Education" is embedded within their constitutional frameworks, the findings of this study demonstrate that statutory prohibitions alone are insufficient to protect children from the labor market. Child labor often viewed culturally as a necessary component of the "adult development process" or an economic survival strategy. It directly competes with the state's mandate to ensure the full development of the child. Consequently, the persistence of child labor is not merely a social phenomenon but a failure of the State to discharge its tripartite human rights obligations: to respect, protect, and fulfil.

First, regarding the obligation to protect, the current legal architecture, especially obliged under both Constitution, fails to shield children from the structural coercion of poverty. As evidenced by the high dropout rates among child farmworkers and the gendered prioritization of education, the State has

⁹⁸ E. Rachmawati et al., "Child Labor Rights for Violating Employment Requirements Practices," *LJOBSOR* 10, no. 2 (2022).

⁹⁹ ILO and UNICEF, *Drivers of Child Labour in Timor-Leste* (International Labour Organization and Government of Timor-Leste, 2022).

not adequately mitigated the “opportunity costs” of schooling.¹⁰⁰ Budgeted spending focuses on several unsustainable programs and rarely being reviewed. The reliance on children to supplement household income creates a de facto barrier to education that the current legal waivers for school fees have failed to overcome. The State’s inability to offset these *indirect costs*—and the subsequent reliance on informal fees—constitutes a breach of the obligation to ensure education is accessible “without discrimination of any kind,” particularly for girls and children without guardians.

Second, regarding the obligation to fulfill, and the fulfillment of rights under national and international human rights law, this study highlights profound gaps in legal accessibility and public engagement. In Timor-Leste, the linguistic exclusivity of legislation in Portuguese without adequate Tetum translation renders it inaccessible to the communities it is intended to regulate. This model of lawmaking results in legislation that reflects state interests rather than community needs, thereby weakening the effectiveness of child labor laws. Furthermore, while social protection programs such as Bolsa da Mãe and the “Free Meal” initiative are positive steps, they lack the integrated strategic approach needed to replace income generated by child labor. Without concomitant investment in educational infrastructure—particularly in additional teachers and classrooms to accommodate higher enrollments—these demand-side interventions risk undermining the quality of education, reinforcing economic incentives for children to work rather than study.

Although Indonesia and Timor-Leste constitutionally guarantee the right to education and have ratified identical international labor standards, their legal architectures are fundamentally different. Indonesia employs a fragmented legal approach that requires complex inter-ministerial coordination, while Timor-Leste centrally integrates these protections but struggles with enforcement capacity in rural areas. Ultimately, despite these structural differences, both countries

¹⁰⁰ T. Hesketh, J. Gamlin, and M. Woodhead, “Policy in Child Labour,” *Archives of Disease in Childhood* 91, no. 9 (2006): 721.

face identical socio-economic obstacles: the normalization of child labor in the vast informal agricultural sector. Therefore, the success of any legal framework depends not on the sophistication of its doctrine, but on the state's practical ability to dismantle the systemic poverty that makes child labor an economic necessity, thereby enabling the full realization of constitutional education rights.

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