

Legal Review Of The Rights Of Child Prisoners At The Lubuk Pakam Correctional Institution

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Abstract Children in conflict with the law (ABH) who enter the detention center still have the right to be protected by law. So that legal protection for ABH is very important to run. that the existence of a child protection must be sought if we want to seek national development that can be satisfactory. Therefore, to strengthen the legal protection of children even if they are already in detention, there are several regulations that apply in the ius constitutum in Indonesia. The regulation according to the doctrine is called Child Law, which is a set of legal regulations governing children. This research is descriptive analysis. Data collection is carried out using documentation studies where all secondary data used in this study are collected using library research. Data processing is carried out to facilitate the analysis of data that has been obtained in accordance with the problems studied. Data analysis used in this research is qualitative analysis. Qualitative analysis is a specification of the nature of research to examine between theory and practice on the protection and rights of child prisoners at Lubuk Pakam Correctional Institution. Special coaching institutions are regulated in Law Number 3 of 1997 concerning juvenile courts article 61 paragraph (2), Law Number 11 of 2012 concerning the Juvenile Criminal Justice System article 82 paragraph (1), and Law Number 23 of 2002 Article 9 paragraph (1) concerning child protection where in the education system provided to juvenile prisoners in accordance with their interests and talents, juvenile prisoners are entitled to obtain their rights such as education just like children who are not in conflict with the law or loss of independence in accordance with their interests and talents, and if there are juvenile prisoners who have abilities from others will get special education.

Keywords: Rights, Prisoners, Children, Correctional Institutions

INTRODUCTION

Children are the most beautiful gift entrusted by Allah Subhanahu wa ta'ala to their parents. As an entrustment, it is fitting that children have rights over themselves that are the responsibility of both parents. Father, mother, children, and all family members have roles, rights, and responsibilities that complement each other. So that fathers and mothers have a noble responsibility to maintain the household as the smallest unit of society. Children are part of the younger generation and are one of the human resources who are the potential and successors of the ideals of the nation's struggle, who have a strategic role and have special characteristics and characteristics, requiring guidance and protection in the context of physical, mental and social growth and development in a complete, harmonious, harmonious and balanced manner.

Based on the opinion of Dedet, a Criminal Law expert who stated that the understanding of the Indonesian State is a State that upholds the rule of law as stated in the 1945 Constitution Article 1 paragraph (3) which states that the State of Indonesia is a State of law, then law enforcement in Indonesia is fully the responsibility of the State, which in this case is carried out by law enforcement institutions in Indonesia, one of which is the Correctional Institution which takes care of the life of prisoners while serving a criminal period. What is meant in this case is imprisonment. In principle, in Indonesian Criminal Law, the

purpose of imposing criminal sanctions must function to foster (make lawbreakers repentant and not function as retaliation).

Children who lack or do not receive physical, mental and social attention often behave and act antisocially to the detriment of themselves, their families and society. So that not a few children who become perpetrators of criminal offenses. These children will be placed in the Children's Correctional Institution (LAPAS Anak) as mandated by article 1 paragraph 3 of Law Number 22 of 2022 Corrections states that what is meant by Prisoners are Prisoners, Prisoners and Clients. Fostered Children are children who are 14 (fourteen) years old, but not yet 18 (eighteen) years old who are undergoing guidance at the Special Development Institute for Children (LPKA). The guidance given to the Prisoners is in the form of improving the quality of personality and independence.

Children in conflict with the law (ABH) who enter the detention center still have the right to be protected by law. So that legal protection for ABH is very important to run. that the existence of a child protection must be sought if we want to seek national development that can be satisfactory. Therefore, to strengthen the legal protection of children even if they are already in detention, there are several regulations that apply in the ius constitutum in Indonesia. These regulations according to doctrine are called Child Law, which is a set of legal regulations governing children. In Indonesia, until now the Law of the Child has not been unified, but is codified in several laws and regulations that are currently in force.

RESEARCH METHODS

Research methods are needed to find out how to obtain data and information from an object under study. The method is defined as the logic of scientific research, the study of research procedures and techniques. Research is a series of scientific activities and therefore uses scientific methods to explore and solve problems, or to break down the truth of existing facts.

Research method is also a knowledge skill, which means that as knowledge it can be learned from books and does provide knowledge for those who learn it. However, knowledge alone is still not a guarantee for those concerned to use and apply it in a research activity. According to the opinion of Soerjono Soekanto who has stated that methodology is an absolute element that must exist in research and development in science. Research is a key tool in the development of science and technology.

The research method is carried out in order to be able to provide maximum results and in order to achieve this research, good and proper data collection is sought, which is carried

out, namely the research specifications used in this journal research, namely legal science. Normative science is a research that can be done by researching library materials such as books, laws and other discussions related to the discussion in this journal. By approaching the problem by examining a problem in exogamous marriages in Islamic law and positive law in Indonesia.

This research is descriptive analysis, descriptive analysis is trying to describe or describe events and events without making hypotheses and statistical calculations. Descriptive analysis is what is stated by respondents in writing or verbally, and also their real behavior, which is studied and studied as a whole. In accordance with the title and problems to be discussed in this study and in order to provide useful results, this research was conducted with normative juridical research.

Data collection is carried out using documentation studies where all secondary data used in this study are collected using library research Data processing is carried out to facilitate the analysis of data that has been obtained in accordance with the problems studied. Literature studies are carried out through sources of secondary data, namely data that includes official documents, books, legal dictionaries which are the results of research, legal journals, and comments on court decisions. Researchers obtain data sources indirectly through intermediary media, which consists of primary legal materials, namely legal materials that are authoritative, meaning that they have authority and binding legal materials consisting of :

- a) Basic norms or principles, namely the Preamble of the 1945 Constitution of the Republic of Indonesia
- b) Basic Rules
 - (1) Body of the 1945 Constitution
 - (2) Statutes of the People's Consultative Assembly
- c) Legislation:
 - (1) Laws and equivalent regulations
 - (2) Government Regulations and equivalent Regulations Keputusan Presiden dan peraturan yang setaraf
 - (3) Ministerial decrees and equivalent regulations
 - (4) Regional regulations Bahan hukum yang tidak dikodifikasi, seperti misalnya hukum adat
- d) Jurisprudence
- e) Tracts
- f) Legal materials from the colonial era that are still valid today, such as for example, the Civil Code KUHPerdata).

In this research, the author uses primary legal materials sourced from: The 1945 Constitution of the Republic of Indonesia, the Civil Code, and other laws and regulations. Secondary legal materials, namely, legal materials that provide explanations of primary legal materials such as books, research results, works from legal circles and draft laws. Tertiary legal materials, namely all publications on law and materials that provide guidance and explanation of primary and secondary legal materials such as the Big Indonesian Dictionary (KBBI), legal dictionaries, legal journals, encyclopedias, comments on court decisions and through internet searches.

Legal Research, according to one source, is the process of identifying and retrieving information necessary to support legal decision-making. In a broad sense, legal research includes every step of the action that begins with the analysis of the facts of the problem and ends with application and communication. Legal research is divided into two aspects, namely legal research with normative aspects and legal research with empirical aspects. Based on the opinion of Sri Kastini, "legal research is to increase knowledge that will serve as the basis for the preparation of problem-solving strategies."

The research schedule is compiled for more directed research and time efficiency. The research schedule is also a series of table lists that show the complete stages of preparation, implementation, and report preparation by giving time information in it. Data analysis used in this research is qualitative analysis. Qualitative analysis is a specification of the nature of research to examine between theory and practice in the rights of child prisoners at Lubuk Pakam Correctional Institution. Conclusions will be obtained from solving the problem formulation carried out in the study. Qualitative analysis also discusses the results of research described comprehensively, by trying to see the factors behind certain programs, cultures and policies, such as the selection of principles, theories, norms, doctrines and articles contained in the Law that are relevant to the issues to be discussed in this study.

DISCUSSION AND ANALYSIS

Children must be given special protection and treatment by the state with laws and regulations in all matters, especially in the application of the justice system. This special protection and treatment is expected to be able to save the dreams and future of children so that they become a future generation of the Nation that is not damaged and makes the State proud. The classification of children in the justice system is needed to emphasize the need for criminal sanctions against children who commit crimes, which aims to provide a deterrent effect while restoring the physical, psychological and social well-being of children. Children in Conflict

with the Law are children in conflict with the law, children who are victims of criminal acts and children who are witnesses to criminal acts. In terms of legal protection, based on Child Protection Law, there are several laws that regulate the form of legal protection for children in conflict with the law who are victims of violence, namely Law Number 11 of 2012 concerning the Child Criminal Justice System, Law Number 35 of 2014 concerning Amendments to Law Number 35 of 2014 concerning Child Protection, Law No. 12 of 1995 concerning Corrections and Regulation of the Minister of Law and Human Rights Number 6 of 2013 concerning the Rules of Order of Correctional Institutions and State Detention Centers.

Children's Special Education Institution, hereinafter abbreviated as LPKA, is an institution or place where children serve their sentence. If there is no LPKA in an area, children can be placed in a correctional institution that is separated from adults. Children sentenced to imprisonment are placed in LPKA. Children in this case are entitled to receive guidance, mentoring, supervision, assistance, education and training and other rights in accordance with applicable laws and regulations. The legal basis of LPKA is not much different from the position of the Correctional Institution. The rights obtained by children while placed in LPKA are given in accordance with the provisions of the Law on Corrections. In granting these rights, it is still necessary to pay attention to guidance for the child concerned, including regarding the growth and development of children both physically, mentally and socially.

In addition, LPKA is obliged to organize education, training, skills, coaching and fulfillment of other rights in accordance with applicable laws and regulations. LPKA is obliged to transfer children who have not finished serving their sentence in LPKA and have reached the age of 18 to youth correctional institutions. In the event that the child has reached the age of 21 years, but has not completed serving the criminal period, the child is transferred to an adult correctional institution with due regard to the continuity of the child's development. In the event that there is no youth correctional institution, the Head of LKPA may transfer the child to an adult correctional institution based on the recommendation and Community Supervisor. Placement of children in correctional institutions is carried out by providing certain blocks for those who have reached the age of 18 years to the age of 21 years.

Criminal Children are children who based on a court decision serve a sentence in a Juvenile Correctional Institution for a maximum of 18 (eighteen) years. If the child has reached the age of 18 (eighteen) years but has not finished serving his/her sentence in the Juvenile Correctional Institution, based on Article 1 of Law No. 22 of 2022, he/she must be transferred to the Correctional Institution. For Criminal Children who are placed in the Penitentiary, their age has reached 18 (eighteen) years old but has not reached 21 (twenty-one) years old, the place

is separated from prisoners who have reached 21 (twenty-one) years old. The Correctional Institution is obliged to provide a specific block for those who have reached the age of 21 (twenty-one) years. Prisoners who have served 2/3 (two-thirds) of the imposed sentence, which is at least 9 (nine) months and are of good behavior, may be granted parole (Article 62 paragraph [4] of Law No. 3 of 1997), which is accompanied by a probation period of the same length as the remaining sentence that must be served.

The granting of parole is recognized by general and special conditions (Article 29 paragraph [3] and paragraph [4] of Law No. 3 of 1997). The general condition is that the juvenile will not commit a criminal offense again during the conditional release; while the special condition is a condition that determines whether or not to do certain things stipulated in the conditional release, while still paying attention to the freedom of the child. Children who obtain this release are supervised by the Prosecutor and their guidance is carried out by the Supervisor. Community from the Correctional Center, and the observation is carried out by the Correctional Observation Team. State Children are children who based on court decisions are handed over to the state to be educated and placed in the Children's Correctional Institution for the longest until the age of 18 (eighteen) years.

Status as a State Child until the age of 18 (eighteen) years. Even though they have passed this age limit, the State Child is not transferred to the Penitentiary (for adults), because the State Child is not sentenced to imprisonment. The State Child remains in the Juvenile Correctional Institution. If the State Child has undergone his/her education for at least one year, who is considered to be of good behavior so that it is considered no longer necessary to be educated in the Juvenile Correctional Institution, then the Head of the Juvenile Correctional Institution can apply for permission to the Minister of Justice, so that the State Child is released from the Juvenile Correctional Institution with or without the conditions stipulated by Article 29 paragraph (3) and paragraph (4) of Law No. 3 of 1997. The rights of Criminal Children are regulated by Article 22 paragraph (1) of Law No. 12 of 1995, which states that:

- a) Perform worship in accordance with their religion or beliefs
- b) Receive care, both spiritual and physical care
- c) Receive education and teaching
- d) Receive health services and proper food
- e) Submitting complaints
- f) Obtain reading materials and follow other mass media broadcasts that are not prohibited

In every institution that is oriented in the field of education and coaching, it always sets the target to be achieved in carrying out its functions. C.I. Harsono stated that the purpose

of coaching is awareness (consciousness). To gain awareness in a person, then one must know oneself. Awareness as the goal of coaching prisoners, including juvenile prisoners, has the following objectives:

1. Understand yourself
2. Having understanding of belief, understanding of belief in the One True God, realizing as a person of God.
3. Understanding one's ability
4. Understand the method of motivation, is able to motivate yourself towards the positive, towards the turn continues to be good
5. Ability to motivate others
6. Able to have a great understanding, good for oneself, family, group, surrounding community, religion, nation and country.
7. Able to think and play a role
8. Has a strong self-confidence
9. Has responsibility
10. Be a strong individual

To achieve this goal, social rehabilitation programs that lead to learning and breeding upgrades in the way of fostering juvenile detainees at the Lubuk Pakam Penitentiary Socialization Agency. The intended social rehabilitation program includes learning programs and breeding upgrades that are delivered throughout the juvenile detainee's sentencing era. Programs at the Lubuk Pakam Penitentiary. A juvenile offender is still a child who needs learning to develop and grow. Learning is one of the rights of juvenile detainees as set out in Article 14 of Law No. 12 of 1995 on Corrections.

However, there is a level of learning that must be passed by juvenile detainees. At the Lubuk Pakam Correctional Institution's Socialization Agency, the process that juvenile detainees must go through in order to obtain learning begins with an area or direction identification process. After that, juvenile detainees are placed in isolation before being moved to a room with other juvenile detainees. Juvenile detainees will be informed by the Lubuk Pakam Correctional Institution Socialization Agency officials in the role and rights of juvenile detainees, methods of delivering complaints and everything in the Socialization Agency area, the area identification era is tried for 7 days (one week). After going through the area identification era inside Category IIB Lubuk Pakam Correctional Facility, until the next step is how to adjust to the area as well as fellow child detainees.

Protection for child prisoners by conducting coaching efforts in the form of education where children as prisoners have the right to get learning for themselves in the fulfillment of children's rights at Lubuk Pakam Correctional Institution. The process of protecting children must fulfill all their needs and refer to the specified Law and must pay attention to the impact on the environment and the child himself, so that the protection efforts carried out do not have negative consequences. Law of the Republic of Indonesia Number 35 of 2014 article 1 paragraph (2) concerning Child Protection states that child protection is all activities to ensure and protect children and their rights so that they can live, grow, develop, and participate, optimally in accordance with the dignity and dignity of humanity, and receive protection from violence and discrimination.

Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection Article 1 paragraph (15) concerning Juvenile Justice states Special protection is protection given to children in emergency situations, children in conflict with the law, children from minority and isolated groups, children who are economically or sexually exploited, trafficked children, children who are victims of abuse of narcotics, alcohol, psychotropic substances, and other addictive substances (drugs), children victims of kidnapping, sale, trafficking, children victims of physical or mental violence, children with disabilities, and children victims of mistreatment and neglect.

Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection Article 2 concerning juvenile justice states that the implementation of child protection is based on Pancasila and is based on the 1945 Constitution of the Republic of Indonesia as well as the basic principles of the Convention on the Rights of the Child including non-discrimination, the best interests of the child, the right to life, survival, and development and respect for children's opinions. Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection Article 3 concerning juvenile justice states that child protection aims to ensure the fulfillment of children's rights so that they can live, grow, develop, and participate optimally in accordance with the dignity of humanity, and receive protection from violence and discrimination, for the realization of quality, noble, and prosperous Indonesian children.

The protection of children's rights is essentially directly related to legislation. Policies, efforts and activities that ensure the realization of the protection of children's rights are based primarily on the consideration that children are vulnerable, in addition to the fact that there are groups of children who experience obstacles in their growth and development, both physical, spiritual and social. Child protection is beneficial for children and their parents as well as for the government, so coordination of child protection cooperation needs to be held in order to

prevent imbalances in overall child protection activities. Every citizen is essentially responsible for child protection where the implementation of child protection is for the welfare of the child it has been regulated in Law Number 35 of 2014 concerning Child Protection articles 21, 22, 23, and 24, related to the obligations and responsibilities of the state and government, besides that there are also articles 25 and 26 of Law Number 35 of 2014 concerning Child Protection related to the obligations and responsibilities of the community, family and parents.

Noting Law Number 35 of 2014 concerning Child Protection which has now been amended to Law of the Republic of Indonesia Number 35 of 2014 concerning Child Protection explains that child prisoners who carry out their coaching period in special correctional institutions receive legal protection and more special treatment in special correctional institutions than in general correctional institutions or other adults because given their unstable age they are still children, so child prisoners are separated or get legal protection and more special treatment in special correctional institutions. The obstacles experienced by officers when fostering child prisoners while in general correctional institutions or adults are child prisoners who are disturbed by their physical or physical, spiritual or psychological conditions which are still unstable than adults which make it impossible to run following the adult prisoner program.

In applying guidance to juvenile prisoners, officers must apply the principles set out in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System Article 2 which states that the Juvenile Criminal Justice System is implemented based on the principles of protection of justice non-discrimination of the best interests of the child respect for the opinion of the child survival and growth of the child guidance and development of the child proportional deprivation of independence and punishment as a last resort and avoidance of retaliation. The existence of special prisons for child prisoners can be known obstacles experienced can be resolved effectively and efficiently where prisoners in special coaching institutions get adequate time and place in carrying out special coaching programs for prisoners considering the health and physical condition of the prisoners. Skills development and fulfilling children's rights to education in order to continue to get education as they should even though they are or are dealing with the law, in carrying out their duties officers in the Development Institution in applying the Law so far, the application has no obstacles because uniformity has been applied in all Special Development Institutions for Children throughout Indonesia, the application is constrained when facilities are inadequate and related stakeholders are less familiar with the Juvenile Criminal Justice System.

CONCLUSIONS

The regulation of the child education system in special development institutions is regulated in Law Number 3 of 1997 concerning juvenile courts article 61 paragraph (2), Law Number 11 of 2012 concerning the Juvenile Criminal Justice System article 82 paragraph (1), and Law Number 35 of 2014 Article 9 paragraph (1) concerning child protection where in the education system provided to child prisoners in accordance with their interests and talents, as well as prisoners who have mental or physical disabilities are also entitled to education just like children who are not dealing with the law or loss of independence in accordance with their interests and talents, and if there are child prisoners who have abilities from others will get special education.

The legal protection of child prisoners is regulated in Law of the Republic of Indonesia Number 35 of 2014 concerning Juvenile Justice Article 1 paragraph (15) Regarding Juvenile Justice, it is clear that children who are in conflict with the law receive legal protection from all physical and moral discrimination violence in order to continue to create quality, moral and noble Indonesian children. The rights of Criminal Children are regulated by Article 22 paragraph (1) of Law No. 22 of 2022, namely by worshipping in accordance with their religion or belief, getting care, both spiritual and physical care, getting education and teaching, getting health services and proper food, expressing complaints and getting reading material and following other mass media broadcasts that are not prohibited.

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