

The Effectiveness of the Special Development Institution for Children (LPKA) in Fullfilling the Right to Education for Child Prisoners

Shafira Asrining Budi Amadea^{1*}, Chux Gervase Iwu², Triyanto³

^{1,3}Sebelas Maret University, Indonesia.

²Cape Peninsula University of Technology, South Africa.

*) Corresponding author: shafiramadea@student.uns.ac.id,

Abstract

Children who in conflict with the law or children who facing the law must undergo legal procedures for deviant behaviour. This procedure that must be followed is the last resort for child criminals by being placed in a coaching institution. Lembaga Pembinaan Khusus Anak (LPKA) is an institution or a place for children to undergo criminal period. LPKA is obliged to provide education, skills training, coaching, and other fulfilment for children in accordance with the provisions of laws and regulations. This study uses a quantitative research approach using descriptive methods. In this study the data were obtained using primary data. Primary data used are books related to the author's research focus, and previous research journals. The research was conducted in digilib library of Sebelas Maret University. The existence of this Special Development Institute for Children also organizes non-formal education which aims to shape the moral character of children (Anak Berhadapan dengan Hukum, ABH). In addition, non-formal education can also be obtained at Special Guidance Institutions for Children aimedat juvenile crime to hone their talents and skills so that the assisted children have provisions after returning to society. This non-formal education is provided in various forms so that children can find out and hone their talents while in the Child Special Development Institute.

Keywords: LPKA; ABH; right; education.

Introduction

ABH (Anak yang berhadapan dengan Hukum) can be defined as a child who is in conflict with the law, a child who has to follow legal

procedures because had problems of an act that is against the law. Actions that are againt the law are caused by the juvenile delinquency that is rife. According to According to Soerjono Soekanto, quoted by Sudarsono

(1991: 6) in the juvenile delinquency book, briefly describes the delinquents possessed by children or adolescent, including theft, robbery, torture, immoral offenses, use of illegal drugs, and brawls between students. The delinquency is caused by several complex factors, including unsupportive life at home, unstable family economic conditions and the community environment, as well as wrong associations that cause children to commit social deviations. The deviant behaviour that is owned by a child does not come automatically and even causes the child to behave naughty because they have problems, one of which is from a family that is no longer good because the family experiencing a broken home (Sudarsono, 1991:20). This part of the reason thy child commits to crime and is face wuith the law. A juvenile crime or ABH jas been regulated in the juvenile crime justice system to be accountable for the offense he has committed a criminal act.

Law on the Juvenile Criminal Justive Systems No. 11 of 2012 has arranged in respone to demands on how to protect children who are dealing with the law fairly. With the existence of this SPPA Law, it has regulated how to best place to children who facing the law still gets his rights as a child. So that criminal children can still develop by obtaining their rights fairly like other children who not in facing the law conditions.

Children have an important role as the generation that will build the country, therefore children must be protected by the state. Protection of children by the state is regulated in a

convention on children's rights and is also strictly regulated in legislation. It is stated in artivcle 28B paragraph 2 of the 1945 Constitution that the state guarantees the right of every child to live, grow, and develop as well as protection from the state so that in the implementation of criminal justive, ABH also get the fulfilment of their rights to protection from fair and safe trials for the continued growth and development of children. Therefore, Nasir Jamil (2013: 167) contend, that children who are in condition during the coaching period do not mean they cannot get their rights, who have been sentenced to a criminal punishment has the right to receive guidance, supervision, assistance, education, and training as well as other rights in accordance with the provisions of laws and regulations. One of the children's rights is the right to get a proper education and must still be an inseparable part of education system.

Based on Law No. 20 of 2003 on National Education System (Undang-Undang No. 20 Tahun 2003 tentang Sistem Pendidilan Nasional), referring to this law, children who are placed in the Special Development Institutions for Children are also entitled to education without discrimination and the government is responsible for the implementation of this education. Children who are facing the law are placed in a special children's institution (LPKA) according to Article 85 of the SPPA Law paragraph (3) that LPKA is obliged to provide education, training, skills, guidance and fulfilment of the righrs in accordance with the proivisions of

laws and regulations.

The definition of a Child Special Guidance Institution (LPKA) is an institution or a place where children who facing the law in their criminal period. LPKA is obliged to provide education, skills training, coaching and other fulfilment of children accordance with statutory provisions. In this Special Development Institution for Children, the role is to protect criminal children and provide guidance. It can be concluded, the role of the officers of the guidance institutions for children in question is the task given to the supervisor with the responsibility for the supervision, security and safety of children in LPKA while still paying attention to guidance for children. It can be concluded, the role of the officers of the special guidance institutions for children in question is the task given to the supervisor with the responsibility for the supervision, security and safety of children in LPKA while still paying attention to guidance for children. So with the existence of this special guidance institution for children, ABH are expected to get a decent quality education and not be differentiated from the education that other children get formally.

In terms of education, education is an important study in improving the quality of citizens as children who are dealing with the law, ABH have limited access to formal education, therefore the role of this institution is very important. According to its type, the education given to children who are in conflict with the law is non-formal education. Soelaman Joesoef (1992: 50) said Non-formal education is every

opportunity where there is directed communication outside of school and someone obtains information, knowledge, training and guidance according to age level and life needs, with the aim of developing skill levels, attitudes and values. -values that make it possible for him to become efficient and effective participants in his family, work environment, even in his community and country. So that after the coaching period, it is hoped that the criminal child can become a confident, responsible person by obtaining his identity as a human being that is useful for the family, society, and the country as well as facing a better future guided by the norms of Pancasila.

It is hoped that the existence of this Child Special Guidance Institute can fulfil the right to education for ABH. ABH can fully to get its fulfilment as citizens, by fulfilling the education rights carried out to prepare the knowledge, skills, and creativity of criminal children who can then continue a better life when returning in public society. Starting from the description above, this paper aims to determine the effectiveness of the Special Development Institution for Children (LPKA) in Fulfilling the Right to Education for ABH.

Method

This study uses qualitative writing which is library research because the data obtained and reviewed in completing this research comes from the library in the form of books, encyclopedias, dictionaries, journals, documents, magazines and

so on (Sutrisno Hadi: 1989) . Descriptive research recognizes various forms that can be categorized such as surveys, case studies, studies, causal-comparative, correlation studies, and so on. Each form of descriptive research has different functions and goals. The study begins with formulating a problem, formulating a focus, studying, or asking study questions, followed by data collection by the researcher as the instrument. In this study, data were obtained using primary data. Primary data used are books related to the author's research focus, previous research journals. The research was conducted in the digilib library of Sebelas Maret University.

After determining the data collection method, the authors determine the data collection techniques to be used. The data collection technique was done by the writer, namely, Literature Study, Listening Engineering. This note-taking technique uses books, literature, and library materials that are relevant to the research being carried out which can be obtained in the library.

The data obtained will be analyzed using an interactive data analysis model. The steps in analyzing the data are:

1. Data Reducation

Data reduction is the process of selecting, formulating and simplifying, abstracting, and transforming the discussion that emerges from the notes in conducting research. In this study, data were obtained through interviews and then the data were summarized and selected so that they would provide a clear picture to the author. The

author in this study focuses on users, especially those related to reading comfort.

2. Presentation of Data

Data presentation is a compiled set of transformation that gives the possibility of drawing conclusions and taking action, after the data is fulfilled it will be used in the form of a systematic description.

3. Verification of Conclusions

Drawing conclusions is a complete configuration activity, conclusions are also verified during the study to facilitate understanding of data analysis method.

Result and Discussion

ABH (Anak yang berhadapan dengan Hukum) is referring to children who facing the law. Referring to Law no. 11 of 2012 describes that children who are dealing with the law as children who are in conflict with the law, children who are victims of criminal acts, children who are witnesses of criminal acts, here in after referred to as Child is a child who has reached the age of 12 but not yet 18 years of age who is suspected of committing a criminal act. According to Marlina (2009: 152) Children who are cared for in the child Penitentiary have child status, namely:

1. Criminal children, namely children found guilty by the court and sentenced to deprivation of liberty;
2. State children, namely children found guilty by the court to the State to study up to 18 (eighteen) years;
3. Civil Children, namely children who at the request of

their parents or guardian, received an order from the District Court, entrusted to a special youth penitentiary.

ABH who are being assisted can be said to have more special rights than other assisted members. The special rights referred to are such as getting assistance and education for the assisted children, while the adult assisted members do not get such rights. In the decision, the penalties for children are lighter, namely through guidance for criminal children in special institutions for fostering children, because in fact children according to the law have rights that cannot be subject to criminal penalties such as adult punishment.

Development punishment is the last punishment given to children who are in conflict with the law, therefore there is a juvenile justice system regulation which is considered as justice for criminal children so that it does not violate human rights. Because children are the future generation of the nation who have specialties because they will bring the good name of the nation and affect the development of a country.

Therefore, the decision to sentence a criminal child in solving the case adheres to the principle that all decisions and actions to be taken by the state must prioritize the principle of the best interests of the criminal child. Where the verdict is based on protecting the criminal child so as not to damage the child's front. Because every child, as well as a criminal child, has the right to protection, and the state is responsible for protecting every child. This is in line with the fact that

every child has rights that must be obtained and protected in accordance with existing regulations. Therefore, the purpose of the punishment for the offense that has been committed by a criminal child is to provide protection and welfare for the child by providing guidance to children who are in conflict with the law and by taking into account the interests of the child.

Arif Gosita (2001) argues that in the context of children who are dealing with the law, child protection means targeting children's rights in criminal processes such as investigations and punishment. In particular, this paper will target children's rights in correctional facilities. The child-assisted residents have more privileges than the assisted members in general. There are more rights such as assistance and education for children than for adults, including sentences that are relatively lighter, with a more humane form (Hamzah Andi: 1983). Indonesian law regulates how the criminal justice process for children is in accordance with the material rights convention. children, that according to Article 3 of the Law on the Criminal Justice System for Children, it is stated that every child in the criminal justice process has the right to education. The contents of the convention on the rights of the child mention about, namely: 1) Affirmation of children's rights; 2) Protection of children by the state; and 3) the role of the government, the community and the private sector which aims to ensure the respect of children's rights.

Building regulations that are based on children's rights in the

judicial process is necessary to realize the fairest possible legal protection for children, by considering the problems according to the standards that should be comprehensive, dimensional and integrated. To carry out the juvenile justice process, it is necessary to be based on developing children's rights, because these regulations are the result of the interaction of the interrelationships between various interrelated phenomena and will affect each other. According to Nurpitasari (2016: 40) developing children's rights begins by paying attention to mental, physical, social, economic aspects in a dimensional manner, in order to obtain a correct understanding of a problem by using an approach method through interdisciplinary disciplines.

By considering and taking into account the child's personality, family, and social and economic conditions, and the purpose of the crime to be understood, a proportion of countermeasures is then made by considering each child and their condition individually. Emeliana Krisnawati (2005: 12) concludes briefly "that the development of children in a broad sense includes providing protection, opportunities, guidance, assistance so that they can develop into adults who are willing and able to work of high quality and large volume for the achievement of the goals". Referring to education non-formal in LPKA they can be used like acting out by doing physical and psychological tests on children so that they can interpret their personality. If in the end, through a judge's decision, the child is declared to need maintenance and guidance, it

is hoped that the child will receive facilities and get rights according to their needs. The form of justice is where the implementation of rights and obligations is balanced. The implementation of the rights and obligations of children who commit criminal acts needs assistance and protection so that it is balanced and humane. It needs to be underlined that the obligation for children must be treated with the ability, condition, and psychology of the child, so that children need to be placed and treated specifically in coaching institutions and not mixed with adult coaching institutions. So that the child's growth and development will run according to the child's mental and psychological condition. Not only that, programs at child development institutions must also be made in order to take into account the objectives of fulfilling all aspects and rights of children that cannot be obtained and the existence of friendship between children to access their rights as a result of criminal children must be accountable for their treatment. So this is where the government plays a big role, this special child development institution as a character formation for children, because children will carry out their daily lives during the guidance period at the Development Institution.

Education is a conscious, planned effort which is essentially to improve human dignity. So that education is studied as a conscious and planned effort to make the community able to develop its potential as a whole human being in order to have a physically and mentally intelligent and healthy

human being who has good self-control, character and immortality, has intelligence, has noble character, and has skills. Which is needed as a whole human sublime. The essence of education is always inherent in humans. With education it can emphasize the essence and dignity as a whole human being. Education is a part of people's life and also as a dynamicator of society itself. Education is a right that must be obtained by every human being, because with education humans can study their environment. Thus the purpose of education also changes according to human development. Because education is experienced from birth to adulthood, the goal of education is also a process. The process of "humanizing himself as a human being" is an essential meaning in education. This success is also influenced by several factors. This is because education has three pillars, namely family education, school education and community education. Including children who are dealing with the law, the fate of criminal children in obtaining education is the responsibility of the state. How is the state responsible for the rights of children by providing good facilities and infrastructure so that criminal children can still obtain their rights, including the right to obtain proper education.

The condition of ABH who are undergoing a period of guidance in juvenile prisons does not make them lose their right to education (Hartono, 2019: 76). Special Development for Children is intended as an educational institution and a guidance institution. As a

technical unit in the field of prison for prisoners, the Special Guidance Institution for Children has a specific function and needs to be sharpened on the orientation of its guidance. This understanding at the same time places the criminal child as part of the whole Indonesian human being (child) who is expected to have the potential and be able to have responsibility for his future. This special guidance institution for children is made so that children who are in conflict with the law receive proper guidance as it should be regulated in the children's convention. As stated by Clemen Bartolas in Nurini (2017: 40) because placing children in special education institutions for children is the last option for a short period of time for children in conflict with the law. During the period of institutional development, the criminal child obtains his rights by taking into account the physical, mental, and social growth and development of the child.

Quoted from Erwin Adipradipto (2019) Good education is the key in shaping the nation's next generation so that education programs must be carried out properly and then there are two forms of educational activities, namely formal and informal education. The education obtained in these fostered children plays a greater role in the formation of children's character and children's morals, which is commonly referred to as education through coaching.

LPKA as a juvenile correctional institutions in general had contribute to a variety of positive activities for ABH, one of which is in the field of educative punishment such as a life

skills. The existence of the Special Guidance Institution for Children is a good environment for assisted children, because in addition to providing guidance, LPKA is considered to also provide other education in formal forms. In its implementation, the formal education provided by LPKA is the chasing package program. The chasing program that is provided at this special child development institution works with formal schools around the LPKA environment. Criminal children get chasing packages according to their level. In addition, to hone children's knowledge, the Special Guidance Institute for Children has an Olympic program or coompetition where all assisted children can participate. This is one of the activities that can motivate and help develop children's thinking before returning to their environment.

The existence of this Special Development Institution for children also provides non-formal education which aims to shape the moral character of children. In addition, the non-formal education provided by the Special Guidance Institute for Children is aimed at criminal children to hone their talents and skills so that the assisted children have provisions after returning to society. This non-formal education is available with a variety of skills, so that children can find out their talents while in the Special Development Institution for Children. Not only to hone skills, this Special Guidance Institute for Children is also a place for assisted children to receive psychomotor guidance. Such as providing counseling and religious

guidance. This coaching aims to improve themselves from criminal children. ABHs who at the LPKA needs to be equipped with moral education that can help ABHs to behave positively both in prison and with the social community. Apart from counseling, coaching is also filled with religious activities which are mandatory coaching in the Special Guidance Institution for Children.

Conclusion

The principle of child criminalization remains based on the principle of child protection. Children must continue to have access to all the fulfillment of their rights to ensure their potential development. Criminal punishment for children is designed so as not to make children become criminals further. If in the end, through a judge's decision, the child is declared to need maintenance and guidance, it is hoped that the child will receive facilities and get rights according to their needs. Although this child punishment should be the last resort in the juvenile justice process. In this Special Guidance Institution for Children, this is the last option for the form of child punishment, because in this institution the child gets his / her rights. As with the right to education and guidance during the criminal period. The programs that exist in the special fostering institutions for children guarantee that children get their rights as well as to shape the personal character of the criminal child so that he can continue his life after the criminal period is over. These forms of

education can be classified into normal education and non-formal education. In formal education given to criminal children in the form of chasing packages in accordance with the level of education in criminal children. Meanwhile, the formal education that is given to criminal children in the form of guidance aims to shape the character and morals of the criminal child and strengthen the mental and religion of the criminal child.

Although these education and guidance programs in practice still encounter problems due to a lack of support from the community. In reality that there are inconsistencies in the differences between theory and practice in the field. ABHs should be well accepted in the community and avoid negative stigmatization by the surrounding community so that they do not interfere with the development and development of ABHs after completing their guidance. Because there are so many ABHs that still want to continue their education after receiving guidance in children's prisons, during the correctional institutions it is not uncommon for students to get the same achievements and creativity as in formal education programs. Children can proceed to develop the knowledge they get without dehumanization and discrimination from the surrounding community. Children who grow well will also have a big influence on the development of a country, because children are state assets that must be protected as well as possible so that they can become a good and smart citizen by getting proper education. Children deserve better.

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